



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 second periodic report of Kyrgyzstan*

Section I

A. General information

1. Please provide updated information on the domestic legal framework regarding the Convention, including:
 - (a) Steps taken to align national legislation and policies with the provisions of the Convention, including the definition of “labour migrant”;
 - (b) Progress made in amending legislation to ensure the protection of the rights of all migrant workers in both regular and irregular situations;
 - (c) Bilateral and multilateral agreements with other countries in the area of migration, in particular regarding temporary labour programmes and other agreements concerning employment, protection, double taxation and social security.
2. Please provide information on migration policies and strategies, including:
 - (a) Progress made in adopting a dedicated migration policy, with specific time-bound and measurable goals and targets to effectively monitor progress in the implementation of the rights of migrant workers and members of their families;
 - (b) Resources allocated to the implementation of such policies and the results obtained;
 - (c) The State party’s accession to the Eurasian Economic Union in May 2015, and the impact it has had on promoting, protecting and fulfilling the rights of Kyrgyz migrant workers and members of their families.
3. Please provide updated information on the ministry or agency responsible for intergovernmental coordination on the implementation of the Convention, the efforts made to improve coordination at all levels of government and the resources allocated to the bodies concerned for promoting, protecting and fulfilling the rights of migrant workers and members of their families under the Convention.
4. Please provide information on progress made in:
 - (a) Making the declarations provided for in articles 76 and 77 of the Convention;
 - (b) Ratifying the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) of the International Labour Organization (ILO), the ILO Private Employment

* Adopted by the Committee at its thirty-fourth session (28 March–8 April 2022).



Agencies Convention, 1997 (No. 181) and the ILO Domestic Workers Convention, 2011 (No. 189);

(c) Providing the Ombudsperson with a comprehensive mandate to promote and protect the rights of migrant workers and members of their families and with adequate financial, human and technical resources to effectively discharge this mandate.

5. Please provide qualitative and quantitative information and statistics on labour migration flows, in particular to Kazakhstan, the Russian Federation and Turkey, including returns, and on other labour migration-related issues, disaggregated by sex, age, nationality, migration status, reason for entering and departing from the country and the type of work performed. Please also provide statistical data, or if precise data are not available, then please provide studies or estimates on migrant workers in an irregular situation, unaccompanied migrant children and children left behind by migrant parents. Please provide information on the progress made in establishing a coherent and cross-comparable system of data collection on migration-related issues covering all aspects of the Convention.

6. Please provide information on:

(a) Existing continuing education and training programmes on the Convention organized by the State party for public officials and other professionals in migration-related areas;

(b) Measures taken to disseminate the Convention, promote its implementation and raise awareness about the Convention among the general public, migrant workers and members of their families, and relevant professionals;

(c) Efforts made to involve civil society organizations in the implementation of the Convention and the preparation of the State party's periodic reports and replies to the present list of issues prior to reporting.

B. Information requested, by article of the Convention

1. General principles

7. Please indicate whether the Convention has been directly applied by officials in the administration. Please provide information on and examples of judicial cases and judgments in which the Convention has been invoked directly before the courts. 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 those in an irregular situation;

(b) The number and type of complaints examined by such mechanisms since the adoption of the Committee's previous concluding observations¹ and their outcome, disaggregated by sex, age, nationality, field of occupation and migration status;

(c) Whether legal assistance was provided;

(d) Any redress, including compensation, provided to the victims of such violations;

(e) Any measures taken to inform migrant workers and members of their families about the remedies available to them for violations of their rights.

8. Please provide information on restrictions placed on the full exercise of the rights of migrant workers and members of their families in the face of the coronavirus disease (COVID-19) pandemic and on the measures taken to mitigate its adverse impacts, including with regard to Kyrgyz migrant workers in the Russian Federation and undocumented returnees, in view of the joint guidance note, issued by the Committee and the Special

¹ [CMW/C/KGZ/CO/1](#).

Rapporteur on the human rights of migrants, on the impacts of the COVID-19 pandemic on the human rights of migrants. Furthermore, please provide information on:

(a) Measures taken to ensure that all migrants have equitable access to COVID-19 vaccines, on a non-discriminatory basis, regardless of their nationality and migration status and on an equal basis with nationals, in accordance with the joint guidance note on equitable access to COVID-19 vaccines for all migrants;

(b) Whether vaccine prioritization within Kyrgyzstan takes into account vulnerabilities, risks and needs of those migrants who are most exposed to SARS-CoV-2;

(c) Whether firewalls are enacted between law enforcement and immigration authorities on the one hand, and health services providing COVID-19 vaccinations on the other, in order to prevent fear or risk of reporting, detention, deportation and other penalties as a result of migration status;

(d) Safeguards taken in law and practice to ensure that vaccine registration is not used to collect or share information about migration status.

