



# 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-fourth session

### Summary record of the 478th meeting\*

Held at the Palais Wilson, Geneva, on Wednesday, 30 March 2022, at 3 p.m.

*Chair:* Mr. Corzo Sosa

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\* No summary records were issued for the 474th to 477th meetings.

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*The meeting was called to order at 3 p.m.*

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

*Second periodic report of Burkina Faso (CMW/C/BFA/2; CMW/C/BFA/QPR/2)*

1. *At the invitation of the Chair, the delegation of Burkina Faso joined the meeting.*
2. **Mr. Kéré** (Burkina Faso), introducing his country's second periodic report, said that Burkina Faso had made significant progress in implementing the recommendations contained in the Committee's concluding observations on the State party's initial report (CMW/C/BFA/CO/1) in spite of the popular uprising of October 2014, the failed coup attempt of September 2015 and the terrorist attacks that had occurred repeatedly since 2015. The Constitution provided that all persons living in Burkina Faso enjoyed equal protection under the law, that they all had the right to work and that the country's laws would safeguard the free movement of people and goods, the right to freely choose one's residence and the right to asylum. To put those constitutional norms into practice, the country had entered into a number of multilateral conventions and bilateral agreements with countries that hosted its nationals.
3. The laws of Burkina Faso made no distinction between migrant workers and the country's nationals, and both groups enjoyed equal rights with respect to pay and working conditions. Laws were in place to regulate the activities of placement agencies, and the agencies required ministerial authorization to engage in the collective recruitment of workers for employment abroad. Worker complaints had resulted in fines being imposed on some agencies in 2019 for their failure to comply with provisions of the Labour Code.
4. The country had drawn up a National Strategy on Migration and related action plans in order to provide an overall framework for migration matters. The Strategy sought to ensure effective protection of the rights of migrants by 2025, with a view to furthering development, peace, social cohesion, regional and subregional integration, and international cooperation. The 2021–2023 action plan had been adopted in November 2020, following a participative assessment of the previous action plan. The Government had provided direct assistance to some 3,080 nationals who had returned to the country in 2021 after having migrated abroad, to support their reintegration.
5. There were some 1.8 million internally displaced persons in the country. A strategy on providing them with support and protection had been adopted, one of the core principles of which was non-discrimination. The 2019–2021 action plan that had been adopted in the context of the 2020–2024 National Strategy on Education in Emergencies provided for the rebuilding or repair and reopening of schools and assistance to displaced students and teachers.
6. In 2016, Burkina Faso had started making health-care services free for children under 5 years of age, older persons and pregnant women, regardless of their nationality. Over 17 million health-care interventions had been carried out free of charge in 2020, at a total cost of over 31.8 billion CFA francs, compared to some 10.3 million interventions at a total cost of almost 16.5 billion CFA francs in 2016, when the policy had been introduced. Medical supplies were transported by air to health units in areas with serious security challenges, to ensure that health-care services continued to be available to people, including workers, living in those areas. Policy documents related to reserves of health personnel and emergency medical services had been drafted and were expected to be adopted by the Council of Ministers in the coming months.
7. In order to better combat the exploitation of migrants, Burkina Faso had entered into several international agreements, including a cooperation agreement with Nigeria to prevent, suppress and punish trafficking in persons, particularly women and children. Between 2018 and 2020, the country's efforts to suppress trafficking in children had led to the identification of 19 networks and the arrest of 182 traffickers. During that same period, the judiciary had registered 18 cases of trafficking in migrants. In 2021, 126 child victims of cross-border trafficking had been intercepted and returned to Burkina Faso under its cooperation

agreement with Côte d'Ivoire, and Burkina Faso had intercepted and returned 24 child victims of trafficking from the Niger, Mali, Guinea and Togo to their countries of origin.

8. Burkina Faso would spare no effort in meeting the challenges that it faced in promoting and protecting the rights of migrants, which related in part to a lack of financial resources, a lack of statistics and the deteriorating security situation caused by terrorist attacks.

9. **Mr. Oumaria** (Country Rapporteur) said that the Committee welcomed the accession by the State party to a number of international instruments, including the International Labour Organization (ILO) Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187); the enactment of laws such as Act No. 001-2016/AN establishing the National Human Rights Commission; and the introduction of policy tools such as the 2016–2025 National Strategy on Migration. The Committee recommended that the State party should take steps to mitigate the adverse effects of the coronavirus disease (COVID-19) pandemic on migrant workers and members of their families, in particular by ensuring equitable access to vaccination.

