



# **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 Thirty-third session**

### **Summary record of the 454th meeting**

Held at the Palais Wilson, Geneva, on Monday, 27 September 2021, at 3 p.m.

*Chair:* Mr. Ünver

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*The meeting was called to order at 3.10 p.m.*

### **Consideration of reports submitted by States parties under article 73 of the Convention**

*Second periodic report of Rwanda (CMW/C/RWA/2; CMW/C/RWA/QPR/2)*

1. *At the invitation of the Chair, the delegation of Rwanda took places at the Committee table.*
2. **The Chair** said that, at the invitation of the Committee, other members of the delegation would be speaking via video link from Kigali.
3. **Ms. Rwakazina** (Rwanda), introducing her country's second periodic report (CMW/C/RWA/2), said that the drafting of the report had been an inclusive and open process led by the Ministry of Justice and involving wide consultations with other relevant institutions. During the period under review, the Government had made many amendments to domestic legislation in order to bring the country's laws into line with its international obligations, including those it had assumed upon ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Generally speaking, there was no conflict between domestic legislation and the provisions of the Convention since, under the Constitution of Rwanda, the power to ratify an international agreement could not be exercised until the Constitution and organic law had been amended to revise or remove any provisions that conflicted with the agreement in question.
4. The Government was committed to providing training on topics related to the Convention for persons who were likely to deal with migrant workers in their professional lives. During the reporting period, it had organized such training for employees of institutions including the Ministry of Public Service and Labour, the Directorate General of Immigration and Emigration and the Rwanda National Police and had facilitated their participation at regional and international meetings on the rights of migrant workers. Capacity-building sessions would continue to be rolled out for members of civil society organizations as well as for judges, prosecutors, lawyers and criminal investigators.
5. Migrant workers and members of their families in Rwanda, including those in an irregular situation, could lodge complaints of violations of their rights under the Convention and had access to effective remedies. They could either take their case to court or file a complaint with district-level labour inspectors, whose decisions they were entitled to appeal before the Ministry of Public Service and Labour. For civil proceedings, when no cause for exemption was presented, migrant workers were still legally obliged to deposit a sum of money before their complaint was heard. However, they could challenge the requirement to make that payment.
6. In Rwanda, the right to physical and mental integrity was guaranteed without discrimination under the Constitution. Acts considered to be commensurate with torture or other inhuman or degrading treatment had been criminalized and were punishable by prison sentences ranging from 20 years to life. In August 2018, the powers of the National Commission for Human Rights had been expanded so that it could assume the functions of a national preventive mechanism, in accordance with the provisions of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
7. The new law on trafficking in persons, which had been adopted in 2018, included a number of provisions that were of direct relevance to migrant workers. The law applied to offences committed in the country, whether perpetrated by a Rwandan national, a stateless person or a foreign citizen residing in Rwanda, and to offences committed outside Rwandan territory by a Rwandan national or any other person permanently residing in Rwanda. The law also stipulated that protection, assistance and support were to be offered to victims without any discrimination. Important issues such as the permission for a non-Rwandan victim to remain in Rwanda, the repatriation of a foreign victim to his or her country and the return of victims to Rwanda were also covered. The same law guaranteed nationals and non-nationals equal protection against acts of sexual exploitation and abuse.

8. Thanks to her Government's open-border policy, migrant workers and members of their families residing in Rwanda could depart and return to the country as they pleased, so long as their conduct remained within the confines of the law. The Government had taken measures to help Rwandan nationals residing abroad obtain multiple-entry long-term residency visas in their host countries, thereby enabling them to continue to work in Rwanda and visit their relatives and families. A special type of permanent residency permit had also been introduced for members of the Rwandan diaspora who had acquired the nationality of a country that did not accept dual nationality.

9. In recent years, a series of measures had been taken to ensure the safe return of Rwandan nationals who had fled the country around the time of the 1994 genocide against the Tutsi. The Government had also adopted an open-door policy for refugees and asylum seekers. Refugee resettlement programmes had been set up and the country had recently received 648 asylum seekers who had been evacuated from Libya under a memorandum of understanding between the Government of Rwanda, the Office of the United Nations High Commissioner for Refugees (UNHCR) and the African Union. The Government ensured the security of all refugees on its territory and provided them with travel documents and special identity cards.