2. Part II of the Convention

Article 7

9. Please provide information on efforts made to:

(a) Guarantee that all legislation, including the Constitution and the laws on citizenship, on civil acts, on the legal status of foreign nationals, on immigration, on external migration, and on external labour migration, ensures that all migrant workers and members of their families, both in regular and irregular situations, within its territory or subject to its jurisdiction, enjoy the rights provided for in the Convention without distinction of any kind;

(b) Adopt comprehensive anti-discrimination legislation that ensures that all migrant workers and members of their families enjoy the rights established in articles 1 (1) and 7 of the Convention, without distinction of any kind, and ensure that such legislation covers all the prohibited grounds of discrimination, including sex, age, gender identity and sexual orientation, disability, language, national, ethnic or social origin, nationality, economic position, property, marital status, birth or other status;

(c) Ensure non-discrimination, protection of labour rights and gender equality in all matters relating to migration policy, both in law and in practice.

10. Please inform the Committee about any cases identified in the State party and in States of employment of Kyrgyz migrant workers, of racism and xenophobia, discrimination, ill-treatment and violence directed at migrant workers and members of their families, and provide information about normative, institutional and procedural measures adopted by the State party to prevent and combat all forms of racism, xenophobia, discrimination, ill-treatment and violence, in order to protect the rights of the victims, including their right to access to justice.

3. Part III of the Convention

Articles 8 to 15

11. Please provide information on:

(a) Any cases identified in the State party of exploitation of migrant workers and members of their families, both in regular and irregular situations, in particular those working in construction, industry, energy, transport, agriculture, domestic work and other services;

(b) Any cases identified in the State party of domestic servitude, forced labour and sexual exploitation involving migrant workers, especially in the context of sex tourism, and on measures to prevent and combat these phenomena;

(c) Measures taken to bring the national legislation into compliance with ILO Forced Labour Convention, 1930 (No. 29), and ILO Abolition of Forced Labour Convention, 1957 (No. 105).

12. Please provide information on measures taken by the State party to ensure that the rights of migrant children, in particular those who are unaccompanied and/or in an irregular situation or are transiting through the State party, are respected, and that they are protected from all forms of exploitation in line with joint general comment No. 4 of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families / No. 23 of the Committee on the Rights of the Child (2017). Please indicate the measures taken or envisaged by the State party, including legislative measures for the implementation of the ILO Worst Forms of Child Labour Convention, 1999 (No. 182) and the labour inspection system, to protect children against the worst forms of labour.

13. With reference to the Committee's previous recommendations (para. 23),² please provide information on measures taken to combat corruption, harassment and abuse of authority by law enforcement officials relating to migrant workers and members of their families. Please also provide data on the number and nature of complaints received and investigated since the adoption of the Committee's previous concluding observations, as well as on the number and nature of the charges imposed, including for abuse of authority, extortion and arbitrary detention.

Articles 16 to 22

14. Please clarify whether immigration-related offences are criminalized in the State party and describe the due process safeguards, including access to a lawyer and interpreter, in situations of investigations, arrests, detentions and expulsions of migrant workers and members of their families for immigration-related offences. Please describe measures taken to ensure that the obligation contained in article 16 (7) of the Convention on contact with consular or diplomatic authorities of the State of origin of the detained migrant worker or members of their families is given effect in law and in practice. Please include information on specific due process safeguards for unaccompanied children in migration-related administration procedures, including the right to be heard and the right to a guardian.

15. Please provide information on border governance measures, in particular with respect to procedures applicable to migrant workers and asylum seekers arriving at the international borders of the State party, including with respect to reception facilities, and how the State party processes protection claims to ensure that it acts in accordance with the principle of non-refoulement and the prohibition of arbitrary and collective expulsion. Please provide information on efforts to ensure that the detention of migrant workers and members of their families for violations of immigration laws is applied only as a measure of last resort and for the shortest period of time, and to ensure alternatives to immigration detention. Please provide information on measures taken to ensure that children and families are never detained due to immigration purposes and that alternative measures on protecting children's rights are in place, in line with joint general comment No. 4 of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families / No. 23 of the Committee on the Rights of the Child (2017). Please explain:

(a) Whether the State party applied alternative measures of detention, in particular in the context of the COVID-19 pandemic, to protect migrants' dignity, health and well-being, instead of custodial measures that have a negative impact on the health and personal integrity of migrants, including adverse consequences on their mental health, such as anxiety, depression, exclusion and post-traumatic stress disorder, and even the risk of suicide;

(b) Whether measures existing in the field of criminal justice, such as bail, home-based detention or other restrictions on movement, including electronic surveillance or periodic reporting to authorities, are used as alternatives to immigration detention or prohibited in law and practice in the immigration context.

