



**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
Sixteenth session**

Summary record of the 188th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 17 April 2012, at 3 p.m.

Chairperson: Mr. El Jamri

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

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

Initial report of Tajikistan (CMW/C/TJK/1, CMW/C/TJK/Q/1 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Tajikistan took places at the Committee table.*
2. **Mr. Mahmaminov** (Tajikistan) said that the migration policy of Tajikistan was underpinned by an awareness of the importance of providing adequate employment opportunities. As more than 100,000 young people with a secondary-school education entered the employment market each year, his Government attached great importance to the development of adult education centres, which offered not only short-term vocational training in a number of trades but also Russian and English courses.
3. In 2011, vocational training, advanced training, retraining and certification of skills in various fields had been provided to some 44,000 job-seekers, including migrant workers. One half of them had been women and some 10,000 had been persons from poor families, persons with disabilities or orphans. The training was geared not only to demand in the domestic labour market but also to the needs of persons who planned to work abroad. In addition, the Government had entered into agreements with the German Agency for International Cooperation and the Turkish International Cooperation and Development Agency to implement joint employment projects and provide modern adult education centres.
4. A certification programme for Tajik migrant workers had been introduced in 2011, as a majority of citizens who had been compelled to seek employment abroad in recent years had lacked the necessary certification of the skills that they had acquired while outside the country, which had diminished their prospects for career advancement. Almost 11,000 migrant workers had received proficiency certificates as a result of the programme.
5. In the past 20 years, about 1 million jobs had been created. Over the same period, about 245,000 unemployed persons had received publicly funded vocational training. Furthermore, hundreds of job fairs had been organized at which thousands of unemployed persons had found decent work. Legislation designed to boost the employment prospects of returning Tajik migrant workers had been enacted in accordance with the 2010–2015 labour migration strategy, which covered training, microcredits and assistance in undertaking lawful forms of self-employment. Employment agencies that recruited migrant workers for employment abroad were to be required to provide assistance to those of their family members who remained at home.
6. The civil war that had broken out after the country had gained independence continued to adversely affect the labour market, however. The number of Tajik citizens who sought work abroad, predominantly in the Russian Federation, Kazakhstan and other members of the Commonwealth of Independent States, therefore continued to rise. Furthermore, about 80 per cent of the persons seeking employment abroad lacked the qualifications that they would need to compete successfully in foreign labour markets.
7. The International Labour Organization (ILO) Decent Work Country Programme for 2011–2013 was playing an important role in protecting the rights of Tajik migrant workers. ILO had also been instrumental in preparing the 2010–2015 national labour migration strategy. Legislation on the minimum wage, old-age pensions and other social protection measures had been adopted in accordance with ILO conventions ratified by Tajikistan. Other steps to provide social protection included a poverty reduction strategy for 2010–2012, a programme to monitor child labour, the development of a centre to compile labour

market statistics and a website listing vacancies. Needy families of migrant workers had received targeted social services and entitlement payments amounting to some 35 million somoni in 2011.

8. As current domestic social service legislation did not distinguish between foreign migrant workers who were officially recognized and those who were not, those two categories of migrant workers enjoyed equal access to social protection in Tajikistan. The Ministry of Labour and Social Protection considered applications from employment agencies that recruited workers from abroad, taking into account the need to protect the domestic labour market. Labour contracts for foreign migrant workers covered overtime work, working hours, paid leave, health care, social protection and other terms and conditions. An agency for social protection, employment and migration within the Ministry, which carried out inspections of companies employing foreign workers to ensure that they complied with the law, had issued more than 200 findings. Violations of labour laws were punishable by the appropriate penalties.

9. A draft agreement between Tajikistan and the Russian Federation on social insurance for migrant workers was currently under consideration by the Russian Federation. A similar draft had been prepared and submitted to Kazakhstan. Efforts were under way to ratify the Commonwealth of Independent States Convention on the Legal Status of Migrant Workers and Members of Their Families.