10. Lastly, migrant workers and members of their families had benefited from the Government's swift and effective response to the coronavirus disease (COVID-19) pandemic. Rwandan nationals and foreign nationals had enjoyed equal access to the response services provided and efforts had been made to ensure that information relating to COVID-19 was made available in languages and formats that people could understand. In the context of international travel restrictions, particular measures had also been taken to facilitate the return of both foreign nationals in Rwanda and Rwandan nationals abroad.

11. **Ms. Diallo** (Country Rapporteur) said that she welcomed the series of positive legislative amendments in relation to the rights of migrant workers that had been made since the Committee's previous constructive dialogue with the State party. Moreover, in a general sense, she congratulated the Government on the admirable reputation that Rwanda had earned as a country open to the arrival of migrants.

12. She wished to understand the extent to which the Government collaborated with civil society in relation to its treatment of migrant workers and members of their families. It would be interesting to know what mechanisms had been put in place to facilitate such collaboration and, in particular, whether representatives from civil society had participated in the drafting of the State party's report.

13. As detailed in the report, under a law adopted in 2018 migrant workers who were not nationals of a member State of the East African Community were obliged to deposit a sum of money before their complaints about violations of their rights could be heard. She failed to understand why nationals of countries in the East African Community should be treated differently to other migrants. The State party had nonetheless indicated that the claimant had the right to challenge the request to deposit that sum. It would therefore be helpful to receive further information on both the number of cases in which a foreign national had been obliged to make the deposit and the number of cases in which the claimant's objection to the request for a deposit had been upheld. On a more general note, she also wished to know whether there had been any instances where migrants had sought to lodge complaints and access remedies using the judicial and administrative mechanisms that had been specifically set up for them. If not, could the delegation offer any explanations as to why migrants were not using those mechanisms?

14. Under Rwandan law it was apparently an offence to provide assistance to migrants in an irregular situation, but the wording was vague and no clear definition was given as to the type of assistance that constituted an offence. The Committee was concerned that the law might be preventing migrants from obtaining the help they needed to regularize their situation. She invited the delegation to respond to those concerns and to indicate whether the Government intended to amend that legislation. Further information on the treatment of irregular migrants who were subject to expulsion procedures would be appreciated. In particular, she wished to know whether facilities had been developed to hold migrants until

their situations were resolved. If so, what were the conditions in such facilities and how did the Government choose which migrants would be sent to them?

15. The Committee would appreciate further information on measures taken to facilitate the social and cultural integration of migrants into Rwandan society and to guarantee their rights and access to work in Kigali and elsewhere in the country. What steps had been taken to encourage them to return to their countries of origin? Details of any specific measures taken with regard to the refugees who had recently arrived from Libya would be of particular interest. Lastly, the State party had been cited as a potential partner of Denmark in the context of that country's policy to transfer newly arrived asylum seekers to countries outside Europe. It would be interesting to know what the Government thought of those reports and whether it would be open to receiving asylum seekers under such conditions.

16. **Mr Frasheri** (Country Rapporteur) said that the Committee would be interested to hear about any challenges the State party had encountered in its implementation of the Convention. He encouraged the delegation to be frank about any assistance that the Government might require on that front from the Committee. He wished to know what administrative practices had been adopted to ensure that migrants had access to work and to guarantee the rights of migrants who were in employment. It would be useful to understand what usually happened to migrants who wished to stay in Rwanda for the long term. What, if any, avenues were open to them to obtain permanent residency or citizenship and how did the application procedure work? The Committee would be interested to hear about ways in which the Rwandan diaspora contributed to the social and economic development of the country.

17. **Mr. Kariyawasam** said that the statistics that had been made available suggested that Rwanda was both a sending and a receiving country for migrant workers. The Committee would appreciate clarification as to whether it also hosted workers who were in transit to other countries in Africa. He would welcome further information on the nature of the State's interaction with its migrant workers in other countries, including how it provided them with consular services and helped them exercise their rights. He was particularly interested in the role of the elected representatives mentioned in paragraph 102 of the report, who apparently made recommendations on the services provided by the country's embassies and high commissions. Further details on how those representatives were elected would be appreciated. Were the consular services guided by the Government or by recommendations from those representatives? The State party had an obligation to provide such services in a non-discriminatory and equitable manner and the nature of that work should not be shaped by the wishes of the communities that it served.