10. He would appreciate an update on the amendments to Order No. 84-49 of 1984, on the right to enter and leave the national territory, that were intended to bring it into line with the Convention and other relevant international instruments. It would also be helpful to know the status of efforts aimed at enabling the State to make the declarations provided for under articles 76 and 77 of the Convention and to accede to the ILO Domestic Workers Convention, 2011 (No. 189). The Committee regretted that the office of the general commissioner for migration, which would monitor and assess the implementation of the national policy on migration, had not yet been established and it encouraged the State party to set up an independent mechanism to assess the impact of the policy and coordinate the efforts of stakeholders. He wished to learn about any steps being taken to make the ministry that was responsible for African integration and nationals of Burkina Faso abroad more visible in countries that hosted nationals of the State party.

11. Given the dearth of disaggregated data on migrant workers, especially with regard to conditions of work, the State party might consider establishing a centralized database, with data disaggregated by sex, age and origin, within the framework of its 2016–2025 National Strategy on Migration. Such a database would enable a deeper understanding of the situation of migrant workers and enhance the effective implementation of domestic policies and the Convention.

12. The delegation might wish to describe the steps taken to ensure that the National Human Rights Commission complied with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), with a view to its accreditation by the Global Alliance of National Human Rights Institutions. It was unclear how migrant workers learned about the services offered by the Commission and, more generally, about their rights derived from the Convention. The Committee would welcome detailed information on the number of complaints filed to the Commission by migrant workers and members of the families and the follow-up given to such complaints.

13. Current efforts to train government officials and persons from other relevant sectors in the human rights of migrants, while commendable, appeared somewhat uncoordinated. The State party might wish to envisage a more systematic approach to raising the awareness of government officials and persons in other sectors, including civil society, of the rights and protection afforded by the Convention. The State party should also engage more actively with civil society organizations in order to enable their effective participation in implementation of the Convention and the Committee's concluding observations.

14. The Committee would welcome further details of complaints of harassment, corruption, abuse of authority, extortion and arbitrary detention lodged by migrant workers or members of their families. Specific information was needed on the number and type of complaints received and the sanctions imposed. It might also be useful to find out whether the State party intended to establish safe, gender-sensitive mechanisms to protect complainants from reprisals.

15. It would be helpful to learn more about the practical implementation of the principle of non-discrimination enshrined in the State party's legislation in the context of work and employment, and to find out whether migrant workers, both regular and irregular, enjoyed the same legal protection from discrimination as nationals. The delegation might wish to provide examples to illustrate the extent to which the right of migrant workers to non-discrimination set forth in the Convention was implemented in practice.

16. It was encouraging to learn that migrant workers, irregular or not, were entitled to take legal action if their Convention rights were violated. The State party might wish to provide disaggregated data on the number of complaints filed and proceedings instituted by migrant workers or members of their families. The collection of disaggregated labour data was crucial to identify migrant workers and design adequate policies, programmes and awareness-raising measures.

17. The Committee welcomed the State party's efforts to prevent and tackle forced labour and child labour and cross-border trafficking of children. It would be grateful for additional information on labour exploitation and other forms of ill-treatment of migrant workers and members of the families, including in the sectors of agriculture, mining, tourism and domestic work.

18. **Mr. Soualem** (Country Rapporteur) said that the Committee was keenly aware of the multiple geographical, climatic, development-related and security challenges faced by the State party and would do its utmost to support its endeavours to further the rights enshrined in the Convention.

19. The State party might wish to elaborate on the measures taken to harmonize domestic legislation with the Convention and to provide examples of instances when nationals or migrant workers had invoked the provisions of the Convention in legal proceedings. It would also be useful to find out how many workshops, seminars and other activities had been conducted by the State party, the National Human Rights Commission or civil society organizations to raise public awareness of the Convention and its purpose.

20. Given that citizens of countries that were members of the Economic Community of West African States (ECOWAS) were entitled to move freely within the region, it was unclear how a national of one ECOWAS country could be considered an irregular migrant in another. The Committee welcomed the legislative amendments undertaken to bestow voting rights on the State party's diaspora; it would be useful to know whether members of the diaspora were also eligible to be elected and represented in parliament.

