



# International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

Distr.: General  
10 October 2017

Original: English  
English, French, Russian and  
Spanish only

## Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families

### List of issues in relation to the second periodic report of Tajikistan\*

#### I. General information

1. Please provide updated information on the status of the bill on migrant workers (para. 27),<sup>1</sup> and clarify whether and how it applies to the protection of the rights of foreign migrant workers and members of their families in Tajikistan in accordance with the Convention. Please also indicate how the previous concerns of the Committee regarding the provisions of the draft law on labour migration have been addressed, including the use of terminology such as “illegal migrant”, restrictions on the rights of citizens to leave the State party, and obligations to obtain professional qualifications before migrating abroad and to provide support to their families through remittances (see CMW/C/TJK/CO/1, para. 10). Please also provide further information on what monitoring and implementation mechanisms are envisaged in the bill to protect effectively the rights of migrant workers who are recruited through private employment agencies (para. 28).

2. Please clarify what policies and strategies have been adopted to protect the rights of foreign migrant workers and members of their families in the State party, including those in an irregular situation.

3. In relation to policies and strategies to protect the rights of Tajik migrant workers and members of their families, please provide further clarification on:

(a) The achievements and the difficulties encountered in implementing the National Strategy on Tajik Labour Migration for 2011-2015 and the Plan of Action on Tajik Labour Migration, indicating the items that were not implemented fully and why not (para. 29);

(b) Whether the State party intends to adopt any subsequent strategy on labour migration, and if so, how it will incorporate the lessons learned from the previous migration strategy.

4. Please clarify what measures are provided in the National Development Strategy 2016-2030 (paras. 7 and 30) regarding specific time-bound and measurable goals and targets to monitor the progress of its implementation, and provide information on the allocation of sufficient financial and human resources to ensure its effective implementation. Please also clarify how this strategy is related to the 2015-2020 strategic framework for involving Tajik citizens based abroad as partners in the country’s development (para. 67),

\* Adopted by the Committee at its twenty-seventh session (4-13 September 2017).

<sup>1</sup> The paragraph numbers given in parentheses, without any further detail, refer to CMW/C/TJK/2.



and provide concrete examples of how the concerns of Tajik migrant workers abroad have been addressed.

5. Please provide updated qualitative information and statistical data, including those gathered from the 2016 labour force survey (paras. 34 and 38), disaggregated by sex, age, nationality and migration status, on recent labour migration movements to and from the State party, including Tajik migrant returnees, asylum seekers residing or in transit in Tajikistan, and foreign migrant workers, including those in an irregular situation. If precise data are not available, please provide estimates. Additionally, please provide information on measures taken by the State party to improve its data collection system to monitor migration movements, including those of migrant workers who cross the border by car or bus who reportedly do not fill out registration cards (para. 34).

6. Please provide more detailed information regarding the findings of the research on the rights of female migrant workers in countries of origin and destination, referred to in paragraph 9 of the State party report, including by specifying the nature of “the problems they encounter”. Please also clarify what the gender-based approach to labour migration entails (para. 9), whether it is applicable to Tajik women migrating abroad as well as to foreign migrant women in Tajikistan, and how it is implemented in practice and its impact is monitored.

7. Please indicate whether the State party plans to make the declaration provided for in articles 76 and 77 of the Convention and to thereby recognize the competence of the Committee to receive communications from States parties and individuals, as previously recommended by the Committee (see CMW/C/TJK/CO/1, para. 14). Please provide updated information on the progress made towards the ratification (para. 31) of the International Labour Organization (ILO) Private Employment Agencies Convention, 1997 (No. 181) and the ILO Domestic Workers Convention, 2011 (No. 189).

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

### **A. General principles**

8. Please provide information on the number and type of complaints examined by the Migration Service and other bodies authorized to examine complaints from foreign migrant workers as well as Tajik migrant workers abroad since the last review in 2012, and on the outcomes and redress provided to victims of human rights violations.

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

#### **Articles 8-15**

9. Please provide information on the impact of measures adopted thus far to combat corruption, such as the installation of cameras and video surveillance equipment and the establishment of a telephone helpline (paras. 44-51), including by providing data, since the last review in 2012, on the number of officials who have been investigated and held to account for corrupt practices, such as extortion of money from migrant workers for services that are free of charge (see CMW/C/TJK/CO/1, para. 22). Please also clarify what steps have been taken by the State party to prevent and respond to the alleged misuse of the new electronic visa system by officials to extort bribes from foreign migrant workers.

#### **Articles 16-22**

10. Please clarify how article 100 of the Criminal Procedural Code is compatible with the obligation of the State party under article 16 (7) (a) of the Convention to ensure that when a migrant worker or a member of his or her family is arrested or detained, the consular or diplomatic authorities of his or her State of origin are informed without delay of his or her arrest or detention.

