



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 Sao Tome and Principe*

Section I

A. General information

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

(a) Laws regarding the protection of migrant workers and members of their families and on migration policies under the Convention;

(b) Measures taken by the State party to harmonize its legislation with the provisions of the Convention, in particular, the legal framework for individual employment agreements (Act No. 6/92) and the Penal Code (Act No. 6/2012);

(c) The existence and scope of bilateral and multilateral agreements concluded with other States pertaining to the rights of migrant workers and members of their families under the Convention, in particular with Angola, Cabo Verde, the Democratic Republic of the Congo, Equatorial Guinea, Gabon, Portugal and South Sudan. Please specify how these agreements protect migrant workers' rights in transit and destination countries, particularly with regard to detention, repatriation/expulsion and family reunification procedures. Please provide information on any measures taken to strengthen the protection of migrant workers from the State party abroad, including by reviewing and amending the above-mentioned agreements also with respect to the collection and sharing of relevant data among States.

2. Please provide information on all policies and strategies relating to the rights of migrant workers and members of their families 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 migrant workers and members of their families in the State party. Please also provide information on the human, technical and financial resources allocated for their implementation and the results obtained.

3. Please provide information on the government ministry or institution responsible for intergovernmental coordination of implementation of the Convention in the State party, including information on the available staffing and resources, and monitoring activities and follow-up procedures. Please provide information on the mandate of the ministry or institution and on the human, technical and financial resources allocated to it for promoting, protecting and fulfilling the rights of migrant workers and members of their families under the Convention.

* Adopted by the Committee at its thirtieth session (1–12 April 2019).



4. Please provide qualitative information and statistical data, disaggregated by sex, age, nationality, ethnic origin, disability and migration status, on labour migration movements to and from the State party, including returns, other labour migration-related issues, unaccompanied children and children left behind by migrant parents. 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 particular those working in agriculture and the service sector. In addition, please provide information on measures taken by the State party to establish a coherent and comparable system of data collection on those issues, including measures aimed at rendering the information public.
5. Please provide information on whether the State party has established an independent mechanism, such as a national human rights institution, that has the explicit mandate of monitoring the situation of human rights within the State party, including the rights of all migrant workers and members of their families under the Convention, and on measures taken to ensure the independence of the mechanism. Please inform the Committee about whether it complies with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). Please also provide information on complaint mechanisms and other services, including helplines, offered by the institution, and on whether it conducts visits to detention centres for migrant workers and shelters for migrants of Sao Tome and Principe following repatriation from countries of employment or transit. In addition, please provide information on the human, technical and financial resources made available to the institution and on awareness-raising activities by the State party among the general public and migrant workers in both Sao Tome and Principe, in particular, on the services offered by the institution, including the right to file a complaint directly with it.
6. Please provide information on the steps taken by the State party to promote and publicize the Convention, and to increase awareness and understanding of its provisions among the general public, migrant workers and members of their families, employers, teachers, health workers, government officials, including embassy and consular personnel, law enforcement officials, border police and the judiciary, civil society and the media.
7. Please describe measures taken by the State party to promote training programmes on the human rights of migrant workers and members of their families, including on gender sensitivity and the rights of the child and of persons with disabilities, for government staff providing legal and consular assistance to nationals of the State party abroad dealing with migration and related issues, including discrimination, workplace abuse and exploitation, arrest, pretrial detention, immigration-related detention, imprisonment, expulsion and repatriation.
8. Please provide information on the cooperation and interaction between the State party, civil society organizations and other social partners working on migrant workers' rights in relation 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 replies to the present list of questions.
9. Please provide information on the existence of private employment agencies in the State party recruiting migrant workers to work abroad, and the laws, rules and regulations pertaining to private recruitment, and in particular on:
 - (a) Measures taken to provide information and training to migrant workers on their rights and obligations, and to protect against abusive employment situations;
 - (b) The role and responsibilities of recruitment agencies, and their joint responsibility with the overseas employer for claims and liabilities that may arise in connection with the implementation of the employment contract, such as with regard to wages, disability compensation, repatriation and death, including repatriation of the bodies of deceased migrant workers;
 - (c) Whether recruitment agencies provide life, disability and/or workers' compensation insurance to migrant workers for work-related injuries and death;
 - (d) The issuing and renewal of licenses of such employment agencies;

(e) Complaints lodged against recruitment agencies, labour inspections conducted, and penalties and sanctions imposed in cases of non-compliance with the law;

(f) Measures taken by the State party to strengthen mechanisms to regulate and control private employment agencies and to avoid situations where such agencies act as intermediaries for abusive foreign recruiters.

