



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

Distr.: General  
8 October 2015

Original: English

---

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

### Concluding observations on the initial report of Seychelles\*

1. The Committee considered the initial report of Seychelles (CW/C/SYC/1) at its 296th and 297th meetings (CMW/C/SR.296 and 297), held on 2 and 3 September 2015. At its 305th meeting, held on 9 September 2015, the Committee adopted the following concluding observations.

#### A. Introduction

2. The Committee welcomes the submission of the initial report of the State party, which was prepared in response to the list of issues prior to reporting (CMW/C/SYC/QPR/1). It welcomes the additional oral information provided by the high-level delegation that was headed by Idith Sharon Alexander, Minister of Labour and Human Resource Development, which also included representatives of the Ministry for Labour and Human Resource Development, the Ministry for Foreign Affairs and Transport, the Ministry for Home Affairs, the Attorney General's Office and the Committee on the Employment of Non-Seychellois. However, the Committee regrets that the report was only submitted on 21 August 2015, which did not allow sufficient time for translation into the working languages of the Committee, or for due consideration by the Committee. The Committee appreciates the open and constructive dialogue held with the delegation.

3. The Committee notes that some countries where Seychellois migrant workers are employed are not parties to the Convention, which may constitute an obstacle to migrant workers' enjoyment of their rights under the Convention.

4. The Committee notes that the migratory processes in the State party embody intraregional and interregional movements, mainly to the United Kingdom of Great Britain and Northern Ireland, Australia, New Zealand, the Middle East and South Africa. It also notes the existence of a migrant population predominantly from Asia.

---

\* Adopted by the Committee at its twenty-third session (31 August-9 September 2015).



## **B. Positive aspects**

5. The Committee acknowledges that, since its accession to the Convention, the State party has become a party to a number of other international human rights instruments, including:

(a) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, on 11 December 2012;

(b) The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, on 1 March 2011;

(c) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, on 10 August 2010;

(d) The Convention on the Rights of Persons with Disabilities, on 2 October 2009;

(e) The Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, on 22 June 2004;

(f) The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Woman and Children, supplementing the United Nations Convention against Transnational Organized Crime, on 22 June 2004;

(g) The United Nations Convention against Transnational Organized Crime, on 22 April 2003.

## **C. Principal subjects of concern, suggestions and recommendations**

### **1. General measures of implementation (arts. 73 and 84)**

#### **Legislation and application**

6. The Committee notes that the Convention is applicable in the State party after its approval by the National Assembly. However, the Committee is concerned at the lack of comprehensive measures to disseminate the Convention and that the provisions of the Convention have never been invoked by domestic courts notwithstanding their applicability under domestic law.

**7. The Committee urges the State party to take the necessary steps to ensure that comprehensive measures are in place for the dissemination of the Convention, including the provision of training programmes for lawyers and judges on how they can respectively invoke and apply the provisions of the Convention.**

8. While taking note of the information provided by the State party's delegation about the revision of the Immigration Decree Cap. 98 of 1981, which was to be presented to the Cabinet of Ministers and the National Assembly in September 2015, the Committee is concerned that the Decree provides for broad grounds for declaring individuals as "prohibited immigrants" and the custodial sentences associated with prohibited entry into the State party.

**9. The Committee recommends that the State party should, as a matter of urgency, direct its efforts towards the formulation of a migration law in line with the provisions of the Convention and other relevant international instruments. The State party should also ensure that the revised law should only use deprivation of liberty for prohibited entry under exceptional circumstances.**

10. The Committee notes that the State party has yet to make declarations under articles 76 and 77 of the Convention in order to recognize the competence of the Committee to receive and consider communications from States parties and individuals. However, the Committee welcomes the response by the State party's delegation that the State party is considering making these declarations.

**11. The Committee invites the State party to consider making the declarations provided for in articles 76 and 77 of the Convention as soon as possible.**

12. The Committee notes that the State party is a party to a number of International Labour Organization instruments but that it has not ratified or acceded to its Minimum Wage Fixing Convention, 1970 (No. 131); Safety and Health in Construction Convention, 1988 (No. 167); Private Employment Agencies Convention, 1997 (No. 181); Domestic Workers Convention, 2011 (No. 189); and Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143).

