



# 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 prior to submission of the initial report of Cabo Verde\*

The Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, at its fourteenth session (A/66/48, para. 26), established a procedure which consists in the preparation and adoption of a list of issues to be transmitted to the State party concerned prior to the submission of its report. The replies of the State party to this list of issues will constitute its report under article 73, paragraph 1, of the Convention. In accordance with General Assembly resolution 68/268, paragraph 16, the report should not exceed 31,800 words.

A list of issues may also be transmitted to a State party in cases where the Committee decides to examine the implementation of the Convention in the absence of a report, in accordance with rule 31 bis of the provisional rules of procedure (A/67/48, para. 26).

## Part I

In this section, the State party is requested to submit its responses to the following questions.

### A. General information

1. Please provide information on the domestic legal framework regarding the Convention, including:

(a) The rank of the Convention in domestic law and whether the Convention has direct effect or is part of the domestic law through implementing legislation;

(b) Information on the relevant national legislation of the State party regarding the protection of all migrant workers and members of their families and on migration policies under the Convention. In particular, please provide information on the scope of the

\* Adopted by the Committee at its 20th session (31 March–11 April 2014).



2014 draft decree-law on the entrance, stay and exit of foreigners, and especially on how migrants and their family members will be impacted. Please also provide information on the mandates of the different institutions involved in immigration procedures, including family reunification processes;

(c) Measures taken by the State party to harmonize its legislation with the provisions of the Convention; and

(d) Bilateral and multilateral agreements that have been concluded with other countries pertaining to the rights of migrant workers and members of their families in line with the Convention, particularly with France, the Netherlands, Portugal and Spain, and with the European Union. Please also provide information on bilateral and multilateral agreements with other relevant countries, such as Angola, Equatorial Guinea, Senegal and the United States of America.

2. Please provide information on all policies and strategies relating to migrant workers and members of their families that have been adopted by the State party, including information on specific time-bound and measurable goals and targets to effectively monitor progress in the implementation of the rights of all migrant workers and members of their families in the State party, as well as information on resources allocated for their implementation and on the results obtained.

3. Please provide information on the government ministry or institution responsible for intergovernmental coordination as regards the implementation of the Convention and the monitoring of its implementation in the State party, including information on the available staffing and resources as well as on monitoring activities and follow-up procedures.

4. In view of the large diaspora of Cabo Verdeans, please provide, with respect to Cabo Verdean migrant workers, information, including qualitative information and statistical data disaggregated by sex, age, nationality and migration status, on labour migration flows, including migration to new destinations such as Angola and Equatorial Guinea and returns, and on other labour migration-related issues and new trends. Please also provide qualitative and statistical data, or if precise data are not available, then studies or estimates, on migrant workers in an irregular situation. Furthermore, please provide information on measures taken by the State party to establish a coherent and cross-comparable system of data collection on these issues in relation to the implementation of the Convention.

5. Please inform the Committee whether an independent mechanism exists (e.g. a national human rights institution or an ombudsperson) that has a mandate to independently monitor human rights within the State party, including the rights of all migrant workers and members of their families under the Convention. Please also provide information on complaint mechanisms and other services, including helplines, offered by this institution. In addition, please provide information on the human, technical and financial resources made available to the institution, as well as on activities carried out by the State party to raise awareness among the general public, and among migrant workers in particular, of the services offered by the institution, including the right to file a complaint directly with the institution.

6. Please provide detailed information on the steps taken by the State party to promote and publicize the Convention and to increase awareness and understanding in the State party of its provisions – among the general public, migrant workers and members of their families, employers, teachers, health workers, and government officials, including law enforcement officials and the judiciary. With respect to migrant workers who are nationals of the State party working abroad, please also describe measures taken by the State party to promote training programmes, including on gender sensitivity, for government staff dealing with migration issues, in particular those providing legal and consular assistance to

nationals of the State party abroad seeking justice against abuses in the workplace. In addition, please provide information regarding migrant workers or members of their families who have been arrested, held in prison, placed in custody pending trial or detained in any other manner.

7. Please provide information on the cooperation and interaction between the State party and civil society organizations working on migrant workers' rights, with regard to the implementation of the Convention. Please indicate whether and how representatives of civil society organizations and other stakeholders are involved in the preparation of the replies to this list of questions.

8. Please provide information on the existence of private employment agencies in the State party that recruit migrant workers to work abroad, and the laws, rules and regulations pertaining to private recruitment, and, in particular:

(a) Measures taken to provide information and training to all migrant workers on their rights and obligations, as well as to protect against abusive employment situations;

(b) Whether recruiters assume joint liability with the employer for claims and liabilities that may arise in connection with the implementation of the employment contract, including on matters such as wages, death, disability compensation and repatriation;

(c) Information relating to the issuance and renewal of licences for such employment agencies, and the conditions for renewal;

(d) Information on complaints against agencies and on inspections, as well as on penalties and sanctions for non-compliance; and

(e) Measures taken by the State party to strengthen migration regulation and control mechanisms to ensure that private recruitment agencies abstain from charging excessive fees for their services and from acting as intermediaries for abusive foreign recruiters.

