



**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

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 73 OF THE CONVENTION**

**List of issues to be taken up in connection with the consideration  
of the initial report of ECUADOR (CMW/C/ECU/1)**

**I. GENERAL INFORMATION**

1. Please specify at what stage is the process of harmonizing national legislation on migration with the Convention.
2. Please describe the role of non-governmental organizations (NGO) in the preparation of the State party's report.
3. Please provide updated information, including statistical disaggregated data, on the volume and nature of migratory flows in the State party's territory in the period 2003-2006.
4. Please provide further information on measures taken for the dissemination and promotion of the Convention. Please also indicate whether specific training programs on the Convention are implemented for relevant public officials, such as border police officers and social workers, but also judges, prosecutors and relevant government officials.
5. With respect to article 37 of the Migrants Act, please clarify whether it is an offence to enter Ecuador in an undocumented or irregular situation. If so, please specify the nature of the offence and the sanctions imposed.
6. Please inform the Committee on:
  - (a) The implementation of the “*Plan Nacional para combatir la Trata y el Tráfico Ilegal de Migrantes, explotación sexual laboral y otros modos de explotación, y prostitución de*

*mujeres, niños, niñas y adolescentes, pornografía infantil y corrupción de menores*”. In this respect, please also indicate whether specific budget, as well as human, resources are allocated for the implementation of this plan.

(b) The activities of the “*Mesa de Trabajo sobre Migraciones Laborales*” and especially on the status of the draft executive decree for the creation of a National Council for Labour Migration mentioned in paragraph 102 (a) of the State party’s report.

(c) The mandate, the role, the composition and the function of the Consultative Council on Migration Policy.

7. Please explain whether the national legislation provides for the application of the Convention to refugees and stateless persons (article 3 (d) of the Convention).

8. With reference to article 12 of the Aliens Act, please clarify whether and how the provisions of the Convention apply to individuals considered as “*no-inmigrante*”.

## **II. INFORMATION RELATING TO EACH OF THE ARTICLES OF THE CONVENTION**

### **A. General principles**

9. Please clarify the status of the Convention within the State party’s legal system and explain what would happen in case of conflict between the provisions of the Convention and the national legislation, including the Constitution. Furthermore, please provide information and examples on cases, if any, where the provisions of the Convention have been invoked in Court.

10. Please inform the Committee about measures taken to combat what appear to be discriminatory attitudes towards migrant workers and members of their families and to ensure that they are not socially stigmatized. In this respect, please comment on how to avoid that asking for the certificate of criminal record (*pasado judicial*) of the Colombian migrants exclusively, may contribute to their stigmatization and stereotyping. In addition, please provide more information on the impact and consequences of this measure on migration flows.

11. Please explain how undocumented migrant workers and members of their families can in practice exercise their right to an effective remedy in accordance with article 83 of the Convention and specify which judicial, administrative, legislative or other authorities are competent to receive complaints of alleged violations of migrant workers’ rights.

### **B. Part III of the Convention**

12. Please clarify whether there exists an independent review, administrative or judicial, against exclusion, expulsion or deportation orders, and if so, how it is implemented in practice.

13. Please indicate the number of migrants currently held in administrative or judicial custody for violations of provisions relating to migration, as well as the length of their detention. In this respect, with reference to article 17, paragraph 3, of the Convention, please also indicate the steps taken to ensure that migrant workers and members of their families detained for

violations of provisions relating to migration are held separately from convicted persons or persons detained pending trial. In case of detention, are there separate locations for migrant workers and members of their families different from where other detainees are held?

14. Please clarify the nature of the exit permit released by the Migration Service of the National Police mentioned in paragraph 69 (d) of the State party's report.

15. Please inform the Committee about any specific measures taken to protect undocumented migrants, particularly women, who are reportedly often subjected to abuses such as long workdays and suffer from discrimination in everyday life.