B. Information relating to the articles of the Convention

1. General principles

10. Please indicate whether the Convention has been directly applied by officials in the administration and/or invoked directly before the courts. If so, please provide examples. Please provide information also on:

(a) Judicial and 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 in the past five years and their outcome, disaggregated by sex;

(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.

2. Part II of the Convention

Article 7

11. Please clarify whether national legislation, in particular the Constitution, the legal framework for individual employment agreements (Act No. 6/92) and the Penal Code (Act No. 6/2012), ensures that all migrant workers and members of their families enjoy 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 also provide information on all the measures 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.

3. Part III of the Convention

Articles 8 to 15

12. Please provide information on any cases identified in the State party of exploitation of migrant workers and members of their families, in both regular and irregular situations, in particular those working in agriculture and the service sector. Please also provide information on any cases identified in the State party of domestic servitude, forced labour or sexual exploitation involving migrant workers, in particular women and children, especially in the context of travel and tourism, and on measures to prevent and combat these phenomena. In addition, please provide information on the measures taken to bring national legislation into compliance with the International Labour Organization (ILO) Forced Labour Convention, 1930 (No. 29), the ILO Abolition of Forced Labour Convention, 1957 (No. 105) and the ILO Domestic Workers Convention, 2011 (No. 189).

13. With reference to the concerns raised by the Committee on the Rights of the Child (CRC/C/STP/CO/2-4, para. 56) with regard to the inadequate enforcement of the prohibition of child labour in the informal, agricultural and domestic work sectors, 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. Please indicate the measures taken or envisaged by the State party to protect children against the worst forms of labour, including through the implementation of the National Plan to Combat Child Labour and the List of the Worst Forms of Child Labour, and the ILO Worst Forms of Child Labour Convention, 1999 (No. 182), and the strengthening of the labour inspection system.

Articles 16 to 22

14. Please clarify whether immigration-related offences are criminalized in the State party. Please describe the due process safeguards, including access to a lawyer and an interpreter, that are deployed in situations of investigation, arrest, detention or expulsion 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 indicate whether the State party has taken measures to ensure the right to liberty and freedom from arbitrary detention of migrant workers and their families in the context of migration administrative procedures, including entry, residence and expulsion. Please report on alternatives to detention for immigration-related matters, including statistical data, and indicate whether the State party detains migrant workers and members of their families for immigration-related matters. Please also provide information on measures taken:

(a) To prohibit detention of children who or whose parents are in an irregular situation in accordance with joint general comments No. 3 (2017) of the Committee and No. 22 (2017) of the Committee on the Rights of the Child on the general principles regarding the human rights of children in the context of international migration, and No. 4 (2017) of the Committee and No. 23 (2017) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return;

(b) To ensure that the best interests of the child are taken as primary considerations in decisions made by the administrative or judicial authorities in the State party and that the right to family reunification of children, including unaccompanied children, is fully respected; in cases where migrant children have been detained, please inform the Committee on the conditions of detention of migrant children and on the entities responsible for their protection.

16. Please provide detailed information on detention facilities for migrants, conditions of detention for migrant workers and efforts to improve those conditions, including whether:

(a) Persons detained for immigration reasons are held in separate facilities, or together with convicted persons or persons detained pending trial;

(b) Women detainees are supervised by female personnel;

(c) Family-friendly facilities are provided for families where possible and appropriate;

(d) Victims of human trafficking are identified and provided protection, including as witnesses.

Articles 23

17. Please provide detailed information on whether the State party's embassies, consulates and labour attaches have adequate systems and measures in place to assist and protect migrant workers from the State party in destination countries, including those in an

irregular situation and particularly in cases of abuse, arrest, detention and expulsion. Please also indicate the measures in place to facilitate outreach to migrant workers from the State party in destination countries, particularly in those where the State party does not have diplomatic or consular representation.

Articles 25 to 30

18. Please indicate whether national labour laws and regulations relating to remuneration and conditions of work, such as overtime, hours of work, weekly rest, holidays with pay, safety, health, termination of work contract and minimum wage, are in full compliance with the ILO Equal Remuneration Convention, 1951 (No. 100) and the ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111), and whether they apply on an equal basis to migrant workers in both regular and irregular situations. Please describe measures taken to implement the Social Security Act (Act No. 1/90) with regard to social security for migrant workers. Please include information on measures aimed at promoting the rights of nationals of the State party who are working abroad.

19. Please provide information on the measures taken to ensure that children of migrant workers have full access to education, regardless of their migration status. Please also indicate whether Decree-Law No. 90/96, which provides for free health-care services for pregnant women and children under 5 years of age, is applied also to migrant women and children in the State party, and provide information on other measures taken to ensure that all migrant workers and members of their families have adequate access to health-care services.

