



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

List of issues relating to the initial report of Peru* **

I. General information

1. Please provide information on the measures taken by the State party to bring its legislation into line with the Convention. Please indicate whether there are any proposals for drafting new migration legislation or amending any provisions of current legislation that are inconsistent with the Convention. Are there any plans to encourage discussion about the establishment of a high-level legal framework for regulating migration? Please describe how the Convention rights would be protected under such proposals.
2. Please elaborate on the measures taken to promote and disseminate information on the rights provided for in the Convention. Please indicate whether any specific training on the Convention (in particular, skills development and awareness-raising) is provided for public officials, including members of the security forces and/or border police, consular teams, social workers, judges and prosecutors (government employees and social service providers), at both the national and local levels. Please report on measures to raise awareness among the public at large.
3. Please provide information on the human, technical and financial resources made available to the Office of the Ombudsman. Please provide details on initiatives undertaken by the Office of the Ombudsman to promote and protect the rights of migrant workers and members of their families (paras. 54, 121, 332 and 333).
4. Please state whether the State party intends to make the declaration provided for in articles 76 and 77 of the Convention, whereby it would recognize the competence of the Committee to receive communications from States parties and individuals.
5. Please indicate whether the State party intends to ratify International Labour Organization (ILO) Conventions Nos. 97, 143, 181 and 189, which concern migrant workers and members of their families.
6. Please explain how coordination between the Intersectoral Round Table for Migration Management and the National Institute of Statistics and Information Technology

* Approved by the Committee at its twenty-first session (1–5 September 2014).

** The paragraph numbers shown in brackets in this document refer to the State party's report (issued under document symbol CMW/C/PER/1).



is ensured. Please provide information on the measures taken to collect quantitative and qualitative data, disaggregated by sex, age, nationality and migration status, for use in evaluating the implementation of the Convention. Please also provide those data, especially with regard to:

- (a) Migrant workers and members of their families in an irregular situation;
- (b) Unaccompanied and separated children; and
- (c) Migration flows, including returns of migrant workers.

7. Please describe the involvement of non-governmental organizations in implementing the Convention and their work with the relevant governmental ministries in this connection.

8. Please provide information on the programmes and measures implemented to prevent, investigate and punish acts of corruption committed by immigration officials in the context of border checks, the entry of migrant workers into Peru and the processing of residence applications.

II. Information relating to each of the articles of the Convention

A. General principles

9. Please clarify the role of the Intersectoral Round Table for Migration Management (paras. 78 and 79) in coordinating the implementation and promotion of cross-cutting public policies. Please provide information on the type, number, content and results of inter-agency cooperation measures designed to mainstream protection mechanisms for migrant workers. How does the Directorate-General for Immigration and Naturalization liaise with the Ministry of Labour and Employment and other agencies, including those responsible for health, social security and education? What is its sphere of action at all the various levels of government and in respect of all the relevant sectors? Please indicate what human and financial resources have been made available to the Round Table and what powers each of its 19 component institutions has in terms of framing migration policies.

10. Please provide information on the steps taken by the State party to inform migrant workers and members of their families of the judicial and administrative remedies at their disposal in the event that their rights are violated and to deal with their complaints as effectively as possible. Please also report on the measures that have been taken to ensure that, both in law and in practice, migrant workers and their families, including those in an irregular situation, have the same right as nationals of the State party to file complaints in court, including labour courts, and receive effective redress.

11. Please explain what would happen in the case of a conflict between the provisions of the Convention and national laws. Please also provide information on:

- (a) The judicial, administrative and/or other bodies that have the authority to examine and decide on what action to take on complaints by migrant workers or members of their families, including those in an irregular situation, in the event that their rights are violated;
- (b) The complaints examined by those bodies since the entry into force of the Convention, including the specific cases cited in the report, and their outcomes; and
- (c) The measures of redress provided in cases where it was found that people's rights, including the right to an effective remedy, had been violated.

Article 7

12. Please provide detailed information on the measures taken to ensure that, both in law and in practice, all migrant workers and members of their families within the State party's territory or subject to its jurisdiction enjoy the rights provided for in the Convention without discrimination of any kind. Please describe how the National Commission against Discrimination deals with discrimination against migrant workers and members of their families; please cite examples.

B. Part III of the Convention**Article 11**

13. Please clarify the practical scope of the "checks" carried out by the migration authority and the Ministry of Foreign Affairs when violations of the fundamental labour rights of migrant workers are detected by the Labour Inspectorate (para. 160). Please explain what procedures are followed when a migrant worker is in an irregular situation.

Article 12

14. Please furnish information on measures and institutional procedures designed to protect the freedom of conscience and religion of migrant workers in Peru through institutional structures, programmes, policies and other means.

Article 14

15. Please provide information on the breadth of the interpretation which is given to the right to family unity in cases where a migrant worker with a spouse, children, parents or other family members who are resident in or nationals of the State party is subject to proceedings that might result in his or her expulsion from Peru. Please provide examples of any relevant judicial or administrative decisions, including cases in which the Convention has been expressly applied.