16. Please provide information on safeguards in place in the State party to ensure that in immigration-related proceedings, including expulsion proceedings, migrant workers and members of their families, in particular those in an irregular situation, are provided with due process, including legal assistance and interpretation, as necessary, and access to information

² Unless otherwise indicated, paragraph numbers refer to the concluding observations of the Committee on the initial report of the State party (CMW/C/KGZ/CO/1).

in a language they understand. Please indicate whether migrant workers can challenge expulsion orders and whether such remedies have suspensive effect. Please indicate also how the right to family life is guaranteed, in particular the right of migrant children not to be separated from their parents in case of an expulsion order against the latter. Please provide up-to-date information, including disaggregated data, on migrant workers and their families in an irregular situation who have been or are in the process of being expelled.

Article 23

17. Please provide information, including disaggregated data, on the policies and practices of the State party's embassies, consulates and labour attachés in assisting and protecting Kyrgyz migrant workers, including those in an irregular situation, and in particular in the case of abuse, violence arrest, detention and expulsion. Please specify the financial and human resources allocated and training offered to consular officials in the light of the Committee's previous recommendations (para. 29).

Articles 25 to 30

18. Please provide information on:

(a) Existing legal and labour protection and enforcement mechanisms to ensure that migrant workers, including migrant women, especially in construction, industry, energy, transport, agriculture, domestic work and other services, enjoy treatment not less favourable than that which applies to nationals in respect of remuneration and conditions of work;

(b) Measures taken to promote the rights of Kyrgyz migrant workers abroad, in particular in the Russian Federation;

(c) Measures taken to bring the national legislation relating to remuneration and conditions of work into full compliance with the ILO Equal Remuneration Convention, 1951 (No. 100) and the ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and to ensure that migrant workers enjoy equality of treatment with nationals in respect of protection from dismissal, unemployment benefits, access to unemployment and other social benefits, including in case of incapacity to work, access to public work schemes for combating unemployment and access to alternative employment in the event of loss of work or termination of other remunerated activity;

(d) Progress made in reviewing legislation and practice, including Law No. 4 of 2006 on external labour migration, to ensure that migrant workers suffering from a disease or infection, including HIV/AIDS, that has no effect on the task for which they were recruited are not precluded from receiving a work permit; to ensure that migrant workers are not excluded from migration or employment based on their real or perceived HIV status; and to prohibit HIV testing or screening of migrant workers.

19. Please provide information on measures taken to ensure:

(a) Adequate access to health care, including emergency medical care, for all migrant workers and members of their families, including those in an irregular situation;

(b) Full access to education for children of migrant workers, especially those in an irregular situation;

(c) Birth registration for children of migrant workers and foreign migrant children regardless of parental documentation, as well as safeguards to prevent statelessness, including by amending the Law on citizenship, the Law on civil acts, and relevant bylaws, and by ratifying the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

Articles 31 to 33

20. Please provide information on measures taken to:

(a) Ensure that, upon termination of their stay in the State party, migrant workers and members of their families have the right to transfer their earnings and savings to their

State of origin and, in accordance with the applicable legislation, the right to take their personal effects and belongings;

(b) Facilitate the transfer of their private funds, in particular to reduce the cost of these transactions;

(c) Ensure access to clear information on immigration procedures, including complete information on the conditions applicable to their admission, stay and the remunerated activities in which they may engage, as well as applicable laws and legislation in force for migrant workers arriving in, or preparing to come to, the State party, and any information and training programmes on the Convention delivered to migrant workers and members of their families, employers, trade unions or other appropriate bodies or institutions, in line with article 33 of the Convention.

4. Part IV of the Convention

Article 37

21. Please provide information on:

(a) Pre-departure and awareness-raising programmes for Kyrgyz nationals, in particular women, considering emigration, including information on their rights and obligations in the State of employment;

(b) The governmental institution, such as the Information and Advice Centre, responsible for providing such programmes, their impact on potential migrant workers and any coordinated policies, programmes or legislation developed to ensure transparency and accountability in this process;

(c) The existing private employment agencies recruiting migrant workers to work abroad, the laws, rules and regulations pertaining to private recruitment, as well as on measures taken to strengthen mechanisms for regulating and controlling such agencies and for avoiding abusive recruitment.

