



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 third periodic report of Azerbaijan*

Section I

A. General information

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

(a) Measures taken to ensure that the Migration Code is in line with the State party's commitments under the Convention, in particular article 71.2 of the Code, which stipulates that migrant workers have to leave the country automatically within 10 working days if their employment contract is terminated, article 76.6, which prohibits foreign nationals and stateless persons from issuing "religious propaganda", and article 79.8, according to which appeals against expulsion orders do not have a suspensive effect. Please also explain how article 44.1 of the Law on Education, which limits the access of migrant workers and their families to education through the use of quotas and agreements concluded by the educational institutions, is compatible with articles 43 and 45 of the Convention;

(b) The existence and scope of bilateral and multilateral agreements, in addition to the bilateral agreement with Turkey, that have been concluded or are under consideration with other countries, in particular Georgia and the Russian Federation, pertaining to the rights of migrant workers and members of their families under the Convention. Please specify any efforts to extend the protection of such agreements to include migrant workers and their family members in an irregular situation.

2. Please provide information on all policies and strategies adopted by the State party relating to the rights of migrant workers and members of their families, including information on integration policies. Please also provide information on the mandate of the State Migration Service and on the government ministry or institution responsible for intergovernmental coordination on the implementation of the Convention, including information on the available staffing and resources, as well as monitoring activities and follow-up procedures.

3. In the light of its previous recommendation (CMW/C/AZE/CO/2, para. 41), please provide information on efforts to improve coordination between ministries and agencies at the State level for the effective implementation of the rights protected under the Convention. Please also provide information on any progress in the implementation of measures to improve coordination and the results thereof.

* Adopted by the Committee at its twenty-ninth session (3–12 September 2018).



4. Please indicate what steps have been taken to compile long-term disaggregated data on the number of Azerbaijani citizens working abroad; the number of migrant workers and members of their families, including those in an irregular situation, who are living in the State party; the fields and conditions of employment of migrant workers; and the enjoyment by migrant workers and members of their families of their rights under the Convention, as recommended by the Committee in its previous concluding observations (*ibid.*, para. 15). Please also provide information on any orientation courses, conducted or envisaged, to increase the capacity of government staff in analysing migration-related data, and steps taken to develop the electronic application system and to decrease the administrative burden and simplify migration procedures.

5. Please indicate the steps taken by the State party to implement the recommendations made by the Subcommittee on Accreditation of the Global Alliance of National Human Rights Institutions regarding the Commissioner for Human Rights of Azerbaijan in March 2017. Please also provide information on the activities of the Commissioner in the area of migration, including information on training for government officials and visits conducted to migration centres. Please also provide information on the outcome of the work of the Council of Independent Experts.

6. In the light of its previous recommendation (*ibid.*, para. 17 (a)), please report on the measures taken to ensure access by migrant workers and members of their families, including those in an irregular situation, to information about their rights under the Convention. Please also provide information on any efforts to develop and implement systematic and regular training on the content and application of the Convention for public officials dealing with migrant workers, and to promote and disseminate the Convention among all relevant stakeholders, as previously recommended by the Committee (*ibid.*, para. 17 (b)).

7. In the light of the 2013 and 2014 amendments to the legislation on foreign funding for non-governmental organizations, 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.

8. Please provide information on efforts to regulate private employment agencies that operate in the State party. Please also describe the activities of the State Migration Service and its mandate to regulate and monitor the activities of private employment agencies, including any actions taken prior to receiving reports of the infringement of migration legislation.

B. Information relating to the articles of the Convention

1. General principles

9. Please indicate whether the Convention has been directly applied by officials in the administration or invoked directly before the courts. If so, please provide examples. Please also provide information, if available, on the number and types of complaints examined by the civil and judicial authorities relating to migrant workers in an irregular situation and members of their families. If such data are not available, please explain why. Please also indicate whether any plans exist to remove penalties for migrants in an irregular situation, especially for those who are filing complaints regarding a violation of their rights.

2. Part II of the Convention

Article 7

10. In the light of the Committee's previous recommendation (*ibid.*, para. 21 (b)), please provide information on any information campaigns conducted or envisaged for public officials and the general public on the elimination of discrimination against migrants. Please also provide information on any plans to revise the Administrative Offences Code, in particular article 575.1.4, which penalizes irregular migrant workers for engaging in labour activities without the required work permit, despite the legal requirement for the

employer to obtain a work permit for the employee. Please also provide information on measures taken to ensure that employers declare all the migrant workers whom they employ and steps taken to remove any obstacles to such registration.

3. Part III of the Convention

Articles 8–15

11. Please provide information on any cases identified in the State party of the exploitation of migrant workers and members of their families, both in regular and irregular situations, in particular those working in construction and domestic work. Please also provide information on any plans to let the Labour Inspectorate resume its random inspections in business facilities and on plans to recognize domestic work and self-employment as grounds for the granting of work permits. Please also indicate if the State party has any plans to amend article 17 of the Migration Code, which governs temporary exit bans, and to bring it into line with article 8 of the Convention. In addition, please provide information on measures taken to bring the national legislation into compliance with the International Labour Organization (ILO) Forced Labour Convention, 1930 (No. 29), and the ILO Abolition of Forced Labour Convention, 1957 (No. 105).

12. In the light of the Committee's previous recommendation (*ibid.*, para. 19), please provide detailed information on the measures taken to address any instances of corruption and efforts to carry out inquiries into allegations of corruption by public officials. Please also provide information on any information campaigns, conducted or envisaged, with a view to encouraging migrant workers and members of their families who are victims of corruption to report that corruption, and on any campaigns targeting migrant workers and their families to raise their awareness with regard to which government services are free of charge and what protection they are entitled to if they report corruption of which they are victims.

