



# **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-ninth session**

### **Summary record of the 572nd meeting**

Held at the Palais Wilson, Geneva, on Monday, 2 December 2024, at 3 p.m.

*Chair:* Ms. Diallo

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*The meeting was called to order at 3.05 p.m.*

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

*Initial report of Benin (CMW/C/BEN/1; CMW/C/BEN/Q/1; CMW/C/BEN/RQ/1)*

1. *At the invitation of the Chair, the delegation of Benin joined the meeting.*
2. **The Chair**, welcoming the delegation of Benin to the meeting, explained that additional members of the delegation would be participating via video link.
3. **A representative of Benin**, introducing his country's initial report (CMW/C/BEN/1), said that the report had been prepared with the involvement of government agencies, the Benin Human Rights Commission and civil society organizations and had highlighted his country's efforts to achieve the goals of the Convention at a time of serious regional security challenges. Benin, which had been a territory of origin during the triangular slave trade, shared porous land borders with Burkina Faso, the Niger, Nigeria and Togo. Its political stability made it a preferred destination for migrant workers; it was also a country of transit.
4. Benin participated actively in regional initiatives and supported the principle of free movement of persons, allowing visa-free entry into the country for nationals of African States, and had signed a number of bilateral agreements to build international partnerships and promote joint responses to migration and humanitarian crises. It had also strengthened its legal and institutional frameworks for the enjoyment of human rights, taken steps to facilitate migrants' access to employment and incorporated international rules regarding trafficking in persons into national law.
5. The country's Constitution provided the framework for its anti-discrimination policies. It required the State to ensure equality before the law for all, without distinction as to origin, race, sex, religion, political opinion or social status, placed a duty on Beninese nationals to respect and consider their fellow beings without discrimination and provided that foreign nationals enjoyed the same rights and freedoms in Benin as Beninese nationals, under the conditions determined by law. Benin was a party to the major conventions of the International Labour Organization (ILO). Migrant workers and members of their families had the same right to petition the ordinary courts as nationals and could bring cases before the Constitutional Court, the remit of which included safeguarding fundamental rights and public freedoms.
6. Benin had made significant efforts to harmonize its legal framework with international standards, taking steps to safeguard the rights of migrant workers and, in collaboration with the Office of the United Nations High Commissioner for Refugees, provide for the protection of asylum-seekers, stateless persons and refugees. Benin had recently adopted a national strategy for the prevention of statelessness with a view to expanding access to Beninese nationality, in line with commitments made under the I Belong campaign to end statelessness. The number of people who were being forced to flee neighbouring countries continued to grow, and the number of registered refugees and asylum-seekers in Benin had risen from around 5,000 in May 2023 to over 14,000 in May 2024. That increase had prompted Benin to make new pledges regarding the accommodation, healthcare and education of refugees at the second Global Refugee Forum, held in December 2023.
7. Benin continued to face challenges related to the security situation, development, irregular migration and data collection, including with respect to the identification of migrant workers in the informal sector and the registration of cross-border workers. It looked forward to receiving the Committee's recommendations.
8. **Ms. Poussi** (Country Rapporteur) said that she welcomed the declarations made by the State party under articles 76 and 77 of the Convention. She would be grateful for detailed information on the content of Act No. 86-012 of 1986 establishing regulations for foreign nationals in Benin, any provisions of the Children's Code that related to the Convention, and the conditions under which migrant workers and members of their families could acquire or lose Beninese nationality under the 1965 Nationality Code. It would also be helpful to learn about the main provisions of Decree No. 2006-066 regulating the accommodation of foreign nationals and the minimum conditions that it set for the housing of foreign nationals in Benin.

She would like to find out what specific steps the State party had taken to bring its legislation into line with the Convention and whether Act No. 2022-32 on the Nationality Code of Benin and Act No. 65-17 of 1965 on the Nationality Code of the Republic of Dahomey were both in effect and, if so, why two laws on nationality were needed.

9. She wished to know the status of the negotiations being held by the State party with countries in the Gulf region, including Qatar and the United Arab Emirates, on new labour exchange agreements and of the migration policy being developed by the State party. She also wished to know what time period that policy would cover and whether civil society organizations and the national human rights institution were playing a role in its preparation.

10. She would like to find out how exactly the Ministry of Labour and Public Service, which was the entity responsible for coordinating efforts to implement the Convention, monitored the implementation and coordinated stakeholders' actions. It would be helpful to know whether the Internet platform for the Beninese diaspora was already operational, how data was fed into it, where it was hosted, how it was managed and how the State party ensured that migrant workers, including those in an irregular situation, registered on the platform. She wondered what mechanisms the State party used to verify that government bodies applied the provisions of the Convention to migrant workers in all areas.