18. **Mr. Corzo Sosa** said that, although he welcomed the efforts made by the State party to ensure the implementation of the Convention even if it conflicted with national legislation, he was concerned that the measures taken in that regard were insufficient. According to information in the State party's report, it was up to the national authorities to decide whether or not an international agreement conflicted with national legislation and, if those authorities failed to notice a contradiction but one subsequently appeared in practice, it was unclear where that would leave the status of the international agreement in question. He invited the delegation to comment on those concerns.

19. It was striking that a large number of people travelled in both directions between the State party and the Democratic Republic of the Congo, movements linked to asylum conditions in the respective countries. The Committee would welcome further information on the measures taken by the State party to accommodate asylum seekers and statistical information on the number of requests for asylum that were granted. It would also be helpful to learn more about the criteria for considering requests and, in particular, about what happened to asylum seekers whose requests were denied. Could they appeal the decision before an independent tribunal? He would also be interested to know whether asylum seekers remained in detention until their cases were resolved. If so, what were the conditions like at the places of detention and where were they located?

20. He wished to know whether the National Commission for Human Rights had been strengthened to enable it to perform the duties assigned to national preventive mechanisms under the Optional Protocol. It would also be interesting to learn more about the State party's

relationship with the African Court on Human and Peoples' Rights. In particular, he wished to know whether Rwanda recognized the competence of the Court to consider individual complaints of human rights violations.

21. **Mr. Babacar** said that he would appreciate further information about how the State party ensured that migrants had access to basic services, and about the nature of the capacity-building activities related to the Convention that Ms. Rwakazina had mentioned in her opening remarks, including whether that training was made available to members of civil society organizations.

22. **Ms. Poussi** said that she would be interested to learn more about the State party's child labour elimination and prevention committees. It was an excellent idea to involve grass-roots communities in the fight against child labour, and she wished to know whether the system had been a success. If it had, it could serve as an example of good practice for the Committee to share with other States parties. It would also be useful to receive updated information on the integrated National Skills Database referred to in paragraph 132 of the report. The delegation should inform the Committee about whether the project had already been fully implemented and give details about any benefits it had brought and any difficulties that had been encountered.

23. According to paragraph 62 of the State party's report, foreigners in an irregular situation who were judged not to act in a cooperative manner with the immigration services could have their travel documents confiscated and face deportation. She wished to know, in such situations, exactly which documents the authorities could confiscate and how the foreigner could then recover them, particularly if he or she had been deported while the documents remained in the hands of Rwandan officials.

24. With regard to paragraph 73 of the report, she would be eager to know whether the ministerial order determining the nature of prohibited forms of work for a child had been adopted. She also had certain concerns related to the rules governing the status of children born to foreign mothers in Rwanda. She understood that the relevant documents and residency permit for such children had to be obtained within a year; however, it was unclear whether the residency permit in question was permanent or temporary. Moreover, she would be interested to know whether the obtention of the child's documents and permit could have an impact on the mother's status, particularly if that person was in an irregular situation. What would happen, for example, if the mother was deported but her child had obtained the necessary documents to remain lawfully in the country?

25. Lastly, it would be interesting to learn more about the joint project on trafficking in humans that the Government had launched with the United Nations Children's Fund (UNICEF) and UN-Women. She wished to know whether the project had been fully implemented, how long it was scheduled to run for and how many people stood to benefit from its capacity-building activities. It would also be useful to know whether the project had already made a positive contribution to the fight against human trafficking in Rwanda.

*The meeting was suspended at 4.20 p.m. and resumed at 4.45 p.m.*

26. **Ms. Rwakazina** (Rwanda) said that people in the Rwandan diaspora elected a committee to improve coordination and ensure better access to consular services. Given the spread of Rwandans across the globe, that structure allowed them to have a greater awareness of the services available and maintain a connection to their home country. Rwanda Community Abroad, a special unit under the Ministry of Foreign Affairs and International Cooperation, allowed Rwandans living overseas to contribute to the country's various development programmes. All consulates were given clear guidance on how to conduct their work and they received feedback in the form of opinions or suggestions from the diaspora. Embassies were fully controlled by the State and the committees elected by members of the diaspora did not directly influence how they were run.

27. **Ms. Umurungi** (Rwanda), speaking via video link from Kigali, said that civil society was involved in the reporting process. The Task Force on Treaty Reporting under the Ministry of Justice had 14 members including representatives of government institutions, civil society organizations involved in human rights and the private sector. The Task Force held workshops to discuss and approve the State party's reports to the treaty bodies. The

National Labour Council was responsible for discussing and approving labour market policy, which also covered the rights of migrant workers. The Council had 20 members, including representatives of civil society and trade unions.