10. Plans for the country's entry into the World Trade Organization made resolving labour migration issues within the framework of international agreements a high priority. His delegation therefore trusted that the Committee's consideration of the initial report would help Tajikistan in its efforts to implement the Convention.

11. **Mr. Devonaev** (Tajikistan) said that the migration policy of Tajikistan was aimed at preventing the growth of illegal migration by establishing an appropriate regulatory and legal framework, helping the Government to work with host countries to create proper labour and living conditions for migrant workers, and involving local authorities and international and non-governmental organizations in the process of regulating migration flows. His Government had adopted a migration policy framework in 1998 which took into consideration the scale of the migrant population and the variety of types of migration processes. The framework served as the basis for regulating migration and protecting the rights and interests of Tajik citizens.

12. A number of laws for the regulation of migration flows had been adopted. Regulatory agreements had been reached with the Russian Federation, Kazakhstan, Kyrgyzstan and Belarus, and agreements were pending with Ukraine, Qatar, the Republic of Korea and other countries. Domestic legislation took into account all the international obligations undertaken by Tajikistan. The Tajik Migration Service, established in 2011, was responsible for regulating labour migration of Tajik citizens abroad, providing vocational training to migrant workers, helping citizens to find work abroad and acting as a liaison for workers living abroad. The national labour migration strategy was an integral part of the national development strategy up to 2015.

13. The Government's main partners in addressing legislative and regulatory matters included the World Bank, ILO, and the International Organization for Migration (IOM). An interdepartmental commission to combat trafficking in persons had hosted a meeting in March 2012 with assistance from the Organization for Security and Cooperation in Europe (OSCE), IOM and 27 non-governmental organizations from all regions of Central Asia. A council made up of heads of diplomatic missions accredited in Tajikistan, representatives of ethnic groups of the Tajik diaspora and non-governmental organizations had been established in April 2012 to address and advise the Government on labour migration issues.

14. The Government was making an effort to compile more accurate records on the number of citizens working or returning from abroad. Some 140 meetings with law enforcement authorities of the Russian Federation and international and non-governmental organizations had been held in the second half of 2011 alone in an effort to improve the protection of migrant workers' rights. In the same period, the Government had also considered about 1,600 communications from Tajik citizens working abroad that had dealt with, for example, the non-payment of wages, requests for legal or repatriation assistance and the unlawful detention of migration workers, and had managed to resolve a large number of those cases. Law enforcement authorities made every effort to investigate any wrongdoing in such cases.

15. Under domestic law, foreign migrant workers in Tajikistan had the same labour rights as citizens. Tajik employers must obtain a license to recruit migrant workers, and the number of foreigners authorized to work in the country was subject to a yearly quota. In 2011, some 4,000 foreign nationals from 47 countries, including China, Afghanistan, the Islamic Republic of Iran, Turkey and Uzbekistan, had been employed in the country.

16. Information technology must be tapped to help to regulate migration flows. At present, migrant workers could contact the Migration Service by e-mail. There was also an official website with pertinent information for migrant workers, and the addition of a section with a listing of vacancies abroad was planned. The first issue of a newspaper for migrant workers had also been published. His Government intended to use all the resources available, including human resources, to successfully manage migration flows and meet the obligations that it had assumed under the Convention.

17. **Mr. Taghizade** said that the delegation was to be commended for its commitment and candour. He welcomed the adoption of the national labour migration strategy, but noted that, in a number of areas, the implementation of the Convention was as yet at a very early stage. Citing the specific example of the labour migration bill, he asked why it had not yet been submitted to parliament. Some of the terminology used in the bill raised questions, as did some of the restrictions that it would place on the rights of Tajik nationals in relation to migration. He applauded the fact that the Migration Service was an independent body, but wondered if it had sufficient resources and trained staff to handle the enormous number of Tajik emigrants, if other departments were involved in protecting the rights of migrant workers and their families, and what relationship the State party had with destination countries, especially the Russian Federation.