21. In view of the challenges posed by the presence of more than 1.8 million displaced persons, it would be useful to obtain additional information on the composition and resources available to the National Commission for Refugees.

22. **Ms. Dzumhur** said that it would be useful to know how the State party ensured that migrant mine workers had access to basic services, including food and health care. It was unclear whether the mandate of the National Human Rights Commission included monitoring the human rights situation of migrant workers. More detailed information was needed on the mechanisms in place to ensure that migrant workers were aware of their rights, including the right to legal recourse. It would also be helpful to obtain more specific information and statistical data on the State party's efforts to combat human trafficking, including preventive and punitive measures, legislation and training. Updated information on the State party's status within the African Union would also be appreciated.

23. **Ms. Diallo** said that she wished to learn more about measures taken to inform the State party's nationals working abroad of their rights under the Convention. Were any training activities held for workers prior to their departure abroad? The State party should provide specific details of the type of support provided to migrant workers working in mines abroad, and of measures taken to facilitate access to secondary and tertiary education for returnees. Although migration was a contemporary reality, some countries made efforts to retain their citizens or promote their return. It would be interesting to find out what the State party was doing to address the root causes of migration and improve living conditions for returning migrants.

24. **Mr. Ceriani Cernada** said that it would be helpful if the delegation could provide a copy of the revised text of Order No. 84-49. The State party might also wish to explain how joint general comment No. 3 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 22 (2017) of the Committee on the Rights of the Child on the general principles regarding the human rights of children in the context of international migration, and joint general comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 (2017) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return, informed its efforts to protect children on the move, including in the framework of the cooperation agreements on cross-border trafficking and movement of children concluded with Côte d'Ivoire, Togo and Benin. He would also be interested to learn more about the way in which the procedure to determine the best interest of the child was applied in practice.

25. Additional information was needed on the situation of women, mostly from Nigeria, who were trafficked into prostitution in the State party's mining camps. It would also be useful to obtain additional details of the policies in place to facilitate the social inclusion, including access to education and employment, of long-term residents of the Goudoubo refugee camp. Clarification was needed with regard to the mechanisms and criteria in place for the regularization of irregular migrants.

26. **Mr. Charef** said that the State party had long provided a pool of migrant labour for neighbouring countries and, at the same time, depended on remittances. It would be useful to know how the State party ensured that migrant workers abroad maintained ties with their place of origin. The delegation might also wish to provide information on steps taken to improve the collection of migration-related data and describe the progress made in the eradication of child labour.

27. **Mr. Babacar** said that domestic workers were among the most vulnerable group of migrant workers. Given the extent of domestic labour in the subregion, it would be useful to know whether the State party intended to accede to the ILO Domestic Workers Convention, 2011 (No. 189). Although the State party had a comprehensive legal framework on migrants, legislation was only useful if it was effectively implemented. It would thus be helpful to find out whether the Labour Inspectorate was sufficiently resourced and staffed to perform its functions. The Committee would welcome statistical data on the number of inspections carried out, disaggregated by type of workplace.

28. **Mr. Taghi Zada** said that additional details were needed of the measures taken by the State party to guarantee the rights of its nationals working abroad, including the nature and extent of consular support. Were migrant workers eligible to vote and run for office in receiving countries?

29. **Mr. Garcia Saenz** said that, in view of the importance of remittances for the State party's development, it would be useful to learn more about programmes in place to support the families of nationals working abroad and to guarantee adequate consular support in receiving countries.

30. **Mr. Zounmatoun** said that he wished to know whether the State party's employment policy actively supported migrant workers in Burkina Faso and, at the same time, discouraged a brain drain.

*The meeting was suspended at 4.15 p.m. and resumed at 4.50 p.m.*

31. **Mr. Sako** (Burkina Faso) said that his country had taken a number of steps to counter trafficking in persons. As far as legal measures were concerned, it had ratified most of the pertinent international instruments and, at the national level, it had included provisions on the subject in the Criminal Code, the Labour Code and the Mining Code, as well as in an act prohibiting the sale of children and child pornography. As cooperation was the best way of halting human trafficking, his Government had signed agreements with Côte d'Ivoire, Benin, Togo and, more recently, Nigeria that were aimed at protecting the rights of migrant children and suppressing the trafficking of women and children. With regard to institutional measures, watchdog committees had been set up at national, regional and provincial levels

to counter trafficking in persons and related practices. The Government had also established directorates and regional brigades to contend with trafficking in children and child labour and to protect women who were victims of trafficking. A national action plan to combat violence against children, which incorporated trafficking in children, covered the period 2021–2023. A digital platform was being set up to monitor cases of trafficking in five regions. Child protection measures that had been put in place in all 45 provinces included communal protection networks and committees whose job it was to prevent, detect and report cases of trafficking and then to facilitate the social reintegration of victims. The thinking behind such an approach was that children were recruited in their home towns and villages, and that the best way to end trafficking was to alert the community to its dangers.