11. She would like to know how migrant workers were taken into account in climate change mitigation programmes and projects. It would also be helpful to learn about any legislative, institutional and procedural measures taken to prevent racism, xenophobia, ill-treatment and violence against migrant workers, including any good practices that could be recommended to other States. She wished to understand the conditions for acquiring the different residence statuses – temporary resident, ordinary resident and preferred resident – under the law establishing regulations for foreign nationals.

12. **Ms. Gahar** (Country Rapporteur) said that she would like to know whether the State party intended to ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, the Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa, the Protocol to the Treaty Establishing the African Economic Community relating to Free Movement of Persons, Right of Residence and Right of Establishment and the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention). She would also like to know how “foreign national” was defined under the Constitution, which granted the same rights to such persons as to citizens of Benin. She wondered whether migrant workers were entitled under the Labour Code to establish their own trade unions. She wished to understand the provisions of the Nationality Code concerning the protection of the children of migrant workers, including those that varied according to birthplace and origin, and to learn whether the Code guaranteed citizenship for stateless children.

13. She would appreciate more information on the work of the Directorate of Emigration and Immigration, including processing times for the issuance of visas and residence permits, appeal mechanisms and other services. It would be useful to have more information on the implementation by the Ministry of Foreign Affairs and Cooperation of its programme to protect the rights of Beninese migrant workers abroad, including the systems put in place to evaluate return and reintegration assistance for Beninese emigrants. She wished to know whether the Directorate General of Labour and the National Employment Agency had specific databases on migration and to receive any relevant disaggregated data.

14. She wondered whether any mechanism had been established to coordinate the work of government agencies and civil society organizations on migration issues. She wished to know about the mechanisms enabling non-governmental organizations to report violations of migrant workers' rights. She would appreciate updated statistics on immigration flows since 2018 and information on planned measures to strengthen the Benin Human Rights Commission. Information would be welcome on any mechanisms that existed to promote cooperation with civil society organizations and international human rights bodies to raise awareness in communities on rights for migrant workers and their families.

15. She would appreciate information on the work of the Subcommission on Children, Statelessness, Refugees, Immigrants and Internally Displaced Persons and its strategies with respect to migrant workers and their families. She wished to hear about measures taken to

collect qualitative information and statistics on Beninese nationals working abroad and in an irregular situation. She would like to receive up-to-date qualitative information and statistics disaggregated by sex, age, nationality and migration status on labour migration movements to and from the State party, including returns. It would also be useful to have data on unaccompanied children and children left behind by migrant parents. She would appreciate statistics on child mortality rates in migrant families and information on strategies to reduce infant, child and maternal mortality and address ritual infanticide. Information would also be welcome about the ordinary courts competent to investigate and rule on complaints from migrant workers in regular and irregular situations and members of their families.

16. **Mr. Corzo Sosa** (Country Rapporteur) said that he would like to know what had been done to address the challenges to registering all migrant workers and what steps had been taken to establish a mechanism to facilitate the collection of data on migration, in cooperation with cross-border communities. He wondered what had been done to tackle the difficulties in implementing article 17 of the Convention, on the rights of migrant workers and members of their families deprived of their liberty, and article 41, on the right of such persons to participate in public affairs in their State of origin, and the lack of awareness of international, regional and national legal provisions concerning them. He wondered if any plans or programmes existed to formalize the informal sector or otherwise uphold the rights of informal workers under the Convention.

17. He wished to know whether, in the event of a conflict, the Convention would prevail over the Constitution or a Constitutional Court decision. It would be useful to have more details and disaggregated data on migrants, displaced persons and asylum-seekers with disabilities. He wondered whether any measures had been taken to help migrants with disabilities, including by implementing the recommendation of the Committee on the Rights of Persons with Disabilities that measures should be introduced to address the situation of migrants and refugees with disabilities and provide them with documents enabling them to enjoy freedom of movement. Lastly, he wished to hear about any measures taken to combat migrant smuggling networks.

18. **Mr. Kariyawasam** said that he would appreciate confirmation of reports that there were more migrants in the State party from China, India and Lebanon than from neighbouring countries and the reasons behind that. He wondered whether the statistics took into account regular border crossings by persons with connections to cross-border communities. It would be useful to receive updated statistics and clarification on whether they related only to migrant workers or also to other categories such as refugees. He would be interested to hear about any challenges related to upholding the rights of migrant workers from such distant countries.