28. Non-nationals were required to provide a surety when bringing civil cases only, in order to ensure that justice was fairly administered. The measure was not intended to discriminate against foreigners in terms of access to justice. Citizens of East African Community countries were not required to pay since they received the same treatment as Rwandan nationals pursuant to the Protocol on the Establishment of the East African Community Common Market. No information was currently available on the exact number of people who had been exempted from paying the surety. Migrant workers, including those in an irregular situation, were entitled to lodge complaints with the courts and mediation services and to use the same judicial remedies as Rwandan nationals.

29. Libyan refugees were accommodated and processed with support from the African Union and UNHCR. Although they were entitled to apply for residency permits, most were simply transiting through Rwanda and wished to settle in other countries. Of the approximately 650 Libyan refugees received, some two thirds had already been relocated abroad while one third remained in the country.

30. The overwhelming majority of migrant workers in Rwanda came from neighbouring countries, principally Burundi, the Democratic Republic of the Congo and Uganda. The borders between the countries were somewhat porous and many migrants spoke the same language as Rwandans, including Kinyarwanda and Swahili, meaning that they often integrated quickly and were not identified. It was therefore difficult to know how many migrants there were and to ensure that their rights under the Convention were protected. Nevertheless, they were covered by labour market laws and social welfare provisions for migrant workers.

31. The Rwandan diaspora was regarded as the fifth province in view of its contributions to national development. In 2020, people in the diaspora had sent back US\$ 18 million in remittances. The elected representatives of Rwandan communities abroad provided assistance with administrative procedures, such as the registration of a child born to Rwandan parents abroad, and held national dialogues at the end of December every year to discuss policies and strategies to help with the economic development of Rwanda.

32. In practice, there was no conflict between domestic law and the international conventions and treaties ratified by Rwanda. Before ratification, the Rwanda Law Reform Commission examined all treaties to identify any conflicts with existing national law or the Constitution. Should a conflict arise, the relevant domestic law provisions would be amended to bring them into line with the treaty in question. Organic laws were intended to supplement the Constitution and had a status similar to constitutional amendments.

33. Ongoing regional armed conflict had led to large numbers of refugees crossing the border, particularly from the Democratic Republic of the Congo and Burundi. In the period from 2018 to 2019, Rwanda had received over 4,500 asylum seekers. Under the country's asylum procedure, those who were not satisfied with the outcome of their application had the right to lodge an appeal. A separate division had been created within the National Commission for Human Rights to assume the duties of the national preventive mechanism. The new division had been allocated its own staff and budget, and had started work in 2021.

34. **Mr. Ntagozera** (Rwanda), speaking via video link from Kigali, said that helping a migrant remain in the country illegally was a criminal offence under Rwandan immigration law; however, providing financial or humanitarian support to migrants was not. For example, if an employer knowingly hired an employee who was in an irregular situation, then the employer would be liable for prosecution. Immigration rules and policy generally encouraged migrants to integrate into the labour market and immigrants who had made a substantial investment in the country were entitled to citizenship. Furthermore, the application process for work visas was expedited for migrants who had skills that were in high demand in the country. Refugees were entitled to work, in accordance with the international conventions ratified by Rwanda. The challenges that the country faced in terms of migrant workers included ensuring that enough jobs were available and providing free or low-cost health services.

35. Work permits were issued for renewable periods of three years to migrant employees and investors, or five years after the third renewal. Under agreements signed by Rwanda based on the principle of reciprocity, nationals of countries that granted Rwandans 10-year work permits were also allowed to work in Rwanda for the same length of time. A specific department within the migration directorate carried out inspections of businesses and places of work. Anyone found to be in an irregular situation was asked to leave the country. In the event of refusal, migrants were taken to a facility while the deportation procedure was conducted and then taken to a point of exit. Migrants without a valid passport were required to apply at the nearest embassy or were given emergency documents enabling them to travel to their country of origin in order to regularize their situation. Their children were also given such documents if required. After reaching the age of majority, children of migrant workers were eligible to apply for Rwandan citizenship. Furthermore, the Government was required to grant citizenship to stateless migrant workers and their children.