18. He asked how the State party was holding the Russian Federation to account regarding the disproportionate number of Tajik nationals who died there each year, which far exceeded the average rate of workplace injuries. What measures was the State party taking to guarantee its citizens' right to life? He would appreciate further details on the apparent restrictions placed on property ownership by foreign migrants, even when they were married to a Tajik, and how they affected children's rights in cases where mixed couples divorced. He asked why the procedure for obtaining residency was sometimes lengthy and why some provisions applied only to certain groups and regions. He was concerned that consular services for Tajik migrants in the Russian Federation did not appear to be sufficiently effective in affording protection for the migrants' rights, ensuring employer compliance with contracts, or assisting with claims for back pay and benefits. Additional information would be welcome on how the State party ensured that migrants were informed of their rights, since the translation of the Convention into Tajik did not appear to be available online or through the media. He would also like to know what measures were being taken to combat corruption among customs officials responsible for granting entry and exit visas.

19. **Mr. Sevim** asked if the fact that 90 per cent of Tajik migrants worked or resided in the Russian Federation gave that State a disproportionately influential role in managing

migration flows between the two countries and, if so, how that affected the rights of Tajiks in the Russian Federation and what measures were being taken to balance the relationship. He wished to know if foreign migrant workers married to Tajik nationals enjoyed the right to own property. Under article 10 of the Constitution, international instruments ratified by the State party were part of its domestic legal system, yet the courts did not appear to be directly invoking the Convention in their decisions. Examples of court judgements in which international human rights conventions had been applied would therefore be appreciated. He asked for additional details on the forthcoming generic contract which the State party had reported was to be applied to all migrant workers in the country. Lastly, he enquired whether Tajik migrants received social security benefits once they had returned to the country.

20. **Mr. El-Borai** asked for clarification on how Tajik nationals living abroad exercised their right to vote.

21. **Mr. Carrión Mena** asked about the reliability of the Government's statistics on the implementation of its migration policies; the nature and effectiveness of any bilateral agreements with neighbouring countries on matters of migration; management of the flow of remittances in and out of the country; and anti-corruption measures and training for customs officials.

22. **Ms. Ladjel** said that, since the Migration Service had been transferred to the Ministry of Internal Affairs but national employment policy was formulated by the Ministry of Labour and Social Protection, she would be interested to learn what part the latter ministry played in matters of labour migration.

23. **Ms. Poussi** asked why the draft agreement on social security between Tajikistan and the Russian Federation, which had been under consideration by the latter since 2007, had not yet been adopted. She would also like to learn more about the situation of emigration candidates whose official medical certificates were not recognized by the Russian Federation and about the mandate of the Migration Service. She wondered what precisely was meant by the reference to "regulating migration processes" made in paragraph 27 of the State party's report (CMW/C/TJK/1).

24. **Mr. Kariyawasam** said that the lack of statistical data in the report was regrettable. Consular services were a way of enabling labour-sending countries to provide fuller protection for their citizens in destination countries that were not parties to the Convention. In that light, he wished to know how the State party was planning to correct shortcomings in its consular services for its citizens abroad, particularly in the Russian Federation. How large was the diplomatic corps and how did it assist Tajik nationals? He asked for clarification on the meaning of the phrase "illegally convicted" in paragraph 141 of the initial report.

25. **Ms. Miller-Stennett**, noting that family members who were left behind were particularly affected when male breadwinners left the country for long periods of time so that they could send money home, asked what steps had been taken to facilitate communication between migrant workers and their families, to mitigate the negative effects on such family members, in particular women and children, and to promote their well-being. More information was needed on the consular services in place in countries of destination to provide migrant workers with assistance in connection with labour disputes, health care, relief in times of natural disasters and information on their rights and obligations, work permit procedures, immigration, the risks inherent in migration and trafficking.

