



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 Thirtieth session

Summary record (partial)* of the 411th meeting

Held at the Palais Wilson, Geneva, on Monday, 1 April 2019, at 3 p.m.

Chair: Ms. Landázuri de Mora (Vice-Chair)

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* No summary record was prepared for the rest of the meeting.

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In the absence of Mr. Tall, Ms. Landázuri de Mora, Vice-Chair, took the Chair.

The discussion covered in the summary record began at 3.25 p.m.

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

Second periodic report of Albania (CMW/C/ALB/2; CMW/C/ALB/Q/2 and CMW/C/ALB/Q/2/Add.1)

1. *At the invitation of the Chair, the delegation of Albania took places at the Committee table.*

2. **Ms. Lleshi** (Albania) said that a series of measures to improve the legal, policy and institutional frameworks relevant to migrant workers had been adopted during the reporting period. Act No. 108/2013 on Foreign Nationals, for example, provided that non-nationals enjoyed all rights enshrined in the Constitution except for those expressly reserved for citizens, guaranteed the right to establish and maintain family life for all non-nationals legally resident in the country and defined the rights of their family members. Council of Ministers Decision No. 513/2013 established the procedures and documents governing the entry, residence and treatment of foreign nationals, while the Asylum Act adopted in 2014 regulated asylum procedures and defined the rights of asylum seekers and refugees. Both the Foreign Nationals Act and the Asylum Act recognized the principle of non-refoulement.

3. Act No. 18/2017 on the Rights and Protection of the Child established that asylum applications for children should be prioritized and that children should not to be separated from their families, while specific protective measures for children and vulnerable persons were envisaged under Act No. 121/2016 on Social Services. Child asylum seekers had a right to education and could be enrolled in educational institutions without having to provide evidence of legal status or a birth certificate, although proof of vaccinations and previous school records were required. An Albanian language course was offered to facilitate integration. All migrants, irrespective of their status, had access to Government-funded health services on an equal footing with nationals.

4. In application of the Labour Code, Council of Ministers Decision No. 101/2018, concerning the organization and operation of private employment agencies, provided for counselling and mediation services to be made available to citizens returning to Albania and those wishing to emigrate for employment purposes. Order No. 300/2015 had improved the collection and compilation of national statistics on immigration and asylum and an electronic databank had since been developed that generated statistics on foreign nationals disaggregated by age, sex and citizenship. A further database that would collate information on asylum seekers was being developed.

5. Pursuant to an amendment to the Foreign Nationals Act introduced in 2016, foreign nationals who were members of an Albanian family were eligible for a residence permit renewable every two years, as were minors under the legal guardianship of a foreign national, and, between 2012 and 2017, 9,617 foreign citizens had been issued permits for family reunification purposes. Foreign nationals continuously resident in Albania for at least five years could apply for permanent residence provided that they met the conditions set out in the Albanian Citizenship Act. Permanent residents and those holding family reunification permits had the same employment and self-employment rights as nationals, and equal rights could be extended to refugees by means of a special work permit. However, migrants with temporary residence permits were under an obligation to remain in the specific position for which their permit had been issued.

6. Migrant workers and members of their families generally enjoyed the same social rights as Albanian citizens, although a municipal residence document that was not available to migrants in an irregular situation was required for registration in public schools. For Albanians outside the country, bilateral social security agreements were in place with a number of European countries, and also with Turkey, and similar agreements were currently being negotiated with Switzerland, Kosovo and Canada.

7. Under the State's migration legislation, certain categories of migrant, including persons with disabilities, sick persons, and parents with young children, were prioritized in

voluntary return processes. Unaccompanied minors could not be returned unless family reunification arrangements and proper health care could be guaranteed in their country of origin or residence and, to date, no unaccompanied minors had ever been returned. National reception capacity for asylum seekers had doubled between the beginning of 2017 and the end of 2018.

8. In 2014, the Ombudsman's Office had issued a report on emigration and related issues that had focused on the identification documents held by Albanian nationals born abroad and the integration of returnee children within the national education system. However, the report was still awaiting review by parliament.

9. The reinforcement of migration policies and management structures was a major strategic objective of the Government. The National Strategy for Development and Integration 2015–2020, adopted in May 2016, had been designed to ensure a more effective response to the myriad challenges associated with migration that was in line with international migration governance standards. The National Strategy for Integrated Border Management 2014–2020, meanwhile, was intended to enhance coordination and cooperation between all authorities and agencies involved in border security and trade facilitation.