32. As recruiters tended to target vulnerable street children, the Government was striving to halve their number, which currently stood at 9,500, through various support measures that also encompassed homeless beggar women with children. When child victims of trafficking returned to Burkina Faso, they were placed with one of 234 host families or in one of the 5 transit centres. In order to ensure a continuum of care along three of the State party's main borders, the Government had introduced a subregional plan of assistance and protection for children on the move for the period 2018–2020. Mobile teams had been tasked with scouring the countryside and finding vulnerable migrant children, in order to provide them with the information that they needed. Those children could also call the 105 hotline.

33. With regard to action in the best interests of children on the move, the Government had decided that protocols were needed that would allow children to cross the border but which made it possible to garner all the requisite information about a child, to locate his or her family and to assess it. If a child had been bullied, he or she could not be returned to the family immediately. The local social services would be contacted and, if the child had been a victim of transboundary trafficking, the heads of the child welfare services in his or her subregion would interact as a network. A decision on whether to return a child to his or her family would be taken only after the family had been assessed.

34. The International Criminal Police Organization had helped to train members of the defence and security forces in how to detect cases of trafficking and migrants on the move who were at risk. Burkina Faso had also submitted to ECOWAS a plan on improving training to combat trafficking in 2022 and 2023. It covered all the actors involved in combating trafficking in persons. The lead agency was the Ministry for Gender and Family Issues, and the aim was to provide training for at least 150 social workers and members of the defence and security forces.

35. **Mr. Ouattara** (Burkina Faso) said that, before an international instrument could be ratified by the National Assembly, it had to be submitted for consideration by the tripartite Advisory Commission on International Labour Standards. The Commission had not yet studied all the aspects related to the ratification of the ILO Domestic Workers Convention, 2011 (No. 189).

36. In 2020, Burkina Faso had had 255 labour inspectors who had been active in all 13 regions of the country. In 2020, the Labour Inspectorate had had a budget of 97 million CFA francs. Most of the labour inspectors were concentrated in the two regions where most businesses were located. However, in the chief towns in the other regions, there were also labour inspectors who could receive complaints from and provide advice to migrant workers. Mine inspectors monitored the health and safety of all miners, including migrant workers. An annual report was drawn up on their activities. In situ training to inform workers of their rights depended on the availability of financial resources.

37. Labour inspectors investigated both the formal and the informal sector. In 2020, they had recorded 259 cases of child labour, 68 of whom had been girls. The children had been between 13 and 16 years old and 195 of them had been employed in the informal sector. The child welfare services had taken steps to ensure that those children either returned to school or received vocational training. Some 60 youngsters had attended a short vocational training course as part of measures to combat child labour.

38. **Mr. Daboné** (Burkina Faso) said that social assistance covered all vulnerable families, irrespective of whether they were migrants. There were no specific arrangements for families of persons who were living abroad.

39. **Mr. Guissou** (Burkina Faso) said that the National Institute of Statistics and Demography had set up a national data platform on migration. Training for all concerned had been provided in September 2021. Population observatories were in operation in Ouagadougou, Nouna and Kaya; however, they could not provide a national overview of migration. His Government was therefore planning to set up a national observatory of migration. A permanent system for collecting data on employment and the informal sector, where great importance would be attached to figures on migration, would go into operation in the third quarter of 2022. That system would make it possible to monitor migrants' employment, including in the informal sector, and would show whether or not they were unemployed.

40. **Mr. Cyrille Sawadogo** (Burkina Faso) said that anyone, including migrant workers, could lodge a complaint of sexual harassment or corruption by members of the defence and security forces with officers of the criminal investigation service, the public prosecutor or in the civil courts. Although there had been a number of such cases, he was unable to provide any exact statistics. Appeals had been filed against some of the decisions handed down in those cases.

