



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 Libya*

Section I

A. General information

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

(a) Progress achieved in drafting a constitution that is compliant with international human rights standards, safeguarding the rights of all individuals without discrimination, including migrant workers and members of their families;

(b) Laws regarding the protection of migrant workers and members of their families;

(c) Measures taken by the State party to harmonize its legislation with the provisions of the Convention, including Law No. 6 of 1987 regulating the entry, residence and exit of foreign nationals, which criminalizes irregular entry into and stay in Libya; Law No. 2 of 2004, amending Law No. 6, which, inter alia, requires all non-nationals, with the exception of individuals from some States, to obtain a valid visa to enter the country and regulates the deportation of non-nationals; Law No. 19 of 2010 on combating irregular migration; and article 22 of the Penal Code, which provides for imprisonment of up to three years for entry or stay in, or exit from, the State party without a valid visa;

(d) The existence and scope of bilateral and multilateral agreements concluded with other countries pertaining to the rights of migrant workers and members of their families under the Convention, in particular with Algeria, Cameroon, Chad, Côte d'Ivoire, Egypt, the European Union, Italy, the Gambia, Ghana, Guinea, Mali, Nigeria, Senegal, the Sudan and Tunisia. Please specify how these agreements protect migrant workers' rights in transit and destination countries, particularly concerning repatriation, expulsion and family reunification procedures.

2. Please clarify whether there has been any progress in implementing the recommendation made by the United Nations Support Mission in Libya (UNSMIL) and the Office of the United Nations High Commissioner for Human Rights (OHCHR) in their joint report of 13 December 2016¹ that the post of minister of migration be established with responsibility for developing a comprehensive strategy on migration, coordinating the work

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

¹ Available from www.ohchr.org/Documents/Countries/LY/DetainedAndDehumanised_en.pdf.



of the Government on all aspects of migration in Libya and liaising with international counterparts on issues related to migration.

3. Please provide qualitative information and statistical data disaggregated by sex, age, nationality and migration status on labour migration movements to and from the State party, including returns, and on unaccompanied children and other labour migration-related issues. Please also provide qualitative and statistical data or if precise data are not available, studies or estimates on migrant workers in an irregular situation in the State party and abroad. In addition, please provide information on the efforts made by the State party to establish a coherent and comparable system of data collection on labour migration flows to and from the State party.

4. Please provide information on whether the national human rights institution, the National Council for Civil Liberties and Human Rights, has the explicit mandate of independently monitoring the human rights situation within the State party, including the rights of all migrant workers and members of their families under the Convention. Please indicate whether the Council has been established in compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles). Please also provide information on complaint mechanisms and other services, including helplines, offered by the Council and whether it conducts visits at detention centres for migrant workers. In addition, please provide information on the human, technical and financial resources made available to it and on awareness-raising activities by the State party among the general public, and migrant workers in particular, on the services offered by the Council, including the right to file a complaint directly with the institution.

5. Please provide information on the steps taken by the State party to promote and publicize the Convention and to increase awareness and understanding of the rights of migrant workers and members of their families among the general public, non-governmental organizations, the media, migrant workers and members of their families, employers, health workers and government officials, including law enforcement officials, the Libyan coastguard, staff of the Department for Combating Illegal Migration, embassy and consular personnel and the judiciary.

6. Please describe the measures taken by the State party to provide training that targets government staff dealing with migration and related issues, including personnel of the Department for Combating Illegal Migration and members of the Libyan coastguard, on the rights of migrant workers and members of their families, including protection from arbitrary arrest and detention, forced labour, torture and ill-treatment, gender-based violence, including rape and sexual exploitation, and unlawful killings.

7. Please provide information on the cooperation and interaction between the State party, international organizations, civil society organizations and other social partners working on migrant workers' rights in relation to the implementation of the Convention.

B. Information relating to the articles of the Convention

1. General principles

8. Please provide updated information on the judicial system in the State party, including on 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. Please also clarify whether any legal assistance is provided by the State party to migrant workers and members of their families to seek redress for violations of their rights.