Articles 16 and 17

16. Please provide information on the regulations governing the detention of migrant workers, the procedures involved and how they are implemented in practice. Please include disaggregated statistics on migrant workers in detention who are:

(a) In an irregular situation, specifying the periods of detention, the places and conditions in which detainees are held (including airport facilities), the measures taken to ensure consular assistance and access to justice and legal assistance for migrant workers and members of their families who are deprived of their liberty for migration-related reasons;

(b) Of Haitian origin, indicating what types of procedures are followed in such cases and what the current situation of those workers is.

Article 18

17. With regard to migrant workers and members of their families in an irregular situation, please provide information on the actions to be undertaken by the administrative and/or judicial authorities in the event of claims or complaints. Please indicate whether those authorities are required to notify the migration authority about the existence of such a situation and whether it may be grounds for expulsion.

18. The State party is requested to provide disaggregated information on the use of the free legal aid system by migrant workers and members of their families (para. 63) and the use of interpreters where necessary. Please include information on the number of cases involved.

Article 22

19. Please provide information on the human and financial resources allocated to the Aliens Commission (para. 228). Please furnish disaggregated data on the nationality, sex, age and migration status of migrant workers and members of their families who were expelled or deported between 2009 and 2014 (paras. 223 and 225). Please indicate whether or not the appropriate procedural safeguards were provided (para. 235).

20. Please provide information on the steps taken to uphold the rights and provide the guarantees set forth in the Convention relating to expulsion and compulsory departure. Please specify, in particular, the scope of Supreme Decree No. 008-2014-IN of August 2014, which will reportedly facilitate the deportation of migrant workers. Please indicate how much time is allowed for the relevant authorities to rule on appeals. Please also indicate how many appeals against expulsion and compulsory departure orders were submitted and what their outcomes were.

Article 23

21. Please provide information on agreements concluded between consulates and other counterparts to ensure access to justice for Peruvian migrant workers in destination countries. Please indicate how, in practice, the availability of legal assistance and consular services is ensured in cases of detention or expulsion. Please indicate whether foreign migrant workers and members of their families, including those in an irregular situation, have the right to have recourse to the protection and assistance of the consular or diplomatic authorities of their State of origin, in particular in cases of detention or expulsion.

Article 25

22. Please provide information on any specific measures taken to address the situation of women migrant workers, in particular those in an irregular situation, and to ensure their equal rights. Please also furnish information on the situation of migrants employed as rural-sector or domestic workers.

23. Please report on the regulatory framework applicable to migrant workers in an irregular situation, in particular with respect to conditions of work, remuneration, termination of the employment relationship and other areas covered by the Convention.

Article 26

24. Please provide more information about trade union statutes that allow only workers of Peruvian nationality to join such unions, including specific examples. Please indicate what steps have been taken by the State party to safeguard the right of migrant workers, including those in an irregular situation, to join a trade union (paras. 179, 184 and 185).

Article 27

25. Please provide further information on the measures taken by the State party to ensure access to social security schemes for migrant workers and to move forward with bilateral agreements covering both migrant workers in Peru and Peruvian migrant workers abroad (para. 246).

Article 28

26. Please provide additional information on all steps taken to ensure, both in law and in practice, that migrant workers and members of their families in an irregular situation are able to receive medical care. Please indicate what means exist in the State party for informing migrant workers about the health and education services to which they may have access. Please report on the extent to which the procedures provided for in the Framework Act on Universal Health Insurance (No. 29344) have been implemented and on how coverage is provided for migrant workers in general and those in an irregular situation in particular. Please include data on the coverage for migrant workers and members of their families provided by the Ministry of Health – Social Health Insurance (ESSALUD) (where the worker is in a formal employment relationship) and Comprehensive Health Insurance (where the worker is in an informal employment relationship or self-employed).

Article 30

27. Please provide information on the institutional and regulatory procedures that are in place to ensure access to education for the children of migrant workers in Peru, regardless of their migration status or that of their parents. Please refer specifically to data concerning the application of the implementing regulation for Act No. 28044 (2012).

Article 31

28. Please indicate the nature, level, number and outcomes of specific measures for fostering Peruvian migrant workers' cultural and national links with Peru, in accordance with the consular policy on the protection, promotion and assistance of communities abroad (2001). Please also provide information on complaints of discrimination in destination countries.

Article 33

29. Please provide the Committee with information on the measures taken to inform pre-departure Peruvian migrants and migrant workers in, or in transit through, the State party, as well as members of their families, of their rights and obligations in the country of employment. Please indicate which body is responsible for producing information, including the Guía del Inmigrante Peruano en el Exterior (Guide for Peruvian Immigrants Abroad) (2010), and distributing it to migrant workers at migration checkpoints along the borders of Peru. Please also report on the provision of information to migrants at border crossings, including information on conditions for migrants from each of the neighbouring countries.