41. As article 151 of the Constitution made it clear that international instruments ratified in due and proper form by the State party took precedence over domestic law, the Convention could be invoked in courts in Burkina Faso. In 2016, the Labour Court of Ouagadougou had delivered four decisions in cases concerning migrant workers' visas and employment contracts. In 2019, the Ministry of Justice had drawn up an inventory of all the international instruments to which Burkina Faso was a party, in order to ascertain which of them had not been fully incorporated into domestic law. Recommendations had been made as a result of that study.

42. With the assistance of the International Organization for Migration, a number of training courses on the Convention and the protection of migrant workers had been organized for members of the judiciary. The initial courses had been aimed at training 26 appellate judges, 26 social workers and 26 members of the defence and security forces, in order that they might instruct their colleagues on the protection of migrant workers from trafficking. In 2019, the courses had been run mainly for members of the defence and security forces.

43. Until 2018, Burkina Faso had not had a clearly defined system to protect victims, witnesses or informers of human trafficking against reprisals. Since then, the Criminal Code and Code of Criminal Procedure had been amended to address the issue. Nevertheless, the relevant provisions still had shortcomings that would be reviewed in due course, in order to guarantee better protection of the aforementioned groups of persons, whether they were nationals of Burkina Faso or foreigners.

44. The National Commission for Refugees, with the support of United Nations agencies, was trying to ascertain whether the Malian refugees from the camps in Gandafabou and Goudoubo should be helped to return to their homes or to settle in Burkina Faso.

45. **Mr. Coulibaly** (Burkina Faso) said that, under the Education Act, all migrant children were entitled to education at all levels, without any discrimination whatsoever and on the same conditions as other children. Burkina Faso had acceded to the Convention against Discrimination in Education. Strategies and policies had been adopted to integrate migrant workers' families in the education system and facilitate their access to social and educational services.

46. **Ms. Traoré Bazié** (Burkina Faso) said that anyone living in Burkina Faso had the right to free health care without discrimination. For that reason, migrant workers were entitled to free COVID-19 vaccination. Most migrant miners had health insurance that gave them better health care cover than many nationals.

47. **Mr. Bado** (Burkina Faso) said that Order No. 84-49 was being revised with a view to making it consonant with the Convention and other international standards. A draft bill laying down conditions for the entry and stay of foreigners in and the departure of nationals from Burkina Faso and an implementing decree were awaiting adoption.

48. **Ms. Zongo Sawadogo** (Burkina Faso) said that Burkina Faso intended to recognize the Committee's competence to receive communications under articles 76 and 77 of the Convention. The Government was making preparations to do so.

49. The Government regularly ran awareness-raising and training campaigns to promote human rights in general. Workshop had been held to disseminate the concluding observations on the State party's initial report to the Committee in all 13 regions of the country. In addition, the Convention and other legal texts had been presented at awareness-raising sessions held in six regions, to alert the population to the advantages of regular migration and the dangers of irregular migration. An action plan that sought to strengthen human rights education in various settings between 2020 and 2024 would also improve migrant workers' knowledge of their rights. Official visits by the Head of State or Minister of Foreign Affairs of Burkina Faso provided an opportunity to draw the attention of expatriate workers to their rights and obligations in the host State. Consulates also offered training and awareness-raising measures that covered the provisions of the Convention. Between 2018 and 2019, Burkina Faso had organized information sessions for migrant workers in 38 embassies and consulates.

50. **Mr. Jean Yves Sawadogo** (Burkina Faso) said that, in order to achieve seven priority objectives with regard to the diaspora, his Government was in the process of setting up a high council of expatriate nationals of Burkina Faso, which would act as an interface with the administration. The relevant texts were awaiting adoption by the Council of Ministers. The establishment of a ministry responsible for expatriate nationals met a need to involve them more closely in the development of the country. In 2020, for the first time, almost 15,000 of them had been able to vote in the presidential elections and ultimately expatriates might be able to be represented in parliament.

51. **Mr. Kéré** (Burkina Faso) said that a person had to be elected to sit in parliament. Expatriates could stand as candidates, but many were not keen to leave their jobs abroad to become members of parliament back home. A directorate-general within the Ministry of Foreign Affairs that was responsible for expatriates would enable them to participate effectively in the life of the nation through meetings at which they could express concerns, which could then be translated into legislative texts.

*The meeting rose at 6 p.m.*