2. Part II of the Convention

Article 7

9. 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 (arts. 1 (1) and 7), including sex, language, national, ethnic or social origin, nationality, age, economic position, property, marital status and birth or other status. Please provide information on all tangible and effective steps taken by the State party to 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 of racism or xenophobia, discrimination, ill-treatment or violence directed at migrant workers and members of their families, in particular those from sub-Saharan countries, and provide information on the normative, institutional and procedural measures adopted by the State party to prevent and combat all forms of racism, xenophobia, discrimination, ill-treatment and violence and to protect the rights of victims, including their right to access to justice.

3. Part III of the Convention

Articles 8-15

11. Noting the information available to the Committee indicating the recent rise in the number of unaccompanied and separated children travelling alone, mainly from Eritrea, the Gambia and Nigeria, 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.

12. Please provide detailed information on the measures taken to investigate complaints and allegations of harassment, corruption and abuse of authority by law enforcement officials, including extortion, arbitrary detention, torture and ill-treatment, with regard to migrant workers and members of their families. Please also indicate the number of law enforcement officials who have been investigated, prosecuted and convicted in that regard and specify the nature of the charges and sentences imposed. Please also provide further information on the measures that are being adopted to prevent and combat the alleged involvement of the Libyan coastguard and staff of the Department for Combating Illegal Migration in the exploitation of migrants for profit-making purposes, including through collusion with non-State armed groups that are involved in the smuggling and trafficking of migrant workers.

Articles 16-22

13. Please provide information on the measures adopted or envisaged to decriminalize irregular entry to, stay in, or departure from the State party. Please describe the due process safeguards, including access to a lawyer and interpreter, in situations of investigation, arrest, detention and expulsion of migrant workers and members of their families for immigration-related offences. Please also 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.

14. Please provide information on border governance measures, in particular with respect to the 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.

15. Please provide information on the measures adopted to end the systematic and arbitrary detention of migrant workers and to improve their conditions of detention, and specify what measures have been taken to implement the recommendations contained in the UNSMIL/OHCHR report of December 2016, namely:

(a) To immediately release the most vulnerable migrants and protect them from refoulement, in particular women at risk, including pregnant women; families and children, especially if unaccompanied or separated; persons with particular health concerns; persons with disabilities; and individuals identified by the Office of the United Nations High Commissioner for Refugees (UNHCR) as being in need of international protection as asylum seekers and refugees;

(b) To close all detention centres not managed by the Department for Combating Illegal Migration, reduce the number of detention centres in the country run by the Department, relocate all detainees in western Libya into a single detention centre in Tripoli and establish alternatives to detention;

(c) To ensure that female detainees are held separately from male detainees and are guarded by adequately trained female officers;

(d) To improve conditions of detention, including by providing adequate food, medical care, water and sanitation;

(e) To protect detainees from torture and other forms of abuse, including by investigating allegations of abuse and deaths in detention, removing suspected perpetrators from duty, prosecuting them where appropriate and providing adequate medical care to victims;

(f) To ensure that detainees are protected from unlawful killing, rape and other sexual violence and forced labour and their privacy is respected;

(g) To resume a formal registration process of migrants in detention to ensure that their presence and status is properly recorded;

(h) To facilitate further access to detention centres by national and international organizations, in order to monitor the human rights situation and provide humanitarian assistance to detainees, including that offered by the International Organization for Migration, UNHCR and their partners.

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 safeguards, including legal assistance and interpretation, as necessary, and that they have access to information in a language they understand. Please provide information on measures taken to ensure that migrant workers and members of their families are only expelled from the territory of the State party pursuant to a decision taken by a competent authority, following a procedure established by law and in conformity with the Convention, and that this decision can be reviewed on appeal. Please also indicate what steps have been taken to formalize relations with UNHCR by fully recognizing its presence and operations in Libya in order to increase the protection of asylum seekers and refugees, including protection from refoulement.

Article 23

17. Please provide information on the policies and practices of the State party's embassies and consulates in assisting and protecting Libyan migrant workers residing abroad, including those in an irregular situation, and particularly in cases of abuse, arrest, detention or expulsion.

Articles 25-30

18. Please provide information on the steps taken to facilitate the issuance of proper documentation to all migrant workers in the State party, including work permits to migrant workers who are eligible to work under national legislation.