## **B. Information relating to the articles of the Convention**

### **1. General principles**

9. Please indicate whether the Convention has been directly applied by officials in the administration and/or invoked directly before the courts, and whether the courts have applied the Convention, and if so, please give examples. Please also provide information on: (a) judicial and/or administrative mechanisms competent to examine and decide on complaints by migrant workers and members of their families, including migrant workers in an irregular situation; (b) the complaints examined by such mechanisms in the past five years and their outcomes; (c) any redress, including compensation, provided to the victims of such violations; (d) any measures taken to inform migrant workers and members of their families about the remedies available to them for violations of their rights.

### **2. Part II of the Convention**

#### **Article 7**

10. Please clarify whether national legislation ensures that all migrant workers and members of their families have the rights provided for in the Convention without distinction of any kind and whether it covers all the prohibited grounds of discrimination enumerated in the Convention (art. 1, para. 1; and art. 7), which include sex, language, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth, or other status. Please also provide information on the gender sensitivity of the domestic migration

laws. In addition to legislation, please provide information on all the measures taken by the State party to ensure non-discrimination, both in law and in practice. Please further provide information on access to health care and other social services for migrant workers and members of their families, both those in a regular situation and those in an irregular situation, and education for the children of migrant workers, both those in a regular situation and those in an irregular situation.

### **3. Part III of the Convention**

#### **Articles 8 to 15**

11. Please provide information on the measures taken to protect migrant workers, including migrant women, and especially those in irregular situations and in the tourism sector, from economic and sexual exploitation and other forms of abuse, including forced or compulsory labour. Please also elaborate on the measures taken to ensure that foreign migrant workers employed in the formal and informal retail and wholesale sectors are protected by labour laws and that their basic rights are guaranteed in the national legislation, including through inspections of workplaces.

#### **Articles 16 to 22**

12. Please describe the due process safeguards in situations of the investigation, arrest or detention of migrant workers or members of their families for criminal offences or administrative infractions, including immigration-related matters. Please also provide information on the conditions of detention for migrant workers, as well as information on whether the State party has in place alternatives to detention for immigration-related matters.

13. In the light of the information received that several West African immigrants were killed in the period from 2002 to 2005, please clarify whether the State party has thoroughly investigated the root cause of the murders of West African immigrants and whether the alleged perpetrators have been prosecuted and sanctioned. Please also indicate whether family members of the victims have been compensated. In addition, please provide information on measures taken to combat xenophobia and racism and to promote respect for diversity in the State party.

#### **Article 23**

14. Please provide detailed information on the roles of the State party's embassies, consulates and labour attachés in assisting and protecting nationals working abroad, including those in irregular situations, and particularly in cases of abuse, arrest, detention or expulsion. Please indicate whether legal assistance is provided, including in detention and/or expulsion cases or whenever the rights recognized in the Convention are impaired.

#### **Articles 25 to 30**

15. Please inform the Committee whether the labour rights enjoyed by nationals apply on an equal basis to migrant workers, both those in a regular situation and those in an irregular situation. In particular, please provide detailed information on the measures taken to ensure, in practice, the right to equality and non-discrimination in the treatment of all migrant workers, particularly in the construction and domestic services sectors, and to ensure that they receive equal remuneration. Please elaborate on the labour protection framework and enforcement mechanisms in place to provide effective monitoring of their employment conditions.

16. Please provide information on the measures taken to promote registration of the birth of children of nationals working abroad, including those in an irregular situation, and to ensure registration of the birth of children of migrant workers in the State party.

#### **Articles 31 to 33**

17. The Committee welcomes the efforts of the State party in the framework of the Mobility Partnership with the European Union, in creating a Centre for Migrant Support in the Origin Country, which provides pre-departure orientation sessions for potential migrant workers leaving for Portugal and other European countries, and information about Cabo Verde to returning migrants. Please provide information to the Committee about any steps taken to inform nationals going to work in other relevant destination countries, such as Angola, Senegal and the United States, about their rights and obligations in the State of employment. In particular, please provide information about any steps taken by the State to develop pre-departure orientation sessions for family members and people migrating for family reunification purposes. Please also indicate whether the State party has conducted any specific information and training programmes on the Convention for relevant public officials, such as police officers, embassy and consular staff, social workers, judges, prosecutors and government officials.

#### **4. Part IV of the Convention**

18. Please provide information on the steps taken by the State party to facilitate the exercise by its nationals residing and working abroad of the right to vote and to be elected to public office in Cabo Verde. Please also include information on the impact of dual nationality on the right to vote and to be elected to public office in Cabo Verde.

19. Please describe the efforts to ensure that migrant workers of the State party working abroad, including those on short-term or temporary contracts, enjoy equality of treatment with nationals of the host country, can freely choose their remunerated activity, are not regarded as being in an irregular situation due to termination of their contract, and are ensured favourable working and living conditions. In particular, please provide information on any steps taken by the State party to change article 282 of the National Labour Law and make written contracts mandatory for all migrant workers, in order to ensure sufficient protection for migrants and to ensure that they are fully aware of their contract rights and privileges.