**13. The Committee urges the State party to consider acceding to such Conventions.**

#### **Data collection**

14. The Committee welcomes the establishment of the National Bureau of Statistics, which collects information on migration and the State party's efforts to improve its system for collecting data on migration flows. However, it is concerned at the lack of available statistical data disaggregated by sex, age and nationality relating to migrant workers in an irregular situation.

**15. The Committee recommends that the State party's National Bureau of Statistics collect comprehensive data on migration, which should cover all aspects of the Convention, particularly relating to migrant workers in an irregular situation. The Committee further recommends that the database should include qualitative and statistical data on migrant workers in an irregular situation, disaggregated by sex, age and nationality, in order to facilitate the adoption of measures to effectively implement the provisions of the Convention.**

#### **Training on and dissemination of the Convention**

16. The Committee notes information in the State party report that the State party has conducted human rights training programmes on trafficking targeting "front-line officers, non-governmental organizations and journalists", and that it continues to disseminate materials such as leaflets to migrant workers in their languages, such as Chinese. However, the Committee is concerned at the inadequacy of migration-specific training programmes on the Convention targeting relevant stakeholders, such as judges, immigration officers and other law enforcement officials.

**17. The Committee recommends that the State party:**

**(a) Ensure that migration-specific human rights training programmes be made available for all public officials working in the area of migration, in particular immigration officers, law-enforcement officials and defence forces, as well as judges, prosecutors, relevant consular officers, civil servants, local officials and social workers;**

**(b) Intensify efforts to ensure access by migrant workers to information and guidance on their rights under the Convention in all commonly used languages in the country, in particular through orientation courses or seminars prior to employment or departure;**

(c) **Work in close collaboration with civil society organizations and the media in order to intensify the dissemination of information about the Convention, including through the media.**

**2. General principles (arts. 7 and 83)**

18. While noting the existence of a national human rights institution and the establishment of the Office of the Ombuds under article 143 of the Constitution, which confers investigative powers on the Ombudsperson, the Committee is concerned at the lack of clarity with regard to the cooperation between these institutions and the fact that the Ombudsperson chairs the institution. The Committee is particularly concerned at the inadequate budgetary and human resources of these institutions.

**19. The Committee requests the State party:**

(a) **Clarify the mandates of the Office of the Ombuds and that of the national human rights institution, and ensure that they have clear complementary mandates in order to effectively promote and protect the rights of migrant workers and members of their families under the Convention, in compliance with the Principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles);**

(b) **Ensure that adequate financial and human resources are made available to enable the Office of the Ombuds and the national human rights institution to effectively discharge their mandates.**

**3. Human rights of all migrant workers and members of their families (arts. 8-35)**

20. The Committee is concerned at the lack of information on cases of labour exploitation of migrant workers, including those in an irregular situation, and particularly those in the construction and fishing sectors. The Committee is also concerned that the State party's report does not provide information on any incidences of racism, xenophobia, ill-treatment and violence directed at migrant workers and members of their families.

**21. The Committee recommends that the State party:**

(a) **Provide specific information in its next periodic report on the labour exploitation of migrant workers, including those in irregular situation, particularly those in the construction and fishing sectors;**

(b) **Provide data on incidents of xenophobia, ill-treatment and violence directed at migrant workers and members of their families disaggregated by age, sex and nationality.**

22. While noting the comprehensive information provided by the State party's delegation regarding the number of foreigners who have been deported in recent years, the Committee is concerned at the lack of disaggregated data on the number of migrant workers who have been deported, particularly those in an irregular situation.

**23. The Committee urges the State party to provide data in its next periodic report on the number of migrant workers, including migrant workers in an irregular situation, who have been deported since the Convention entered into force for the State party.**

24. The Committee notes that article 67 of the Employment Act provides that non-Seychellois workers, not exempt from the provisions of that Act, shall enjoy the same terms and conditions of employment as are applicable to Seychellois workers. The Committee also notes the efforts by the State party to conduct regular labour inspections in order to enforce equal pay for work of equal value. However, the Committee is concerned at:

(a) The lack of data on the actual cases involving non-compliance with the principle of equal pay for work of equal value by employers of migrant workers;

(b) The lack of information on reports that pursuant to the Employment (Wage Increase) Regulations, 2010, the State party granted a 20 per cent wage increase to all workers except for non- Seychellois employees.