Articles 40 to 43

22. Please provide information on measures taken to:

(a) Guarantee to migrant workers and members of their families the right to form, and to form part of the leadership of, associations and trade unions, in accordance with article 40 of the Convention and parts I and II of the ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87);

(b) Ensure that Kyrgyz migrant workers residing abroad and members of their families are able to exercise their rights to vote, participate in public affairs and be elected to public office;

(c) Establish procedures or institutions with freely chosen representatives to take into account the special needs, aspirations and obligations of migrant workers and members of their families in both States of origin and States of employment;

(d) Ensure that Kyrgyz migrant workers enjoy equality of treatment with nationals in relation to access to educational and/or vocational institutions and services as well as housing and cultural life.

Articles 44 and 50

23. Please provide information on measures taken to:

(a) Ensure the protection of the unity of the families of migrant workers and to facilitate the reunification of migrant workers with their spouses or persons with whom they are in a relationship that, according to applicable law, produces effects equivalent to marriage, as well as with their dependent unmarried children, including in the context of expulsion procedures;

(b) Grant an authorization to stay to family members in the case of death of a migrant worker or dissolution of marriage.

Articles 46 to 48

24. Please provide information on:

(a) Legislation relating to import and export duties and taxes in respect of personal and household effects as well as necessary work-related equipment of migrant workers;

(b) Existing policies to enhance the portability of social security and other entitlements and benefits;

(c) Measures taken to avoid double taxation of the earnings and savings of migrant workers and members of their families;

(d) Existing policies to facilitate remittances and the legal framework to ensure the right of migrant workers to transfer their earnings and savings from the State of employment to the State of origin.

Articles 49, 51 to 54

25. Please provide information on:

(a) Whether separate authorizations to reside and to engage in employment are required under the national legislation, and if so, whether migrant workers are ensured authorization of residence for at least the same period of time as their authorization to engage in remunerated activity;

(b) Measures taken to ensure that, in the event of termination of their remunerated activity prior to the expiration of their work permit, their authorization of residence is not withdrawn, in order to avoid falling into an irregular situation, at least for a period corresponding to that during which the migrant worker may be entitled to unemployment benefits;

(c) Whether legislation allows migrant workers to remain in the State party upon termination of their contracts, regardless of the reason for such termination, in order to seek alternative employment and to participate in public work schemes and retraining activities;

(d) Measures taken to ensure the right of migrant workers to freely choose their remunerated activity.

5. Part V of the Convention

Articles 58 to 63

26. Please provide information on measures taken to ensure that frontier, seasonal and itinerant workers enjoy equal treatment as national workers, in particular in respect of remuneration and conditions of work, and to ensure systematic monitoring by the relevant authorities of employers' compliance with relevant international labour standards.

6. Part VI of the Convention

Article 64

27. Please provide information on measures taken, including consultations and cooperation with other States, to promote sound, equitable and humane conditions in connection with international migration of migrant workers and members of their families, including through multilateral and bilateral agreements, in particular in the Russian Federation. Please include information on how such measures have been mainstreamed in overall migration policies and programmes, and how they address the social, economic, cultural and other needs of migrant workers and members of their families.

28. Please describe measures taken to address the irregular migration of nationals of the State party, including through multilateral and bilateral agreements, policies and programmes aimed at enhancing legal migration channels and at addressing the root causes of irregular

migration. Please include information on how such measures have been mainstreamed in overall migration policies and programmes and whether there has been a reduction in the number of irregular migrants as a result of such measures. Please provide information on campaigns aimed at countering misleading information relating to irregular migration and raising awareness among Kyrgyz nationals, including women and children, of the risks and dangers of irregular migration and on the measures taken to assist returning migrant workers and members of their families in resettlement and reintegration into the economic and social life of the State party. Please also provide information on measures taken to address the phenomenon of children left behind by a parent or parents going abroad for work, in order to ensure that they are appropriately provided and cared for.