26. **Mr. Taghizade** said that, since a majority of Tajik migrant workers were recruited by private rather than Government-run employment agencies, he would welcome further details on cases in which such employers had violated the law, including information on

any investigations and prosecutions. He would also appreciate receiving more information on the Zamoni Yunus employment agency, which had recruited Tajik citizens to work in Saudi Arabia. It was not clear what measures had been taken to monitor private employment agencies that did not meet their contractual and other obligations to migrant workers.

27. **Ms. Dicko** said that she was concerned at the high number of Tajik migrant workers — more than 780 — who had died while abroad and whose corpses had been repatriated. She wished to know how many of those deaths had been violent ones and what sectors those persons had worked in. She would also like further details on the mechanisms used to regulate migration flows and the steps taken to improve migration management. More information was needed on the measures taken by Tajikistan to enter into agreements with receiving countries on social security coverage for migrant workers.

The meeting was suspended at 16.50 and resumed at 17.10 p.m.

28. **Mr. Mahmaminov** (Tajikistan) said that the Ministry of Foreign Affairs, through its consular offices, was responsible for migration issues. Such offices had recently been opened in Ufa and Yekaterinburg and were present in almost all regions of the Russian Federation. The Ministry of Foreign Affairs, Ministry of Internal Affairs, Office of the Ombudsman and Ministry of Labour kept in close contact with leaders of the Tajik diaspora in the Russian Federation. The Migration Service was staffed by highly qualified officials who had worked for many years in the Ministry of Labour and other departments.

29. **Mr. Devonaev** (Tajikistan) said that the considerable efforts required to set up the Migration Service in 2011 had slowed down the adoption of the law concerning Tajik migrant workers abroad. Nevertheless, the bill was currently being considered by the Government, and non-governmental organizations, such as Perspektiva Plus and the Centre for Human Rights, and the Ministry of Justice had made useful recommendations concerning it which had been duly taken into account. He trusted that the law would be adopted in the coming months.

30. **Mr. Mahmaminov** (Tajikistan) said that the Ministry of Labour and Social Protection, Employment Service and Ministry of Education trained officials to deal with issues relating to internal and international migration. His Government was working closely with the Russian Federation through diplomatic channels to see to it that the agreement on social security coverage for Tajik migrant workers would soon be signed. Remittances, which, by law, were not subject to taxes, were transferred in accordance with agreements between the National Bank of Tajikistan and commercial and other banks in the Russian Federation and elsewhere. An agreement had recently been reached under which migrant workers received attractive interest rates on their bank deposits. The Government had also set aside funds to assist returning migrant workers or members of their families to set up small businesses. There were also plans to introduce pension reforms in 2013 which would allow migrant workers to place personal retirement savings in State or private institutions.

31. **Mr. Devonaev** (Tajikistan) said that his Government had entered into a bilateral agreement with the Russian Federation in October 2004 in Dushanbe which guaranteed the rights of Tajik workers in the Russian Federation and Russian workers in Tajikistan. A Russian-Tajik working group established pursuant to the agreement met every year to discuss labour migration issues, and international and non-governmental organizations participated in those deliberations. Under that agreement, a meeting had been held in 2011 in Kazan which had resulted in the opening of a vocational training centre for migrant workers under the auspices of Kazan State Technical University. The agreement also authorized the offices of the Tajik Migration Service in Moscow and St. Petersburg to issue work and entry permits to migrants. An arrangement had also been made for the online registration of airline and other passengers entering the Russian Federation.

32. **Mr. Jononov** (Tajikistan) said that the Ministry of Foreign Affairs reached out to Tajik migrant workers through its consular services, and three new consular offices had recently been opened. Pursuant to domestic regulations and international human rights instruments, services to migrants included protection of their rights and counselling on matters such as education, the right to return and passport issuance. The Ministry held annual meetings to assess the services it offered to its citizens abroad. So far in 2012, the consulate in Moscow alone had fielded 122 requests for services from Tajik nationals concerning such matters as their basic rights and legal status, financial assistance and dispute settlement.