25. **The Committee urges the State party:**

(a) **To collect data on the cases involving non-compliance with the principle of equal pay for work of equal value, including sanctions imposed on non-compliant employers;**

(b) **To ensure that migrant workers enjoy treatment not less favourable than that which applies to nationals in respect of remuneration, and that such treatment is strictly enforced through the conduct of regular and unannounced labour inspections in sectors where migrant workers are concentrated, particularly in the fishing, tourism and construction industries.**

26. The Committee notes that birth registration is undertaken in the State party regardless of migration status. However, the Committee is concerned at the lack of information on the measures taken to protect children of migrant workers from becoming stateless considering that the State party's citizenship law is based on the principle of *jus sanguinis*.

27. **The State party should take appropriate measures to ensure the protection of children of migrant workers from statelessness.**

**4. Other rights of migrant workers and members of their families who are documented or in a regular situation (arts. 36-56)**

28. The Committee notes that there are no restrictions for migrant workers to vote or to be elected to office in their States of origin while employed in Seychelles. However, it is concerned at information that under, article 114 of the Constitution, a person can be disqualified to vote on the ground of residence outside Seychelles and that, under article 5 of the Elections Act, Seychellois are eligible to vote if they are resident in an electoral area for a specified period of time.

29. **The Committee recommends that the State party review its legislation with a view to facilitating the rights of Seychellois migrant workers living abroad to participate in public affairs of their State of origin and to vote and to be elected at elections in the State party.**

30. The Committee commends the State party for the fact that migrant workers and members of their families can gain access to all services provided to nationals by the social services division of the State party in order to support and protect families. However, it regrets that there is no legislation or policy that governs family reunification of migrant workers.

31. **The Committee recommends that the State party introduce appropriate measures to facilitate family reunification of migrant workers and members of their families in line with the Convention.**

32. The Committee notes the information provided in the State party report regarding the considerable flow of remittances by migrant workers to their States of origin. The Committee also notes information provided by the State party's delegation on the procedures for transferring remittances abroad and the costs associated with such transfers. However, the Committee is concerned at:

- (a) The lack of information regarding similar flows of remittances by Seychellois migrant workers living abroad into the State party;
- (b) The lack of bilateral agreements with the countries where Seychellois migrant workers are employed.

33. **The Committee recommends that the State party:**

- (a) **Provide detailed information on the procedures and cost of transferring earnings and savings, including data on remittances made by Seychellois migrant workers living abroad to their families in the State party;**
- (b) **Consider signing bilateral agreements with countries where Seychellois migrant workers are employed, with a view to protecting their rights under the Convention.**

**5. Promotion of sound, equitable, humane and lawful conditions in connection with international migration of workers and members of their families (arts. 64-71)**

34. The Committee notes the provision of mother-tongue education by various migrant communities in the State party. However, the Committee regrets the lack of information in the report concerning the general situation of children of migrant workers in the State party. The Committee also notes that migrant workers are free to send their children to State or private schools and that pre-school, primary and secondary education are free for children of migrant workers but that post-secondary education is available to children of migrant workers on a chargeable basis. However, the Committee is concerned at the differential treatment of non-Seychellois with regard to fees for post-secondary education notwithstanding the explanation by the State party's delegation that such fees are often borne by employers of migrant workers.

35. **The Committee recommends that the State party:**

- (a) **Conduct a nationwide study on migrant children, including both migrant children in the State party and children of Seychellois migrant workers abroad who have been left behind in the State party, in order to effectively design policies and programmes;**
- (b) **Intensify measures aimed at facilitating the provision of mother-tongue education in the State party;**
- (c) **Provide information on the measures to ensure equal access to post-secondary education of children of migrant workers in the State party.**

36. The Committee welcomes the significant legislative and regulatory measures adopted by the State party to combat trafficking in persons, such as the adoption of the Prohibition of Trafficking in Persons Act, 2014 and the establishment of a national coordinating committee on trafficking in persons. However, the Committee is concerned at:

- (a) The lack of studies, analyses and disaggregated data that would make it possible to assess the extent of trafficking in the State party;
- (b) The lack of shelters for victims of trafficking in persons;

(c) The lack of information on the measures taken to combat reported exploitation of prostitution in the State party.