10. The new National Strategy on Migration Governance and the related Action Plan 2019–2022 had been developed under the leadership of the Ministry of the Interior and with the support of the International Organization for Migration (IOM) and was expected to be approved by July 2019. The strategy focused on four priorities: guaranteeing strategic migration governance; ensuring safe and secure migration from, through and towards Albania; increasing the positive impact of migration on national and local socio-economic development through effective labour migration policies; and promoting and protecting the rights of migrants and their integration. During the consultation period, meetings had been held with representatives of civil society, academia, business associations, development partners, European Union member States and international organizations.

11. A sustainable policy for combating illegal immigration and trafficking in persons had been developed in response to inflows of undocumented migrants from the Middle East and North Africa attempting to use the Balkan countries as a means to reach European Union member States. Albania had ratified most international human rights instruments and conventions on migrants' rights and its domestic migration legislation reflected the principles contained therein. The treatment accorded to nationals of third countries who were detained at the border was governed by the Foreign Nationals Act and by bilateral agreements concluded between Albania and countries of origin or transit. The number of immigrants found to have entered the country illegally had reached 3,160 in 2018, a 200 per cent increase on the preceding year.

12. A programme designed to increase the engagement of the Albanian diaspora in the country's development that was funded by the Italian Agency for Development Cooperation was currently being implemented in partnership with IOM. The programme focused on providing opportunities for knowledge and skills, including through fellowship assignments for diaspora members interested in helping to build the capacity of Albanian institutions. Legislation to support the implementation of programmes aimed at teaching the children of the diaspora the Albanian language and aspects of their cultural heritage was also in place.

13. **Ms. Dzumhur** (Country Rapporteur), commending the State party for ratifying several International Labour Organization (ILO) conventions, said that she wished to know whether the Government intended to ratify the ILO Domestic Workers Convention, 2011 (No. 189) and the Optional Protocols to the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of Persons with Disabilities. She would also appreciate information on the measures taken to implement the Foreign Nationals Act of 2013. She also wished to know what was meant by "illegal immigration" and what constituted an illegal immigrant.

14. She would be interested to learn how the requirement for asylum-seeking children to present vaccination certificates and their school records to enrol in the education system was managed in practice, given that those children were unlikely to have such documents.

It would likewise be useful to have additional information about how the rights of Albanian migrant workers were protected, given that a significant proportion of Albanian nationals lived in other countries. She wished to know how article 11 of Act No. 69/2012 on the Pre-University Education System, which provided for the teaching of Albanian language and culture to children of Albanian nationals residing abroad, was enforced, and whether any relevant statistics were available. It would also be helpful to know how many Albanians were enrolled in education in other countries.

15. She invited the delegation to explain why the country's parliament had still not reviewed the Ombudsman's report on emigration five years after it had been submitted. She wondered what the status of the national preventive mechanism was, whether it had undertaken any visits to centres for immigrants or asylum seekers and, if so, what the findings of those visits had been. She would also like to know more about how unaccompanied migrant children were treated, including, in particular, whether children in an irregular situation were placed in detention.

16. **Mr. El-Borai** said that he wished to know which specific rights were reserved solely for Albanian citizens under the Constitution and thus denied to foreign nationals. Details of the rights accorded to asylum seekers under the Asylum Act of 2014 would also be appreciated, as would a description of the consular services available to Albanian citizens residing abroad.

17. **Mr. Oumaria** said that he would like to know more about specific legislative, policy and institutional measures adopted to improve the living conditions of foreign nationals in Albania and safeguard their rights. In particular, he would appreciate information, including statistics, regarding access to education and health care for migrant workers' families. He also wished to know whether the competent authorities carried out inspections of private recruitment agencies to ensure that workers were employed under conditions that complied with labour standards. Statistics on remittances from Albanian migrant workers abroad and those sent by migrant workers in Albania to their countries of origin would also be useful. He wondered whether the country had a national human rights institution and, if so, what accreditation status it currently enjoyed.

18. **Mr. Botero Navarro** said that he would be grateful for information about any plans to withdraw the requirement for asylum-seeking children to present vaccination certificates and school records to enrol in the education system and about any measures the State party envisaged introducing to ensure that those children had access to education at all levels. He would also like to know about any measures that the Government had taken in cooperation with host States to ensure that Albanian nationals working in those countries were able to exercise their rights and to guarantee that workers who had been the victims of rights violations, such as labour exploitation or sexual abuse, had access to justice.

19. **Mr. Soualem** said that he would appreciate an explanation of the status of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families within the State party's legal system. He wondered whether there had been cases where migrant workers had invoked the Convention in Albanian courts. He would be interested to learn whether the Albanian diaspora had political representation within the State party. He further enquired whether the Government offered the same services to migrant workers living in Albania as Albanian nationals received in other countries.