16. Please comment on reports according to which:

(a) Migrants working in banana plantations, including children, work in hazardous conditions, and are, for example, exposed to toxic pesticides and fungicides and drink unsanitary water. In this respect, please also indicate whether steps have been taken to remedy this situation;

(b) Migrant children are increasingly involved in prostitution, in particular in Lago Agrio in the province of Sucumbíos. In this respect, please also indicate whether steps have been taken to remedy this situation.

17. With reference to article 23 of the Convention, please indicate what measures have been taken to ensure that migrant workers and members of their families have effective recourse to the protection and assistance of the consular or diplomatic authorities of their State of origin, in particular, to provide assistance to those of them in detention.

18. With reference to article 25 of the Convention, please provide more detailed information on practical measures taken to ensure that all migrant workers enjoy equal treatment in respect of remuneration and other conditions of work such as, *inter alia*, overtime, hours of work, weekly rest, paid holidays, safety, health, termination of the employment relationship.

19. Please indicate which bodies are responsible for providing the information required by article 33 of the Convention to foreign migrant workers in transit or residing in Ecuador.

20. Please provide more information on the mandate and function played by the Office for the Recruitment of Migrant Workers for Ecuadorians workers abroad.

21. Please specify how the right of each child of a migrant worker, including undocumented workers, to have a name, to be registered at birth and to have a nationality is effectively ensured in practice, also taking into account that, as stated in paragraph 281 of the State party's report, due to ignorance of the law and fear of being deported, irregular migrants often do not register their children. Furthermore, please provide more information on the measures taken to ensure the access to education of children of undocumented migrant workers.

22. Please update the Committee on the steps taken to ensure an effective system of public defence for migrant workers and members of their families, including information on human and financial resources available in this respect. Please also inform the Committee on measures taken to ensure an effective implementation of the existing legislation establishing the rules of due process.

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

23. Please provide information on steps already taken by the State party to facilitate the exercise by Ecuadorian migrant workers living abroad of the right to vote and be elected in elections held in the country. In this respect, please also inform the Committee on the level of participation of the Ecuadorians abroad in the last elections held in the year 2006.

24. Please inform the Committee on the legislation and practice regarding family reunification of migrant workers in accordance with article 44 of the Convention as well as on measures taken, if any, to facilitate it.

25. Please clarify whether migrant workers have the right to form associations and trade unions and be part of their executive bodies. Please also indicate whether there is a system of registration in place for migrant workers' associations and/or migrant workers' trade unions existing in the State party's territory.

### **D. Part V of the Convention**

26. Please inform the Committee about the legislative framework and practical measures taken to ensure that seasonal and frontier workers throughout the country are not discriminated against and can fully enjoy the right to the same treatment as nationals in respect of health, education, fair pay, conditions of work and social security benefits.

### **E. Part VI of the Convention**

27. Please provide further information on the implementation of multilateral, regional and bilateral arrangements for the prevention, detection, investigation, prosecution and punishment of smuggling and trafficking of migrants. Please also provide the Committee with information – including data on prosecutions, convictions and sanctions imposed for the years 2003-2006 – on:

(a) The extent of the phenomenon of trafficking in persons in, through and from the State party's territory and on the measures taken to combat it;

(b) The measures taken to combat criminal networks operating from the State party's territory which smuggle migrants outside the country. In this respect, and with reference to paragraph 433 of the State party's report, please inform the Committee in particular on the measures taken to address the exploitation and smuggling of migrants at the Northern border by the so-called *cuadrilleros*.

28. Please indicate the position and action taken by the State party when boats carrying Ecuadorian migrants are intercepted at sea by a third party.

29. Please update and further describe the measures taken by the State party to provide support and facilities for its returning migrant workers, as well as for the implementation of bilateral or regional agreements on the return of migrant workers. In this respect, please update the Committee on the implementation of regional instruments in the field of migration, such as the Andean Labour Migration Instrument and the May 2006 Lima Declaration.

30. Please update the Committee on initiatives to regularize the situation of irregular migrant workers in Ecuador. In this respect, please inform the Committee on the impact and the implementation of the Agreement signed in December 2006 between the State party and the Government of Peru to regularize the situation of their nationals working in the border region between the two countries.

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