C. Part IV of the Convention**Articles 41 and 42**

30. Please provide detailed information on the exercise, in practice, of the right to vote of Peruvian nationals living abroad and the right to be elected to public office (paras. 19, 268 and 269). Please also furnish information on the rules governing the right to vote of migrant workers residing in Peru, at both the national and local levels, and on the implementation of those rules.

Article 44

31. Please provide information on the incorporation of the principle of the best interests of the child into migration legislation and on the steps taken to safeguard the rights of the children of migrant workers in the course of the implementation of migration or other

procedures that may affect those rights. Please clarify the statement made in the report (para. 251) that: “[t]he Aliens Act and associated guidelines make no reference to the principle of the ‘best interests of the child’ in cases involving minors”.

32. Please provide information on the procedures and measures introduced to facilitate family reunification, including the conditions for obtaining residence permits for spouses, children and other close family members of migrant workers in the State party. Please indicate whether any steps have been taken to recognize de facto unions with a view to granting visas for family reunification purposes and residence permits for reasons of family unity (involving migrant workers or migrant workers and Peruvian nationals), bearing in mind that these types of ties are recognized under the Peruvian Constitution (art. 5) (para. 105).

Article 45

33. Please indicate what progress has been made in implementing anti-discrimination laws and legislation that promotes equal opportunities for migrant workers, referring in particular to the following: article 55 of Legislative Decree No. 703; Act No. 28867 (2006); Supreme Decree No. 027-2007; and Supreme Decree No. 052-2011. Please include information on measures taken by the Public Prosecution Service to prevent and punish acts of discrimination committed against migrant workers and/or members of their families.

Article 52

34. Please provide information on any legislation in the State party that restricts access to certain job categories and specify the types of activities involved. Please also indicate what conditions must be met in order to obtain a permit to engage in paid work, the types of work covered and the number of permits granted, as well as the number of permit applications rejected between 2005 and 2014, and the reasons for their rejection.

Article 54

35. Please provide information on how the differential treatment established under Decree No. 689 (1991) is reconciled with the right to equal treatment set forth in article 54 of the Convention, particularly with regard to the duration of employment contracts and severance pay. In particular, please indicate what implications such differential treatment has for migrant workers from the member States of the Andean Community of Nations (CAN) and the member States and associate member States of the Southern Common Market (MERCOSUR), as well for workers from other countries (paras. 99 and 100).

D. Part V of the Convention

36. Please provide official estimates, disaggregated by nationality, age and sex, of the number of migrant workers who fall into the categories described in articles 58 to 61 of the Convention. In addition, please provide information on the steps taken to protect the rights of these migrant workers.

Article 58

37. Please provide information on the measures taken to improve the situation of frontier workers and to include a definition of frontier workers in national legislation that is in accordance with article 58 of the Convention.

E. Part VI of the Convention

Article 65

38. Please provide information on the measures taken to conclude agreements on the recognition of studies and the accreditation of degrees, professional qualifications and certificates (paras. 98 and 311).

Article 67

39. Please furnish information on the provisions set forth in the implementing regulations of Act No. 30001 aimed at facilitating the return of Peruvian migrant workers abroad (para. 102) and Act No. 28182 (2004). Please provide updated information on the number of persons who have had the benefit of the support and assistance measures designed to facilitate the sustainable reintegration of returning migrant workers that are provided mainly by the Migrant Guidance Service (paras. 110 and 111). Describe how the State party distributes information abroad regarding the existence of programmes and services for returning Peruvians.

Article 68

40. Please report on the steps taken to implement Act No. 28950 (para. 14) and to provide judicial officers and other public officials with training on trafficking in persons and indicate whether a gender perspective is mainstreamed into such training. Please describe the results of the specific measures included in the National Human Rights Plan for migrants who are the victims of trafficking and members of their families and in the National Plan of Action against Trafficking in Persons 2011–2016 regarding the rights of migrants, with particular reference to children, adolescents and women. Please indicate whether or not measures are in place to assist and protect victims of human trafficking. Please indicate what funding has been budgeted to ensure that shelter, psychological and medical care, and legal assistance are provided free of charge, as well as reintegration services at the national level and particularly in border and forested areas.

41. Please provide information on the number, type and outcomes of measures taken by the Trafficking Investigation Division of the National Police to prevent and punish trafficking in migrants, especially for labour purposes. Please also furnish information on the type, level, number and outcomes of coordination measures taken by the Division in conjunction with the Department for the Promotion and Protection of Fundamental Rights and for Health and Safety at Work of the Ministry of Labour and Employment, the Public Prosecution Service and the judicial branch.

Article 69

42. Please provide information on the permanent mechanisms in place to enable migrant workers in an irregular situation within the State party's territory to obtain residency and to regularize their status, including updated information on the application of Act No. 30103 of 2013 and on the scope and outcome of the implementation of the 2002 MERCOSUR agreement on residency, which was ratified by the State party in 2011.