20. **Mr. Taghi-Zada** said that he wished to know what impact the employment strategies in place prior to the adoption of the National Strategy for Employment and Skills 2014–2020 had had on the rights of migrant workers and their families, and what measures might be included in the next strategy. He wondered whether there were trade unions or similar organizations that protected the rights of migrant workers in Albania. He would be grateful for additional information on immigration detention centres, especially in view of the fact that Albania was a transit country for migrants heading to other European countries. In particular, he would like to know whether there were any special detention facilities for child migrants. If there were, it would be useful to have a description of conditions in those facilities.

21. **Mr. Kariyawasam** said that he wondered whether the State party made a distinction between the terms “foreigner”, “alien” and “immigrant”, as used in its replies to the list of issues (CMW/C/ALB/Q/2/Add.1). He was concerned that the use of different terms might lead courts or law enforcement officers to interpret laws differently, which might have potential ramifications for migrant workers.

22. He would be grateful for examples of best practice in terms of the support provided by the State party’s embassies and consulates to Albanian migrant workers abroad. It would also be useful to have recent examples of measures taken to reintegrate migrant workers returning to Albania.

23. **Mr. Charef**, noting that enrolment in school required an attestation of residence issued by the municipal authorities, asked what became of migrant children in an irregular situation who could not obtain such an attestation. He wished to know what specific measures were taken to protect women who came alone or with children in the light of the double discrimination they experienced as migrants in an irregular situation and as women.

24. **The Chair** said that the State party should be mindful to ensure that recruitment agencies facilitated migration and did not take a business-centred approach to their services. She would appreciate further details about the role and objectives of the State Minister for the Diaspora.

25. **Mr. Ünver** asked whether the bilateral agreements that the State party had signed with countries of destination covered all forms of social security, including family benefits, and how many Albanian migrants had returned to Albania.

The meeting was suspended at 4.20 p.m. and resumed at 4.55 p.m.

26. **Ms. Kadriaj Papajani** (Albania) said that Albania had yet to ratify the ILO Home Work Convention, 1996 (No. 177) because it was a complicated process to authorize labour inspectors to enter private homes. Moreover, the current legislative framework had to be reviewed to assess compatibility with the instrument.

27. Despite the imposition of fines for non-compliance with quotas, employers were still sometimes reluctant to hire persons with disabilities. That situation had prompted a review of employment promotion laws. Consultations had taken place and amendments were before parliament; therefore, Albania should soon be ready to ratify the Convention on the Rights of Persons with Disabilities.

28. **Ms. Peçi Minarolli** (Albania) said that a coordinated process to assess the feasibility of ratifying certain international instruments, including the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, was under way. A working group would shortly be established to ascertain the compatibility of the existing legal framework with those instruments.

29. **Ms. Lleshi** (Albania) said that the failure to act on the 2014 report of the Ombudsman’s Office had been raised as a means to highlight the need for a mechanism to coordinate the implementation of the Convention rather than any particular problem in the area of immigration. In fact, the Ombudsman’s Office had been included in recent policy reviews and the data contained in its 2014 report had helped to shape new policies. Furthermore, addressing the needs of migrants was not solely the responsibility of the Government; the national human rights institution, the private sector and civil society organizations also had a role. It was a concerted effort to which she hoped the Committee would also contribute.

30. **Ms. Jushi** (Albania) said that, like all laws in Albania, Act No. 69/2012 on the Pre-University Education System contained a provision on non-discrimination. The right to education was, therefore, guaranteed for all citizens, foreign nationals and stateless persons. Compulsory education was free. The issue of the attestation of residence had been resolved in the 2017 Act on the Rights and Protection of the Child. Nevertheless, now that Albania was a gateway to the European Union, it was important for the Government to take measures to ensure that migrants were afforded equal rights and she would suggest to the authorities that Act No. 69/2012 should be amended accordingly.

31. **Ms. Peçi Minarolli** (Albania) said that the Convention could not be applied directly and had had to be transposed into domestic law. Several laws, including the Foreign Nationals Act, had been drafted to comply with the Convention and relevant European Union directives. There were no court cases regarding rights under the Convention, but the Convention was part of the curriculum for judges and other justice officials.

32. **Ms. Kadriaj Papajani** (Albania) said that ILO had conducted an evaluation of the country's employment strategy at the end of 2018. Migrant workers were among the beneficiaries of a new law regulating social enterprises, which had been enacted in 2016. The Council of Ministers had determined how such enterprises were to operate, what procedures they should follow, what inspections they should undergo and what penalties they might face. A commission with the authority to grant the status of social enterprise was in the process of being created. She was not aware of any trade unions specifically for migrant workers.

33. **Ms. Lleshi** (Albania) said that the discrepancies identified by Mr. Kariyawasam in the replies of Albania to the list of issues ([CMW/C/ALB/Q/2/Add.1](#)) were largely due to translation errors: the document had been drafted in Albanian and subsequently translated into English.