20. Please provide information on the measures taken by the State party to ensure the right of children of migrant workers abroad, including children of migrant workers who are undocumented or in an irregular situation, to be registered at birth and to have their nationality of origin recognized in law and in practice. Please also indicate whether strategies and plans relating to birth registration, including the Child Birth Registration Programme and the Permanent Birth Registration Strategy, also cover foreign migrant children in the State party and children of migrant workers abroad.

Articles 31 to 33

21. Please describe the measures taken to ensure that migrant workers arriving in or preparing to come to the State party have access to clear information on immigration procedures, including full information on the conditions applicable to their admission, stay and remunerated activities in which they may engage, and on applicable legislation.

4. Part IV of the Convention

Article 37

22. Please provide information on pre-departure programmes for State party nationals considering emigration, including information on their rights and obligations in the State of employment. Please indicate which institution is responsible for providing such information, and whether any coordinated policies, programmes or legislation have been developed to ensure transparency and accountability in this process.

Article 41

23. Please provide information on the measures taken by the State party to review legislation and on other steps to facilitate the exercise of voting rights by migrant workers and members of their families from the State party residing abroad, in particular:

- (a) The right to participate in public affairs in the State party;
- (b) The right to exercise their voting rights in the State party;
- (c) The right to be elected to public office in the State party.

Articles 46 to 48

24. Please provide information on legislation relating to import and export duties and taxes with regard to personal and household effects, and on the necessary work-related equipment of migrant workers. Please also provide information on existing policies to facilitate remittances, and on the applicable legal framework in place to ensure the right of migrant workers to transfer their earnings and savings from the State of employment to the State of origin.

5. Part VI of the Convention**Article 64**

25. Please provide information on the measures taken, including consultations and cooperation with other States, to promote sound, equitable and humane conditions in connection with the international migration of migrant workers and members of their families, including through multilateral and bilateral agreements, and policies and programmes.

26. Please describe the measures taken to address irregular migration of nationals of the State party, including through multilateral and bilateral agreements, policies and programmes aimed at improving legal migration channels and at addressing the root causes of irregular migration. Please also provide information on the measures taken to assist returning migrant workers and members of their families in their resettlement and reintegration into the economic and social life of the State party.

27. In the light of the concerns expressed by the Committee on the Rights of the Child at the high rate of child abandonment by a parent or parents who leave for neighbouring countries (CRC/C/STP/CO/2-4, para. 38), please provide information on measures taken to address this phenomenon to ensure that abandoned children are appropriately cared for. Please provide information also on cooperation efforts with countries of transit and destination with a view to ensuring the safety of the State party's migrant workers abroad, including migrant children, whether accompanied, in transit through third countries and upon arrival in the countries of destination, in accordance with joint general comments No. 3 (2017) of the Committee and No. 22 (2017) of the Committee on the Rights of the Child on the general principles regarding the human rights of children in the context of international migration, and No. 4 (2017) of the Committee and No. 23 (2017) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return.

Article 67

28. Please provide information on measures taken to ensure 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. Concerning migrant workers in a regular situation, please provide information on cooperation programmes between the State party and relevant States of employment to promote adequate economic conditions for resettlement and reintegration in the State party. Please inform the Committee also on the steps taken to assist the reintegration of migrant workers residing abroad into the domestic labour force, in particular health-care professionals.

Article 68

29. Please provide information on measures taken by the State party, including through international, regional and bilateral cooperation with countries of origin, transit and destination, to prevent and combat trafficking in persons, in particular women and children, and on the allocation of corresponding human, technical and financial resources. Please inform the Committee about the measures taken by the State party to implement Law No. 5/2008 and sections 160, 172 and 181 (2) of the Penal Code (Act No. 6/2012) that prohibit trafficking in children for sexual or labour exploitation, and to adopt other legislation or policies 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. Please provide information also on the impact of training provided to the criminal investigation police and the immigration and border control services officers on early detection and referral to appropriate services of victims of trafficking.

Article 69

30. 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 to regularize their situation in accordance with the provisions of article 69 of the Convention. Please describe the actions taken by the State party, including through the conclusion of 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

31. 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 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 Migration for Employment Convention (Revised), 1949 (No. 97), the ILO Migrant Workers (Supplementary 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, if available

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

- (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 and nationals of the State party 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) Remittances received from nationals of the State party working abroad;
- (f) 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);
- (g) 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.

33. 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, pursuant to article 76 of the Convention, a declaration in which it recognizes the competence of the Committee to receive and consider State-to-State communications, and/or, pursuant to article 77 of the Convention, a declaration in which it recognizes the competence of the Committee to receive and consider individual communications.

34. Please submit a 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.