37. **The Committee recommends that the State party:**

(a) **Systematically collect data, disaggregated by gender, age and origin, in order to effectively combat trafficking in human beings and exploitation of prostitution;**

(b) **Step up campaigns on the prevention of trafficking of migrant workers and encourage the private sector to adopt a “zero-tolerance” policy to sex tourism and to protect persons against trafficking and commercial sexual exploitation;**

(c) **Improve the training of police officers and other law enforcement officials, border guards, judges, prosecutors, labour inspectors, teachers, health-care providers and the State party’s embassy and consular personnel regarding the struggle against human trafficking;**

(d) **Strengthen mechanisms for investigating cases of trafficking in persons and prosecuting and punishing traffickers;**

(e) **Afford adequate protection and assistance to all victims of trafficking, in particular by providing shelters and launching projects aimed at helping them rebuild their lives or their repatriation;**

(f) **Intensify international, regional and bilateral cooperation to prevent and combat trafficking in persons.**

## **6. Follow-up and dissemination**

### **Follow-up**

38. **The Committee requests the State party to include in its next periodic report detailed information on measures taken to follow up on the recommendations contained in the present concluding observations. The Committee recommends that the State party take all appropriate measures to ensure that those recommendations are implemented, including by transmitting them for consideration and action to members of the Government and the National Assembly, as well as local authorities.**

39. **The Committee requests the State party to involve civil society organizations in the implementation of recommendations contained in the present concluding observations.**

### **Follow-up report**

40. **The Committee requests the State party to provide, within two years, that is, by 9 September 2017, written information on the implementation of the recommendations contained in paragraphs 25, 33 and 37 above.**

### **Dissemination**

41. **The Committee also requests the State party to disseminate the Convention and the present concluding observations widely, including to public agencies, the judiciary, non-governmental organizations and other members of civil society, so as to increase awareness thereof among judicial, legislative and administrative authorities, civil society and the public in general.**

**Technical assistance**

42. The Committee recommends that the State party avail itself of international assistance, including technical assistance, to develop a comprehensive programme for the implementation of the above recommendations and the Convention as a whole. The Committee also calls upon the State party to continue its cooperation with the specialized agencies and programmes of the United Nations system, including by seeking technical assistance and capacity-building from the Office of the United Nations High Commissioner for Human Rights with respect to reporting.

**7. Next periodic report**

43. The Committee requests the State party to submit its second periodic report by 9 September 2020 and to include therein information on the implementation of the present concluding observations. Alternatively, the State party may follow the simplified reporting procedure, whereby the Committee draws up and adopts a list of issues that is transmitted to the State party prior to the submission of its next report. The replies of the State party to that list of issues will constitute its report under article 73 of the Convention. In that way, the State party does not submit its report in the traditional manner. This new optional procedure was adopted by the Committee at its fourteenth session, in April 2011 (see A/66/48, para. 26).

44. The Committee draws the State party's attention to its harmonized treaty-specific guidelines (CMW/C/2008/1) and reminds it that periodic reports should be in compliance with the guidelines and not exceed 21,200 words (see General Assembly resolution 68/268). In the event that a report exceeding the established word limit is submitted, the State party will be asked to shorten the report in accordance with the above-mentioned guidelines. If the State party is not in a position to review and resubmit the report, translation of the report for purposes of examination by the treaty body cannot be guaranteed.

45. The Committee requests the State party to ensure the wide participation of all ministries and public bodies in the preparation of its next periodic report (or replies to the list of issues, in the case of the simplified reporting procedure) and, at the same time, to consult broadly with all relevant stakeholders, including civil society, migrant workers and human rights organizations.

46. The Committee also invites the State party to submit an updated common core document, not exceeding 42,400 words, in accordance with the requirements for the common core document in the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents, approved at the fifth inter-committee meeting of the human rights treaty bodies, in June 2006 (HRI/MC/2006/3 and Corr.1).