36. **Mr. Mwambari** (Rwanda), speaking via video link from Kigali, said that the 2013 policy to eliminate child labour was currently under review. As part of its new zero-tolerance approach, the country's labour laws had been amended to introduce penalties which included fines and 5 to 7 years' imprisonment for child labour offences. A national committee comprising representatives of the Ministry of Justice, the Ministry of Public Service and Labour and other government institutions had been set up to coordinate the fight against child labour. Moreover, the system for combating child labour had been further decentralized from the district to the village level to enhance community involvement and raise public awareness of the issue. Child labour elimination and prevention committees were chaired by mayors who submitted reports to the Ministry of Public Service and Labour on the inspections carried out. A system was in place that allowed all citizens to report cases of child labour to the Ministry electronically and free of charge. Those efforts appeared to have yielded positive results: figures had shown a significant drop in child labour between the fourth and the fifth integrated household living conditions surveys.

37. The list of in-demand occupations showed areas of skills shortages and was used to offer incentives to attract migrant workers and people from the Rwandan diaspora with those skills. The expedited visa application process for people in those occupations reassured investors in the country that they would be able to find the skills they required. The list also served to identify areas on which education and training for people residing in Rwanda should focus. The National Employment Programme had been introduced with the aim of increasing employability, encouraging business development and fostering entrepreneurship, particularly among women and young people, and public employment service centres provided all young job seekers with basic training and matched them with potential employers. Those initiatives did not discriminate between Rwandan and migrant workers. Furthermore, employers were prohibited from discriminating against workers on grounds such as ethnic origin.

38. **Ms. Umurungi** (Rwanda), speaking via video link from Kigali, said that the Government had withdrawn the right of individuals and NGOs to lodge complaints with the African Court on Human and Peoples' Rights because some individuals had started to abuse that right, including a genocide fugitive who had been convicted in Rwanda and had subsequently lodged a complaint against the country. That and other cases had caused the Government to lose confidence in the Court's impartiality. The matter had been discussed with the African Union and the Court had recognized the withdrawal of the declaration by Rwanda under article 34 (6) of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights. The Government might reconsider its position in the future if there were safeguards against such abuse. It should be noted, nonetheless, that the country continued to be a party to the African Charter on Human and Peoples' Rights and to recognize the competence of the African Court.

39. The joint project to combat trafficking in persons that the Ministry of Justice had launched with UNICEF and UN-Women had been implemented for a period of two years and had run alongside a similar project financed by the United States of America. As part of the project, 5 training courses on how to deal with victims of trafficking in persons, especially women and girls, had been provided to 100 law enforcement officers, 20 prosecutors, 25 officers from the Rwanda Investigation Bureau and a number of other officials and judges.

The impact of the project had been positive, although its success was difficult to gauge two years after completion.

40. **Mr. Soualem** said that it would be useful to have an indication of the number of Rwandans living abroad. Noting that those in the diaspora were able to vote in presidential elections, he wondered whether they also had the possibility of having elected representatives in Parliament. He wished to know whether the nationals of countries with which Rwanda had signed agreements for consular assistance and protection were entitled to similar assistance in Rwanda, in accordance with the principle of reciprocity.

41. **Ms. Diallo** said that she would like to know about the mechanisms to ensure migrant workers' access to justice. Given that the judicial remedies were the same for migrant workers as for Rwandan nationals, it would be interesting to hear why the courts had not registered any cases or complaints from migrant workers. She would appreciate a response to her concern that the broad scope of the Law on Immigration and Emigration in Rwanda might lead to excessive criminalization, given that anyone – not only employers – who assisted migrants in an irregular situation were liable for prosecution under article 44 (1) of that Law.

42. She wished to know how the measures adopted by the various government ministries and institutions to protect migrant workers and their families were coordinated. She wondered whether there were any interministerial coordination mechanisms and, if so, she would welcome an explanation as to how they worked. It would be interesting to hear whether public education, especially at the secondary level, was accessible to migrant workers and whether government funding for higher education was available to them. It would be helpful to have an indication as to how many migrant workers and their children received an education and what conditions they had had to meet to be able to do so. She wished to know what measures were in place to ensure that migrant workers and their families were able to receive social security and other basic social services. Lastly, she asked to what extent the National Labour Mobility Policy covered Rwandan nationals in the informal sector abroad and, likewise, migrant workers in the informal sector in Rwanda.

*The meeting rose at 5.55 p.m.*