34. **Ms. Peçi Minarolli** (Albania) said that, for example, the official translation of what appeared in the replies to the list of issues as the Act "on Foreigners" was, in fact, the Act "on Aliens". The Act regulated the treatment of aliens – defined as anyone, whether a citizen of another State or a stateless person, who was not a national of the Republic of Albania – who entered or sought to enter Albania with the intention of staying, transiting, engaging in employment or studying in the country, and their departure therefrom.

35. **Ms. Lleshi** (Albania) said that the number of Albanians in the diaspora had increased significantly over the previous three decades, but in recent years many emigrants had chosen to return to Albania.

36. **Ms. Jushi** (Albania) said that, in the wake of the global financial crisis of 2009 and the subsequent economic downturn in Europe, many Albanian families had been forced to return home and, as a consequence, to re-enrol their children in the national education system. According to official statistics, 2,730 Albanian children had been reintegrated into both State-run and private schools in the academic year 2014/15, 1,216 in 2015/16, 2,127 in 2016/17, 1,309 in 2017/18 and 1,036 in 2018/19.

37. **Ms. Lleshi** (Albania) said that the issue of unaccompanied minors, which included both foreign children in Albania and Albanian children abroad, was one of great concern to the Government. Asylum seekers received psychosocial support, legal aid and health care at a national reception centre where any unaccompanied minors among them were placed under the care of a specially appointed guardian. The Asylum and Citizenship Directorate conducted asylum application procedures, throughout which the best interests of the child remained a paramount concern. The Office of the United Nations High Commissioner for Refugees provided assistance and training to border officials and helped to support social centres that accommodated vulnerable migrants and refugees.

38. Under the law, unaccompanied minors in Albania could not be returned to their country of origin unless arrangements had been put in place to guarantee family reunification and proper health care. The procedural framework for the implementation of that legal provision was still being drafted: however, in practice, no unaccompanied child had ever been returned to his or her country of origin.

39. Unaccompanied children returning to Albania were dealt with within the framework of the 2014 Joint Order of the General Directorate of the State Social Services and the General Directorate of State Police on measures for the social reception and treatment of unaccompanied minors. In addition, meetings had been held with migration agencies in Germany, France, Sweden, Belgium and Greece, which were the chief countries of destination for unaccompanied Albanian minors. Such cooperation focused on obtaining information and facilitating the safe return of unaccompanied minors, either to their families or to the competent State agencies.

40. **Ms. Dzumhur** said that she would be interested to hear more about how the Ombudsman's Office was fulfilling its duties as the national torture prevention mechanism and whether it issued regular reports. She also hoped to learn more about the status of women in Albanian society and about efforts made to improve their status, particularly in the light of information that seemed to show that emigration from Albania was predominantly male and that women were often left behind to look after the children.

41. The Committee would like to hear more about what was being done to prevent human trafficking, including details of any prosecutions that had taken place and how effective they had been. In particular, members would like to know how the offence was defined, whether it was classified as an organized crime in accordance with the United Nations Convention against Transnational Organized Crime, what penalties were envisaged and what assistance was available to victims.

42. Details of efforts being made to combat corruption, which had been identified as one of the factors that drove people to emigrate, would be appreciated. In addition, she hoped that the delegation could explain what measures were taken in respect of migrants who unlawfully entered national territory in family groups. Were such persons detained and, if so, were they held separately or together? Lastly, she would like to know what birth registration procedures were applied for the children of women who gave birth in Albania after having entered the country unlawfully.

43. **Mr. Botero Navarro** said that he would like to know whether the State party had taken any steps towards making the declarations provided for in articles 76 and 77 of the Convention, as the Committee had requested in its 2010 concluding observations. He wished to know whether any investigations had been launched into allegations of corruption against border officials and what due process guarantees were in place to prevent arbitrary deportations or collective expulsions. Could the delegation confirm that migrants were detained only as an exceptional measure? He would also be interested to hear about any court judgments that specifically cited the Convention.

44. **Mr. El-Borai** said that he wished to know whether he was correct in his understanding that the Convention had the same weight as domestic law in the Albanian legal order. If that was the case, he looked forward to receiving assurances that no piece of domestic legislation that was inconsistent with the Convention would be applied by the courts.

45. **Mr. Charef** said that he wished to know whether the relationship between the national human rights institution and parliament was consistent with the Belgrade Principles on the relationship between national human rights institutions and parliaments.

46. **Ms. Lleshi** (Albania) said that the national human rights institution and parliament were completely independent from one another. However, that independence did not preclude cooperation.

The meeting rose at 5.45 p.m.