Articles 16–22

13. Please provide information on plans to repeal laws criminalizing immigration-related offences and on measures taken to develop alternatives to detention for immigration-related matters. Please also provide information on measures taken to ensure that children are not detained, whether accompanied by members of their families or not. Please further provide information on how the State party guarantees that asylum applications made by migrant workers and members of their families, independent of their migration status, are registered in due time, that they are duly assessed and that the right to appeal is upheld. Please indicate if the State party applies, in law or in practice, any deadlines for submitting asylum applications. Please also provide, if available, up-to-date data on the number of detained migrants, disaggregated by sex and age, and indicate if there are any persons with disabilities detained in the State party.

14. In the light of the Committee's previous recommendation (*ibid.*, para. 25), please provide information on measures taken to ensure that current and future readmission agreements concluded between the State party and host countries include appropriate procedural guarantees for migrant workers and members of their families and for their durable social and cultural reintegration. Please also provide up-to-date statistical data on migrants readmitted under such agreements.

Articles 25–30

15. Please indicate what legal and labour protection and enforcement mechanisms are in place to ensure that migrant workers, including migrant women, especially in the domestic sector, enjoy treatment not less favourable than that which applies to nationals in respect of remuneration and conditions of work. Please also provide information on any measures taken or envisaged to amend legislation in order to recognize domestic work as a ground for granting residence and a work permit and on plans to adopt legislation related to self-employed workers, in line with international standards. Please indicate whether national labour laws and regulations relating to remuneration and conditions of work (for example, 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).

16. In the light of its previous recommendation (*ibid.*, para. 33 (a)), please provide information on measures taken to ensure that all children of migrant workers have access to primary and secondary education on the basis of equality of treatment with nationals of the State party. Please also provide information on the enrolment rates of children of migrant workers, including those in an irregular situation. Please provide information on measures taken or envisaged to establish reporting firewalls between the schools and the immigration authorities to ensure that migrant parents in an irregular situation send their children to school. Please also provide information on measures taken to ensure that children of migrant workers from Azerbaijan residing abroad, particularly in the Russian Federation, have access to education.

17. Please provide 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 adequate access to health-care services, including urgent medical care.

18. Recalling its previous recommendation (*ibid.*, para. 31), please provide information on measures taken to ensure registration in the State party of children of migrant workers, especially those in an irregular situation.

19. In the light of the Committee's previous recommendation (*ibid.*, para. 27), please provide information on measures taken to provide full social security rights to migrant workers, including plans to amend the Law on Labour Pensions to allow migrant workers and members of their families to access pensions upon retirement.

4. Part IV of the Convention

Article 40

20. Please provide information on the measures taken to guarantee to migrant workers and members of their families the right to form, and to be part of the leadership of, associations and trade unions, in accordance with article 40 of the Convention and parts I and II of the ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). Please also provide information on the eligibility of migrant workers in an irregular situation to join and to be part of the leadership of trade unions and measures taken to raise awareness about trade union membership among migrant workers.

Article 41

21. Please provide information on the measures taken by the State party to review its legal framework and other steps to facilitate the exercise of voting rights by migrant workers and members of their families from the State party residing abroad.

Article 44

22. In the light of the Committee's previous recommendation (*ibid.*, para. 39), please provide information on attempts to establish clear provisions on family reunification in national legislation, in conformity with article 44 of the Convention.

5. Part VI of the Convention

Article 64

23. 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. Please also provide information on the existence of diaspora organizations for migrant workers from Azerbaijan abroad, particularly in Turkey and the Russian Federation, and indicate what type of activities they carry out and if they receive support from the State party.

Article 67

24. In the light of its previous recommendation (*ibid.*, para. 43), please provide information on measures taken to assist the reintegration of returning migrant workers into the economic, social and cultural fabric of the State party. Please also provide information on amendments or plans to amend the current legislation and to develop comprehensive implementation mechanisms in respect to return, readmission and reintegration of migrant workers and members of their families.

Article 68

25. In the light of the Committee's previous recommendations (*ibid.*, para. 45), please provide information on measures taken to enforce anti-trafficking legislation and the National Action Plan on the Fight against Human Trafficking; to train police officers, judges, prosecutors and social service providers on the existing legal framework; to allocate adequate resources to implementing strategies to combat trafficking; to develop effective mechanisms to identify victims of trafficking, especially migrant women and children; to provide adequate assistance, protection and rehabilitation to all victims of trafficking, including migrant workers, by providing them with shelters and funding non-governmental organizations assisting those victims; and to ensure that victims of trafficking are informed of their rights under the Convention. Please also provide information on any measures taken or envisaged to strengthen the capacity of the Labour Inspectorate to identify and refer victims of forced labour for assistance, protection and rehabilitation, and on efforts to improve coordination and communication among government agencies.

26. Please provide information on measures taken, including through international, regional and bilateral cooperation with countries of origin, transit and destination, and corresponding resources, including human and financial resources, allocated by the State party to prevent and suppress the smuggling of migrants by organized criminal groups and to adopt 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.

Section II

27. 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**

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

- (a) The volume and nature of migratory movements to and from the State party during the reporting period;

(b) Migrant workers in detention in the State party and migrant workers who are 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.

29. 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 or the declaration under article 77 of the Convention recognizing the competence of the Committee to receive and consider individual communications.

30. 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.