11. According to the information available to the Committee, migrant workers in the State party face difficulties in accessing interpreters and information in a language they understand, and are only given one day to file an appeal for decisions regarding their removal from the territory of the State party, while Tajik nationals can do so within 10 days. Please provide information on the measures taken to increase the availability and accessibility of interpreters in the State party, as well as to ensure that migrant workers have sufficient time and resources to challenge expulsion orders on an equal footing with nationals of the State party.

12. Please provide detailed information on cases where foreign migrant workers, including those in an irregular situation, have received free legal aid, as requested by the Committee in its previous concluding observations (see CMW/C/TJK/CO/1, paras. 24 (d) and 30), and in the light of the adoption in July 2015 of a framework for the provision of free legal assistance (paras. 59-63).

### **Article 23**

13. Please provide further information on the number of instances, and nature, of legal assistance provided to Tajik migrant workers in the Russian Federation by the migration office of the Tajik Ministry of Labour, Migration and Employment in the Russian Federation (para. 75). Please also provide further information on the requests for investigation into violations of the rights of Tajik migrant workers that have been sent to the Russian Federation during the reporting period (para. 78), specifying the nature of such violations, how many of them have been investigated, and the outcome of such investigations, including prosecution and sentencing of those responsible and the remedies provided to victims. Please also clarify whether an independent investigation has been carried out by the authorities of the State party to establish the facts and hold those responsible to account for the death of Umarali Umarov, a five-month-old baby who died within 24 hours of being forcibly separated from his mother in the Russian Federation in October 2015.

### **Article 33**

14. Please indicate what measures have been adopted to implement the previous recommendation of the Committee to ensure that information regarding the activities of the Migration Service is available in languages that foreign migrant workers in the State party understand, including English and Pashto (see CMW/C/TJK/CO/1, para. 32; and CMW/C/TJK/2, para. 65).

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

### **Article 41**

15. According to the information available to the Committee, various legislative changes have been introduced since 2013 which have further restricted the ability of Tajik migrant workers living abroad to vote and to be elected to public office in the State party. Please provide further information on such legislative amendments, and clarify what measures are being considered or taken to facilitate the right of Tajik migrant workers and members of their families to exercise their voting rights and to be elected to public office in the State party. Please also provide information on the number of Tajik migrant workers residing abroad during the presidential and parliamentary elections in 2013 and 2015 respectively, and the proportion among them who participated in the elections.

### **Article 47**

16. According to the information available to the Committee, recipients of remittances from the Russian Federation have lost money due to an unfavourable official exchange rate following the decision adopted by the National Bank of Tajikistan in February 2016 requiring all money transfers in Russian roubles to be issued only in the national currency of Tajikistan. Please provide further information on the rationale behind this decision and indicate what measures the State party is taking to guarantee the right of migrant workers

and members of their family to transfer their earnings and savings without being subjected to unfavourable conditions.

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

### **Article 64**

17. According to the information available to the Committee, there are increasing numbers of Tajik migrant workers with HIV, tuberculosis and hepatitis, who are consequently prohibited from entering the Russian Federation for life. Please provide information on the measures adopted to prevent and respond to such infections and to ensure that the health status of Tajik nationals does not automatically prohibit them from seeking employment in the Russian Federation.

### **Article 65**

18. Please provide information on the concrete impact of joint measures adopted between the State party and the Russian Federation to improve the situation of migrant workers and members of their families in the Russian Federation (para. 10). Please also provide updated information regarding the nine draft agreements with the Russian Federation to ensure the provision of social security benefits to all migrant workers and members of their families (para. 69) and to develop a common migration strategy (see CMW/C/TJK/CO/1, para. 34). Please also provide updates regarding the ratification (para. 71) of the ILO Equality of Treatment (Social Security) Convention, 1962 (No. 118).

### **Article 67**

19. Please provide detailed information on the status of implementation of the recommendations arising out of the 2015 research into the situation of migrant workers and members of their families who have returned to Tajikistan (para. 54). Please describe the remaining obstacles in fully implementing the recommendations and indicate what additional measures are being adopted to guarantee the rights of returnees and their families. Please also provide detailed information on the impact of measures adopted to improve the situation of migrant workers and members of their families who have returned to Tajikistan, and the financial and human resources allocated to implement such measures effectively.

### **Article 68**

20. Please provide detailed information on how the recently adopted National Referral Mechanism is being implemented in practice to identify trafficking victims effectively and refer them to appropriate services. Please also indicate the measures adopted to ensure that law enforcement agencies identify victims of trafficking effectively among persons who are in prostitution or forced labour prior to their deportation, and the impact of such measures in improving the rate of successful identification of trafficking victims and their referral to appropriate services. Additionally, please provide detailed information on the steps taken to protect foreign migrant workers from exploitation and abuse, including in the construction industry.

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