#### **5. Part V of the Convention**

##### **Articles 57 to 63**

20. Please provide information on the particular categories of migrant workers and their numbers and on related measures adopted by the State party.

#### **6. Part VI of the Convention**

##### **Article 64**

21. Please provide detailed and updated information on the bilateral and multilateral agreements concluded in the field of migration. Please provide details particularly on programmes and agreements concerning employment, legal and social protection, taxes and social security for migrant workers and members of their families. Please also provide details regarding measures taken to protect the members of families of migrant workers. Please provide information on the bilateral agreements on social security for migrants concluded with countries with large numbers of Cabo Verdean migrant workers, such as Spain and the United States, and Portuguese-speaking countries, and please provide

information on the application of the Convention on Social Security concluded with Senegal.

**Article 67**

22. Please explain the procedure and mechanism for the repatriation of migrant workers to the State party, and whether bilateral or multilateral agreements and cooperation programmes facilitate the voluntary return and reintegration of migrant workers and members of their families. Please also describe the use of development assistance to facilitate the resettlement and reintegration of migrant workers into economic and social life in the State party. Please also provide information on the results obtained.

**Article 68**

23. Please provide detailed information on the phenomena of human trafficking and human smuggling in the State party. Please indicate the measures taken by the State party to prevent and eliminate all forms of trafficking in persons, particularly women and children, and provide information on the systematic compilation of disaggregated data on the trafficking and smuggling of migrants, and on the prosecution of individuals involved in trafficking and smuggling. Given that the Council of Ministers of the State party has approved the preparation of a new immigration law that includes a comprehensive legislative framework to prevent and eliminate trafficking in persons and to address the employment of migrant workers in an irregular situation, please provide information on the status of this law. Please also specify whether the State party has adopted legislation and policies to combat trafficking in persons, in accordance with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Trafficking in Persons Protocol). In addition, please provide information on the progress made in implementing the Economic Community of West African States (EOWAS) Plan of Action against Trafficking in Persons, and in implementing the Mobility Partnership with the European Union to prevent irregular migration and eliminate trafficking in human beings.

**Article 69**

24. Please provide information on any measures taken in order to ensure that foreign migrant workers and members of their families in an irregular situation in the State party have the possibility to regularize their situation, in accordance with the provisions of article 69 of the Convention.

25. Please describe the steps taken by the State party, including via multilateral and bilateral agreements, to improve the protection of its nationals abroad, both migrant workers in regular and irregular situations, particularly in countries where the largest numbers of migrant workers from Cabo Verde can be found, such as Angola, Equatorial Guinea, France, Italy, Luxembourg, the Netherlands, Portugal, Senegal, Spain and the United States, including efforts made to promote regularization.

## Part II

**In this section, the Committee invites the State party to briefly (three pages maximum) provide information regarding the protection of all migrant workers and members of their families with respect to:**

- (a) Bills or laws, and their respective regulations;
- (b) Institutions (and their mandates) or institutional reforms;
- (c) Policies, programmes and action plans covering migration, and their scope and financing;
- (d) Recent ratifications of human rights instruments, including International Labour Organization (ILO) Convention No. 97 (1949) concerning Migration for Employment, ILO Convention No. 143 (1975) concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers, and ILO Convention No. 189 (2011) concerning decent work for domestic workers;
- (e) Steps towards making the declarations provided for in articles 76 and 77 of the Convention; and
- (f) Recent comprehensive studies on the situation of migrant workers.

## Part III

**Data, official estimates, statistics and other information, if available**

1. Please provide updated disaggregated statistical data and qualitative information for the last three years (unless indicated otherwise) on:

- (a) Migrant workers in detention in the State party and in States of employment;
- (b) Migrant workers and members of their families that have been expelled/deported from the State party within the last five years;
- (c) The numbers of unaccompanied migrant children and migrant children separated from their parents in the State party;
- (d) Remittances from migrant workers who are nationals of the State party working abroad, on legislation regulating remittances, and on government policies relating to remittances and development;
- (e) The reported cases of trafficking and smuggling of migrants, investigations, prosecutions, and the sentences imposed on perpetrators (disaggregated by sex, age, nationality and purpose of trafficking), as well as information on national human trafficking trends;
- (f) Legal assistance services provided to migrant workers and members of their families – those inside the State party, as well as nationals of the State party working abroad; and
- (g) The existence of mechanisms aimed at collecting quantitative disaggregated statistical data and qualitative information on the rights of all migrant workers in line with the Convention, inside and outside the State party. If applicable, please also provide information on the functioning of such mechanisms, including indicators of success and outcomes.

2. Please provide additional information on any important developments and measures regarding the implementation of the Convention that the State party considers a priority.
  3. Please submit general and factual information about the country, in accordance with the harmonized reporting guidelines for the international human rights treaties including the Convention (HRI/GEN/2/Rev.6). Please also submit the State party's common core document in line with the same reporting guidelines, if it has not already been submitted. The common core document will complement the responses to the present list of issues.
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