33. **Mr. Mahmaminov** (Tajikistan) said that four round tables on the situation of migrants in general, social protection for migrant workers and their entry into the labour market had been held in 2011 with representatives of the Government, NGOs and international organizations. A television programme on issues facing migrant workers was broadcast twice a month. Staff training on social protection for migrants was a priority for the Government. Tajikistan was working to implement and disseminate the Convention, insofar as its means permitted, and hoped to make further progress in the future.

34. **Mr. Jononov** (Tajikistan) said that Tajikistan had a specific law on the voting rights of its nationals living abroad. Tajik migrants could vote at consulates, which were provided with all necessary campaign materials. For the latest parliamentary elections in 2010, polling stations had been set up at consulates in cities in Afghanistan, Austria, Belarus, Belgium, China, Egypt, Germany, India, the Islamic Republic of Iran, Japan, Kazakhstan, Pakistan, the Russian Federation, Turkey, the United Arab Emirates, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

35. **Ms. Muhammadieva** (Tajikistan), addressing the question on the reliability of Government statistics, said that the activities of the Statistics Agency included: collaborating with foreign experts to develop a methodology for keeping track of the number of migrants; producing official statistics for quarterly publication; standardizing calculation techniques and ensuring that they were applied across the country; updating census forms; compiling statistics on migration, including separate datasets on labour migration; reviewing the forms distributed at airports, railway stations and other transit points; and keeping biannual records of the number of foreign nationals entering the country and the number of new businesses set up by foreign individuals and companies. The Government had recently instructed the Statistics Agency to work more closely with the Migration Service to monitor migration flows. The Agency had staff who specialized in labour migration issues and travelled to local census bureaux on a quarterly basis. The domestic labour force was assessed annually, and steps were taken to ensure individuals were counted only once. That information was published annually and was available in Tajik, Russian and English on the Agency's website. The Agency was looking into the possibility of incorporating more sophisticated information technologies into its data-collection methods.

36. **Mr. Jononov** (Tajikistan) said that there were six consular staff members in Moscow, two in Yekaterinburg, three in Ufa and three in Almaty. Consulates kept records on the presence and movement of Tajik citizens abroad and on the nature and place of their employment. Migrants could search for jobs and file complaints online.

37. **Mr. Mahmaminov** (Tajikistan) said that his Government was aware of the risks associated with migration and addressed that issue in talks with the authorities of destination countries. Tajikistan worked closely with those countries through diplomatic and ministerial channels and through cooperation among the different countries' law enforcement agencies.

38. **Ms. Muhammadieva** (Tajikistan) said that the Statistics Agency had worked with international consultants to formulate a five-year plan for expanding data collection which included a labour migration component. The plan would span the period from 2012 to 2017 and was currently under consideration by the Ministry of Economic Affairs and Trade.

39. **Mr. Tall**, referring to the mention made of article 5 of the Bar Act in paragraph 56 of the report, asked for additional information on the legal aid provided to foreign nationals and, in particular, on the eligibility criteria used.

40. **Mr. Sevim** asked if the social protection agreement due to be signed in the near future with the Russian Federation was linked to the readmission agreement which that State had proposed to Tajikistan.

41. **Mr. Brillantes** asked if the delegation was familiar with the International Federation for Human Rights and whether it had played any part in preparing the report.

42. **Mr. Jononov** (Tajikistan) said that Switzerland, Ukraine and the Russian Federation had all proposed the conclusion of readmission agreements in respect of migrants who had entered those countries illegally. However, Tajikistan was not yet in a position to enter into such agreements owing to the enormous costs associated with them.

43. **Mr. Carrión Mena** wished to make clear that there was no such thing as “illegal” migrants.

44. **Mr. Jononov** (Tajikistan) replied that there was no other word to define a person who was unlawfully present in another country.

45. **The Chairperson** recalled that the Convention was the authoritative source for correct terminology and that the debate over “illegal” versus “irregular” had also been dealt with by the General Assembly in its resolution 3449 (XXX). He thanked the delegation and expressed appreciation for the constructive dialogue that had taken place.

The meeting rose at 5.55 p.m.