19. Please provide information on what legal and labour protection and enforcement mechanisms are in place to ensure that migrant workers, including migrant women, enjoy treatment no less favourable than that which applies to nationals in respect of remuneration and conditions of work.

20. Please provide information on the measures taken to ensure that the children of migrant workers, particularly those who have settled in the southern region of Libya for many years, including those from Iraq, the State of Palestine and the Syrian Arab Republic, have access to education. Please also provide information on the measures taken by the State party to ensure that all migrant workers and members of their families have adequate access to health-care services, including urgent medical care, regardless of their legal status in the country.

4. Part IV of the Convention

Article 41

21. Please provide information on the measures taken by the State party to review its legal framework and on other steps to ensure that Libyan migrant workers and members of their families residing abroad are able to exercise their voting rights in the State party, participate in public affairs and be elected to public office in the State party.

Articles 46-48

22. Please provide information on the bilateral and multilateral agreements concluded in the field of migration, in particular temporary labour programmes and other agreements concerning employment, protection, double taxation and social security.

5. Part VI of the Convention

Article 64

23. Please provide information on the measures taken to promote sound, equitable and humane conditions in connection with the international migration of migrant workers and members of their families, including by establishing a maritime rescue coordination centre to better coordinate search and rescue operations off the coast of Libya. Please clarify the legal basis of the recent operations by the Libyan coastguard in international waters beyond the territorial limit of 12 nautical miles and its actions allegedly restricting access to international waters by humanitarian vessels attempting to rescue migrants at sea, including through the use of force. Please also clarify the measures that are being taken to prevent migrant workers, including asylum seekers, from being forced back to Libya following their interception at sea by the Libyan coastguard.

Article 68

24. Please provide information on the measures taken by the State party, including through international, regional and bilateral cooperation with countries of origin, transit and destination, and the 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 the efforts made to adopt laws and policies to combat human trafficking and elaborate on:

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

(b) Efforts made to effectively and impartially investigate, prosecute and punish all acts of trafficking in persons and the number of judgments issued in connection with such a crime, including information on the number of convictions, the types of sentence and the reparations provided to the victims;

(c) The establishment of protection shelters and programmes to assist victims in rebuilding their lives, including assistance for their physical, psychological and social recovery;

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

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

(f) The steps taken to strengthen data collection on victims of trafficking;

(g) Whether victims of trafficking may be granted temporary or permanent resident permits.

25. Please provide information on measures taken, including through international, regional and bilateral cooperation with countries of origin, transit and destination, and the

corresponding resources, including human and financial resources, allocated by the State party to prevent and suppress the smuggling of migrants by organized criminal groups and on the adoption of specific legislation and policies on this matter, in accordance with the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime.

26. Please provide information on the measures taken by the State party to prevent and eliminate the smuggling of migrants, in particular women and children, through addressing the root causes of smuggling and on the assistance and due process safeguards afforded to migrant victims of smuggling networks.

Article 69

27. 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 possibility of regularizing their situation and of accessing formal employment opportunities.

Article 71

28. Please provide information on the measures taken to facilitate the repatriation to the State of origin of the bodies of deceased migrant workers or members of their families. Please also provide information on the process regarding compensation relating to the death of a migrant worker or a member of his or her family, including in situations where there are no bilateral agreements with the States concerned.

Section II

29. The Committee invites the State party to provide information (in no more than three pages) regarding the protection of 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 and other relevant instruments, including the International Labour Organization Migration for Employment Convention (revised), 1949 (No. 97), Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) and 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, if available

30. Please provide, if available, updated disaggregated statistical data and qualitative information for the last three years on:

- (a) The volume and nature of migratory flows to and from the State party since the Convention entered into force in the State party;
- (b) Migrant workers and members of their families in detention in the State party, and migrant workers and their families who are nationals of the State party and are detained abroad in States of employment or transit, 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) Remittances received from nationals of the State party working abroad;

(f) 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.

31. Please provide any additional information on any important developments and measures to implement the Convention relating to the protection of the rights of migrant workers and members of their families that the State party considers a priority, including whether it 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.

32. Please submit an updated core document in line with the harmonized guidelines on reporting (HRI/GEN/2/Rev.6). In accordance with General Assembly resolution 68/268, paragraph 16, the common core document should not exceed 42,400 words.