19. **Mr. Babacar** said that he would like to know whether the State party intended to ratify the ILO Protocol of 2014 to the Forced Labour Convention, 1930, Migration for Employment Convention (Revised), 1949 (No. 97), Employment Policy Convention, 1964 (No. 122), Occupational Safety and Health Convention, 1981 (No. 155), Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), Domestic Workers Convention, 2011 (No. 189) and Violence and Harassment Convention, 2019 (No. 190).

20. He would also like to know whether a plan of action had been drawn up for the implementation of the national migration policy and, if so, whether it addressed discrimination and trafficking in human beings.

21. **The Chair** said that it would be useful to know how human rights violations by law enforcement officers were prevented and what action was taken, particularly to restore rights, when a court ruled that such a violation had occurred. She would also like to know why foreigners visiting the State party for family events who complied with the relevant procedures at the border were required to report to the police or other law enforcement agencies during their stay and how that requirement was implemented in practice. The Committee would be interested in details of any strategy or procedures to enable the regularization of migrant workers' status as an alternative to deportation. She wished to know how the State party designed programmes and policies for migrant workers, given the lack of valid and reliable data on them.

22. She would welcome information on coordination and follow-up mechanisms that ensured coherence in the Government's migration management efforts and allowed for improvements to legislation and practice in the area of migrant protection. It would be interesting to learn how local and decentralized authorities participated in migration management, particularly in relation to cross-border communities. She would welcome statistics on the number of migrant workers in prisons, along with information on any efforts to implement alternatives to detention, given that migrant workers in conflict with the law were often imprisoned with convicted persons owing to a lack of resources. She would also like to know how the Government cooperated with United Nations agencies and development organizations to address that challenge. The Committee would like to hear about any efforts the State party was undertaking to allow migrant workers to participate in public life, particularly by allowing Beninese citizens who resided abroad to vote. Lastly, she wished to know the status of the process towards ratification of the ILO Domestic Workers Convention, 2011 (No. 189).

*The meeting was suspended at 4.40 p.m. and resumed at 5.10 p.m.*

23. **A representative of Benin** said that the legislation that required foreign visitors to report to law enforcement agencies was under review; such persons could report to local elected officials and were required to follow the procedure only when staying with family members. Residence cards were issued to persons who could prove that they had the means to support themselves or that they would be supported by another person. Temporary residence cards were issued to foreigners whose stay in Benin did not exceed one year; ordinary residence cards, which were valid for three years and could be renewed, were granted to persons residing in the country for three or more years; and preferred residence cards were issued to foreigners who had been in Benin for a number of years, had already obtained temporary or ordinary residence cards and could prove that they had invested, or planned to invest, in the country. Applications for residence cards were processed within 45 days.

24. Citizens of countries that had not entered into a visa waiver agreement with Benin could obtain visas online; they were granted almost instantly. All nationals of African countries could enter Benin without a visa and remain in the country for 90 days. Some such persons remained in Benin indefinitely without regularizing their status and were therefore not included in immigration statistics, creating the false impression that immigrants came mainly from Asian countries. That phenomenon was amplified by the fact that immigrants from China, Lebanon and India often established large companies and recruited employees from their countries of origin.

25. **A representative of Benin** said that the IDiaspora platform, which was being used by more than 1,000 individuals, had been launched in 2024 as part of efforts to encourage Beninese citizens abroad to register with consulates and afforded them remote access to a large number of administrative services and documents. The data gathered during the registration process enabled the mapping of the Beninese diaspora and the provision of protection to Beninese migrant workers. The platform was managed by the Directorate General for Consular Affairs and Beninese Nationals Abroad of the Ministry of Foreign Affairs, which was working to raise awareness of it among the diaspora, including during meetings with Beninese citizens residing in other countries. Particular effort was made to encourage Beninese migrants with irregular status to register with the platform.

26. The Government was engaged in bilateral negotiations on migration with Governments from several regions, including a number of Gulf States. Those discussions, which were at an advanced stage, would ensure that Beninese nationals enjoyed sufficient protection abroad and included the negotiation of a memorandum of understanding on labour migration with the Government of Kuwait. The Beninese Government was keen to promote mutually beneficial partnerships with regard to labour migration and to frame migration as an opportunity for co-development.