Article 67

29. Please provide information on:

(a) Cooperation programmes in place between the State party and relevant States of employment for the voluntary return of migrant workers and members of their families to the State party when they decide to return or when they are in the State of employment in an irregular situation;

(b) Cooperation programmes between the State party and relevant States of employment on promoting adequate economic conditions for resettlement and reintegration of migrant workers in a regular situation in the State party;

(c) Measures taken to assist returning migrant workers and members of their families, including by promoting conditions that facilitate their reception and reintegration and by recognizing practical work experience and occupational qualifications acquired abroad;

(d) Measures taken to regulate the return of Kyrgyz children left without parental care abroad, in line with the international standards, including through bilateral agreements.

Article 68

30. Please provide information on measures taken, including through international, regional and bilateral cooperation with countries of origin, transit and destination, and corresponding resources, including human and financial resources, allocated by the State party, to prevent and combat trafficking in persons, in particular women and children. Please indicate efforts made to adopt laws and policies to ensure the implementation of legislation to combat trafficking in persons. In particular, please elaborate on:

(a) Programmes to prevent trafficking in persons, effectively protect victims of trafficking and ensure their access to justice and legal remedies;

(b) Designate a specific government body to coordinate interministerial efforts to combat trafficking;

(c) Efforts made to effectively and impartially investigate, prosecute and punish all acts of trafficking in persons and on the number of judgments issued in connection with this crime, including information on the number of convictions, type of sentences and reparations provided to the victims;

(d) Mechanisms to identify victims of trafficking, provide support, including shelters, and assistance for their physical, psychological and social recovery, and facilitate their rehabilitation, and on the availability of such mechanisms throughout the territory of the State party;

(e) Efforts made to ensure that children are not trafficked into domestic work by family members;

(f) Measures taken to provide adequate training and capacity-building for law enforcement officials, judges, prosecutors, labour inspectors, service providers, teachers, and embassy and consular personnel and other relevant professionals in the State party;

(g) The annual budget dedicated to detecting and eliminating trafficking in persons and to providing protection to victims of trafficking;

- (h) Steps taken to strengthen data collection on victims of trafficking;
- (i) Whether victims of trafficking may be granted temporary or permanent resident permits;
- (j) Measures taken to widely disseminate information on trafficking in persons and on assistance for victims.

Article 69

31. Please provide information on any measures taken to ensure that migrant workers and members of their family in an irregular situation in the State party have the opportunity to regularize their situation in accordance with the provisions of article 69 of the Convention. Please describe actions taken by the State party, including through bilateral and multilateral agreements, to improve the protection and assistance afforded to its nationals abroad, including efforts to promote the regularization of their situation.

Section II

32. The Committee invites the State party to provide information, not to exceed three pages, regarding the protection of migrant workers and members of their families with respect to the following:

- (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, and other relevant instruments, including the ILO Migrant Workers (Supplemental Provisions) Convention, 1975 (No. 143), and the ILO Domestic Workers Convention, 2011 (No. 189);
- (e) Recent comprehensive studies on the situation of migrant workers and members of their families.

Section III

Data, official estimates, statistics and other information

33. Please provide, if available, updated disaggregated statistical data and qualitative information covering the period since the adoption of the Committee's previous concluding observations, unless indicated otherwise, on the following:

- (a) The volume and nature of migratory movements to and from the State party since the Convention entered into force in the State party;
- (b) Migrant workers in detention in the State party and migrant workers who are nationals of the State party and are detained abroad in States of employment, and whether such detention is immigration-related;
- (c) Migrant workers and members of their families who have been expelled from the State party;
- (d) The number of non-accompanied migrant children or migrant children separated from their parents in the State party;
- (e) The number of migrant workers and members of their families who have contracted SARS-CoV-2, the number who have died as a result of COVID-19, and the number who have received a COVID-19 vaccination, disaggregated by sex, age and nationality;
- (f) Remittances received from nationals of the State party working abroad;

(g) Reported cases of trafficking in and smuggling of migrants, investigations, prosecutions and sentences imposed on perpetrators, disaggregated by sex, age, nationality and purpose of trafficking;

(h) Legal assistance services provided to migrant workers and members of their families in the State party and to nationals working abroad or in transit through third States.

34. Please provide any additional information on any important developments and measures in implementation of the Convention relating to the protection of the rights of migrant workers and members of their families that are considered a priority, including whether the State party envisages making the declaration under article 76 of the Convention recognizing the competence of the Committee to receive and consider State-to-State communications, and/or the declaration under article 77 of the Convention recognizing the competence of the Committee to receive and consider individual communications.

35. Please submit a common core document in line with the harmonized guidelines on reporting.³ In accordance with paragraph 16 of General Assembly resolution 68/268, the common core document should not exceed 42,400 words.

³ [HRI/GEN/2/Rev.6](#).