



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

Distr.: General  
2 May 2014  
English  
Original: French

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

### List of issues prior to the submission of the initial report of Guinea\*

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

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

### Part I

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

#### A. General information

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

(a) The rank of the Convention in domestic law and whether the Convention has direct effect or has been incorporated into domestic law to ensure its application;

(b) Information on the relevant national legislation of the State party regarding the protection of all migrant workers and members of their families and on migration policies under the Convention;

\* Adopted by the Committee at its twentieth session (31 March–11 April 2004).



(c) Measures taken by the State party to harmonize its legislation with the provisions of the Convention. In particular, please indicate whether Act No. L/9194/019/CTRN of 13 June 1994 on the entry and residence of foreign nationals in the Republic of Guinea, the Civil Code and the Labour Code have undergone reforms aimed at harmonizing domestic legislation on the protection of the rights of migrant workers with the provisions of the Convention; and

(d) Bilateral and multilateral agreements that have been concluded with other countries in the area of migration.

2. Please provide information on all policies and strategies relating to migrant workers and members of their families that have been adopted by the State party, including information on the time limits and measurable goals that the State party has set to effectively monitor progress in the implementation of the rights of migrant workers and members of their families in the State party, as well as information on the resources allocated for the implementation of those rights. In particular, please provide information on progress in the process begun in 2008 by the interministerial commission with a view to adopting a migration policy and indicate the way in which the International Organization for Migration (IOM) and/or other specialized institutions are involved in this process.

3. Please provide information on the Government ministry or institution responsible for intergovernmental coordination of the implementation of the Convention and monitoring of its implementation in the State party, including information on the available staffing and resources as well as on monitoring activities and follow-up procedures. Please also describe the remit of the national mechanism working within the Ministry for International Cooperation on migration flow issues in association with non-governmental organizations.

4. Please provide information, including statistical data disaggregated by sex, age, nationality and migration status, on labour migration flows, including returns, and other issues related to labour migration. Please also provide statistical data, or if precise data are not available, then studies or estimates, on migrant workers in irregular situations. Lastly, please provide information on measures taken by the State party to establish a coherent system of data collection that would make it possible to cross-check information on these issues.

5. Please inform the Committee whether an independent mechanism exists (a national human rights institution or an ombudsperson, for example) with a mandate to independently monitor respect for human rights in the State party, including the rights of migrant workers and members of their families guaranteed under the Convention. Please also provide information on complaint mechanisms and other services, including helplines, offered by this institution. Please provide information on the human, technical and financial resources made available to the institution, as well as on activities carried out by the State party to raise awareness among the general public, and among migrant workers in particular, of the services offered by the institution, including appeal procedures.

6. Please provide detailed information on the steps taken by the State party to promote and publicize the Convention and to increase awareness and understanding in the State party of its provisions among the general public, migrant workers and members of their families, employers, teachers, health workers and public officials, including law enforcement officials and the judiciary. With respect to migrant workers who are nationals of the State party working abroad, please describe the measures taken by the State party to promote training programmes, including on gender sensitivity, for public officials dealing with migration issues, in particular those providing legal and consular assistance to nationals of the State party abroad seeking justice against abuses in the workplace, as well as to migrant workers or members of their families who have been arrested, placed in custody pending trial or detained in any other manner.

7. Please provide information on cooperation established between the State party, human rights organizations and civil society organizations working on migrant workers' rights with a view to ensuring implementation of the Convention. Please indicate whether representatives of civil society organizations are involved in the preparation of the replies to this list of questions and, if so, how.

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

(a) Measures taken to provide information and training to all migrant workers on their rights and obligations, as well as to protect them from abusive working conditions;

(b) Arrangements for issuing and renewing licences for such employment agencies;

(c) Complaints filed against agencies, labour inspections carried out, as well as penalties and sanctions imposed for non-compliance with the regulations; and

(d) Measures taken by the State party to strengthen the government-regulated licensing system for employment agencies and the migration regulation and control mechanisms to ensure that private recruitment agencies refrain from charging excessive fees for their services and from acting as intermediaries for abusive foreign recruiters.

9. Please indicate whether the State party is considering ratifying the International Labour Organization (ILO) Domestic Workers Convention, 2011 (No. 189).