27. **A representative of Benin** said that the provisions of Act No. 86-012 of 31 January 1986 establishing regulations for foreign nationals, along with those of other relevant laws and regulations, including Decree No. 2006-066 of 24 February 2006 regulating the accommodation of foreign nationals in Benin, were outdated and needed to be brought up to

date. Under article 7 of the Decree, foreign nationals resident in Benin were required to report any changes of address to the local authorities of their new place of residence. Foreign nationals passing through Benin – to attend a marriage or other event, for example – and opting for accommodation that was not part of a hotel or inn were required, pursuant to article 8, to report to the local authorities. While, in accordance with article 9, the possibility of deportation existed, it was not applied automatically and deportation orders could be appealed.

28. The provisions of Act No. 2015-08 of 23 January 2015 on the Children's Code and those of other laws were sometimes contradictory and, as a result, a reform of the Code was under way. Efforts to adopt laws on the legal protection of children and on juvenile justice were being made against the backdrop of the ongoing reform. Act No. 65-17 of 23 June 1965 on the Nationality Code of the Republic of Dahomey had been repealed pursuant to Act No. 2022-32 of 20 December 2022 on the Nationality Code of Benin. Provisions of the 1965 Nationality Code that were not contrary to the 2022 Nationality Code still applied in some cases, however. No provisions applied retroactively. Since September 2024, persons born to descendants of victims of the transatlantic slave trade were, in some cases, entitled to Beninese citizenship.

29. A June 2024 survey had shed light on migration matters. It had not, however, been sufficiently comprehensive to enable him to provide the disaggregated data requested by the Committee. What was more, many of the nationals of neighbouring countries who worked in Benin, especially those working as traders, did so without applying for work permits. Data on such persons were thus difficult to come by. The report containing the survey findings, which could be made available to the Committee, was nonetheless his country's most comprehensive source of migration-related data. A national database of the persons resident in Benin had also been created, and work to coordinate the steps taken for the collection of data by public institutions such as the Ministry of Justice and Legislation, the Ministry of Foreign Affairs and the Ministry of Labour and Public Service was ongoing. Relevant records were being digitized, and the data collected by those institutions, which were ultimately consolidated by the Ministry for Development and Coordination of Government Action, would enable the adoption of the national migration policy that had been under discussion since 2009. There was no action plan for implementation of the policy, as the policy itself had not yet been adopted.

30. Migrant workers in Benin had the same rights as Beninese workers. In other words, they could assert their rights in court on an equal footing with Beninese nationals, their places of work were subject to inspection, they had an equal right to social security and they could form trade unions to defend their labour rights. No instances of discrimination against migrant workers in Benin would go unnoticed. In Benin, nationals of such countries as Togo, Nigeria and the Niger were not viewed as foreigners. They had relatives in Benin. They settled in Benin. According to the findings of the June 2024 survey, family reunification was one of the main reasons for immigration to Benin. Only Littoral Department, where the country's largest city was located, had a significant population of economic migrants.

31. His country did not automatically ratify all international human rights instruments. The ratification of the instruments about which his delegation had been asked was nonetheless being studied. In any event, the provisions of international instruments ratified by Benin took precedence over provisions of national legislation. National laws, including the Constitution, had to be brought into line with such instruments. Mechanisms had been put in place to ensure that instruments ratified before 1990, when the Constitution had been adopted, were compatible with national legislation and to make any necessary legislative amendments. The people of Benin, including migrant workers, could turn to the courts for possible relief from the application of laws they considered unconstitutional.

32. He would welcome clarification of the question that had been asked about nationality guarantees for stateless persons. Although not all stateless persons in Benin could become Beninese citizens, the principles enshrined in a number of international instruments had been transposed into Act No. 2022-31 of 20 December 2022 on the Status of Refugees and Stateless Persons. The subcommission provided for in the Act had not yet been established.

33. The Benin Human Rights Commission, an independent institution for which public funds had been set aside, functioned as both the national human rights institution and the national mechanism for the prevention of torture. It also raised public awareness of human rights issues. The Office of the Ombudsman, which was another term for the Office of the Mediator, handled complaints and forwarded them to the relevant public institutions. Any institution that did not respond satisfactorily to such complaints was subject to criticism in a report published by the Office.

34. He would appreciate more detail in respect of the question about ritual crimes. It should be kept in mind that not all reports of such crimes were accurate.

35. Most migrant workers in Benin spoke their native language, which was not necessarily French, the country's official language. It was thus a challenge to ensure that the text of laws and regulations of relevance to their rights was accessible to them. A recently adopted decree on legal aid would, however, help ensure that migrant workers had access to justice.

*The meeting rose at 6.05 p.m.*