## **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 and whether the courts have applied the Convention; if so, please give examples. Please also provide information on:

(a) Judicial and/or administrative mechanisms competent to examine and decide on complaints by migrant workers and members of their families, including migrant workers in an irregular situation;

(b) The complaints examined by such mechanisms since the date of entry into force of the Convention and their outcomes;

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

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

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

#### **Article 7**

11. Please provide detailed information on measures taken by the State party to ensure, in law and in practice, that all migrant workers and members of their families within its territory or subject to its jurisdiction enjoy the rights provided for in the Convention without any discrimination. Please provide information on the gender sensitivity of domestic migration laws.

### 3. Part III of the Convention

#### Articles 8 to 15

12. Please provide detailed information on the measures taken to investigate allegations of harassment and corruption by the police and by immigration authorities at national and local levels and abuse of power by law enforcement authorities through the use of extortion and arbitrary detention of migrant workers and members of their families. Please specify the number of cases reported, proceedings instituted, officials brought to trial and convictions secured.

13. Please provide information on measures taken to combat the labour exploitation of migrant workers, including those who are in an irregular situation, in particular in the agricultural and mining sectors, as well as the exploitation of migrant women in the State party for prostitution, and measures taken to protect migrant children in the State party from forced labour, domestic work, their exploitation for begging, sexual abuse and their involvement in armed conflicts.

14. Please indicate what measures have been taken in the State party to combat racism, discrimination, ill-treatment and violence against migrant workers and members of their families.

#### Articles 16 to 22

15. Please describe the due process safeguards enjoyed by migrant workers and members of their families when they are investigated, arrested or detained for administrative and criminal offences, including in immigration-related cases.

16. Please provide information on detention centres where migrant workers are held and on the conditions of detention, including details on whether: (a) persons detained for immigration reasons are ensured detention that is separated from convicted persons; (b) children and women in immigration detention are in gender and age appropriate detention conditions, including separation of children from adults and of women from men; and (c) women detainees are supervised by female personnel.

17. Please provide details on measures taken by the State party to provide alternatives to detention for migrant workers. Please also provide detailed information on measures for ensuring due process during arrest and detention, in particular access to a lawyer, a translator and adequate medical care.

18. Please indicate whether measures have been taken to ensure that in criminal and administrative proceedings, including expulsion proceedings, migrant workers and members of their families, in particular those who are in an irregular situation, are provided with legal assistance and interpretation services, and that they have access to information in a language they understand.

19. Please provide information on measures taken to ensure that:

(a) 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;

(b) Pending such appeal, the person concerned has the right to seek a stay of the decision of expulsion, and that remedy has suspensive effect.

20. Please provide up-to-date information, including disaggregated statistical data, on undocumented and irregular migrant workers and their families who have been expelled or

who are subject to deportation proceedings. Please also indicate whether collective expulsion is prohibited in the domestic laws of the State party.

21. Please provide information on measures taken to safeguard the right of migrant children to family life and not to be separated from their parents in cases where they are detained because an expulsion order has been issued against their parents. Please also indicate whether, where possible and appropriate, family-friendly facilities are provided for families subject to detention.

### **Article 23**

22. Please provide details on the consular services provided by the State party for Guinean migrant workers abroad, including those in an irregular situation. Please also indicate how effective the State party's consular services are in protecting its migrant workers abroad, in particular those who are deprived of their liberty. Please indicate whether migrant workers who are deprived of their liberty receive regular visits and whether legal assistance is provided, including in detention or expulsion cases.

23. Please indicate whether migrant workers and members of their families residing in Guinea can have recourse to the protection and assistance of the consular or diplomatic authorities of their State of origin, in particular in cases of arrest, detention or expulsion.

### **Articles 25 to 30**

24. Please provide detailed information on the measures taken to ensure in practice the right of equality of treatment of migrant workers, and more particularly migrant women, in agricultural and domestic employment, and to monitor effectively their conditions of employment and work. Please indicate what legal and labour protection and enforcement mechanisms are in place to ensure that migrant workers, including in the agricultural and domestic work sectors, enjoy treatment not less favourable than that which applies to nationals in respect of remuneration and conditions of employment and work.

25. Please indicate whether the labour rights enjoyed by nationals of the State party apply on an equal basis to migrant workers, whether in an irregular or regular situation.

26. Please provide information on the laws and regulations applicable to the remuneration and conditions of work (overtime, hours of work, weekly rest, holidays with pay, social security, health, termination of employment contract, minimum wage, etc.) of migrant workers, regardless of whether or not they are in a regular situation, and indicate whether the same laws and regulations apply to the nationals of the State party.

27. Please provide detailed information on the measures taken by the State party to ensure, in law and in practice, that all migrant workers and members of their families have effective access to basic services such as urgent medical care.

28. Please indicate the measures taken to guarantee the right of children of migrant workers, regardless of their migration status, to be registered at birth and to have a nationality. Please also specify whether children of migrant workers who are undocumented or in an irregular situation enjoy the right to education and how this right is realized in practice. Please indicate whether any measures are planned to ensure that children of migrant workers have access to education, regardless of the migratory status of their parents.

### **Articles 31 to 33**

29. Please provide information on measures taken to ensure that, during and 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 and, in accordance with the applicable legislation, their personal effects and belongings.

30. Please provide information on 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 exit and entry visa guidelines and registration. Please indicate which Government 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.

31. Please indicate the measures taken to inform migrant workers in transit through or residing in the territory of the State party, as well as the members of their families, of their rights and obligations in the State of employment. Please indicate whether the State party has organized any training programmes on the Convention for relevant public officials, such as police officers, embassy and consular staff, social workers, judges, prosecutors and other government officials.

32. Please provide general information about the country, in accordance with the harmonized reporting guidelines under international human rights treaties, including guidelines on a core document and treaty-specific documents (HRI/GEN/2/Rev.6). Please also submit the common core document in accordance with those guidelines. The common core document will complement the replies to this list of issues.

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

##### **Article 40**

33. Please provide information on the legislative measures taken to guarantee migrant workers and members of their families the right to form and participate in the leadership of associations and trade unions, in accordance with article 40 of the Convention. Please also specify whether the State party has removed from the new Labour Code the provisions restricting the right of migrant workers to form or join trade unions with a view to protecting their economic, social, cultural and other interests.

##### **Article 42**

34. Please provide information on any measures taken to establish procedures or institutions with freely chosen representatives to take into account the special needs, aspirations and obligations of migrant workers and their families in both States of origin and States of employment.

##### **Article 43**

35. Please provide information on the measures taken by the State party, including legislation, to ensure that migrant workers enjoy equality of treatment with nationals in relation to access to health, educational and/or vocational institutions and services as well as housing and cultural life.

##### **Article 44**

36. Please provide detailed information on the administrative procedures and measures undertaken by the State party to ensure the protection of the unity of the families of migrant workers.

**Articles 46 to 48**

37. Please indicate whether the Social Security Code has been amended to allow migrant workers to continue receiving, when they leave the territory of the State party, the social benefits and allowances for which they have contributed and whether the State party has established a procedure for the transfer of these funds. Please also indicate whether the State party has concluded agreements permitting the transfer of family allowances meant for children of migrant workers not residing in the State party.

**Article 52**

38. Please provide information on any legislation in the State party that may have been issued to restrict access to certain job categories, and specify the types of activities involved. Please also indicate the conditions that must be met in order to obtain a permit to engage in paid work, the types of work covered and the number of permits granted, as well as the number of permit applications rejected between 2003 and 2013, and the reasons for their rejection. Please also indicate whether the new Labour Code limits access by a migrant worker to remunerated activities in pursuance of a policy granting priority to nationals or to persons who are assimilated to them for these purposes by virtue of legislation or bilateral or multilateral agreements, and, if so, please indicate the provisions governing these restrictions.

**Article 54**

39. Please provide information on measures taken by the State party to ensure migrant workers enjoy equality of treatment with nationals in respect of protection from dismissal, unemployment benefits, 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.

**5. Part V of the Convention****Article 58**

40. Please provide information on measures adopted to improve the situation of frontier workers, in accordance with article 58 of the Convention.

**Article 59**

41. Please provide information on measures taken by the State party to ensure that seasonal workers enjoy equality of treatment with national workers, particularly in respect of remuneration and conditions of work, and to ensure that the competent authorities systematically monitor employers' compliance with relevant international standards.

**Article 61**

42. Please provide detailed and updated information on the bilateral and multilateral agreements concluded in the field of migration. In particular, please give details of programmes and agreements concerning employment, protection, taxation and social security for migrant workers and members of their families. Lastly, please specify the measures taken to protect members of families of migrant workers.

## 6. Part VI of the Convention

### Articles 64 to 68

43. Please indicate whether the State party has undertaken consultations and cooperates with other States parties, particularly countries of origin, transit and destination, with a view to promoting sound, equitable and humane conditions in connection with international migration of workers and members of their families. If so, please provide detailed information.

44. Please indicate the measures taken by the State party to ensure respect for the rights of migrant children, particularly those who are unaccompanied and/or in an irregular situation, or are in transit through the State party. Please also indicate the measures taken to promote conditions that facilitate the resettlement and reintegration of migrant children and their families upon their return to the State party.

45. Please describe the measures that the State party has taken to prevent the irregular migration of its citizens, including unaccompanied children.

46. Please indicate whether the law provides for the imposition of penalties on all persons, groups or entities that organize, direct or help organize or direct illegal or clandestine movements of migrant workers into the State party, and whether all forms of trafficking are considered offences, including forced prostitution, bonded labour and the exploitation of begging by others, especially children. Please detail the steps taken by the State party to combat the trafficking and smuggling of migrants, particularly of women and children, including steps taken to ensure the effective detection of illegal or clandestine movements of migrant workers and members of their families, the systematic compilation of disaggregated data and the prosecution of persons involved in the trafficking and smuggling of migrants. In this regard, please provide detailed information on the number of reported cases of trafficking and smuggling of migrants, and on investigations carried out, prosecutions brought and sentences imposed on perpetrators.

47. Please indicate whether the State party plans to formulate and implement a national public policy to combat trafficking in human beings, and provide information on any assistance, support and repatriation programmes for victims of trafficking that have been developed. Please also indicate whether the State party has established special shelters for trafficking victims and, if so, provide relevant details.

### Article 69

48. Please provide information on any measures taken to ensure that migrant workers and members of their families in an irregular situation within the State party are offered the possibility of regularizing their situation in accordance with the provisions of article 69 of the Convention.

49. Please provide the Committee with information about measures taken to encourage countries to which large numbers of nationals of the State party migrate for work, without an appropriate legal status, to regularize the status of these workers and members of their families, particularly those who have worked in the country of employment for many years, respect the law, and have established personal, social and community ties.

50. Please describe the actions undertaken by the State party to improve the protection afforded to its nationals abroad, including its efforts to promote the regularization of their situation.

## Part Two

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

- (a) Laws and regulations;
- (b) Institutions (and their mandate) or institutional reforms;
- (c) Policies, programmes and action plans relating to migration issues, and their scope and financing;
- (d) Recent ratifications of human rights instruments and ILO conventions;
- (e) Steps planned to make the declarations provided for under articles 76 and 77 of the Convention; and
- (f) Recent, in-depth studies of the situation of migrant workers.

## Part Three

**Data, statistics and other information, if available.**

1. Please provide, if available, updated disaggregated statistical data for the last three years on:
  - (a) The volume and nature of migration flows into and from the State party since the entry into force of the Convention in the State party;
  - (b) Migrant workers in detention in the State party and in the State of employment;
  - (c) Migrant workers and members of their families expelled by the State party over the last five years;
  - (d) The number of migrant children and the number of migrant children separated from their parents in the State party;
  - (e) Remittances from migrant workers who are nationals of the State party working abroad, and legislation and policies relating to those transfers;
  - (f) The reported cases of trafficking and smuggling of migrants, investigations, prosecutions, and the sentences imposed on the perpetrators (disaggregated by sex, age, nationality and purpose of trafficking or smuggling); and
  - (g) Legal assistance services provided to migrant workers in the State party and abroad.
2. Please provide additional information on any important developments and measures considered by the State party as priorities in implementing the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

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