



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

Distr.: General  
24 October 2022

Original: English

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

### Concluding observations on the combined second and third periodic reports of the Syrian Arab Republic\*

1. The Committee considered the combined second and third periodic reports of the Syrian Arab Republic<sup>1</sup> at its 499th, 501st and 503rd meetings,<sup>2</sup> held on 22, 23 and 26 September 2022. At its 512th meeting, held on 30 September 2022, it adopted the following concluding observations.

#### A. Introduction

2. The Committee welcomes the submission of the combined second and third periodic reports of the State party, its replies to the list of issues thereto<sup>3</sup> and additional information that was provided by the multisectoral delegation, which was headed by the Permanent Representative of the Syrian Arab Republic to the United Nations Office and other international organizations in Geneva and composed of the Deputy-Minister and representatives of the Ministry of Social Affairs and Labour, the Ministry of the Interior and the Syrian Commission for Family and Population Affairs, as well as officials from the Permanent Mission of the Syrian Arab Republic to the United Nations Office and other international organizations in Geneva.

3. The Committee appreciates the open and constructive dialogue held with the delegation, in a hybrid format.

4. The Committee is aware that the Syrian Arab Republic has become a country of origin of migrant workers. The Committee notes the existence of a large number of persons in need of international protection in the State party and a large number of Syrians outside the State party in need of international protection.

#### B. Positive aspects

5. The Committee notes with appreciation the State party's ratification of the following international instruments:

(a) The Convention on the Rights of Persons with Disabilities, in July 2009;

(b) The United Nations Convention against Transnational Organized Crime, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the Organized Crime Convention, and the Protocol against the

\* Adopted by the Committee at its thirty-fifth session (19–30 September 2022).

<sup>1</sup> CMW/C/SYR/2-3.

<sup>2</sup> See CMW/C/SR.499, CMW/C/SR.501 and CMW/C/SR.503.

<sup>3</sup> CMW/C/SYR/RQ/2-3.



Smuggling of Migrants by Land, Sea and Air, supplementing the Organized Crime Convention, each in 2009.

6. The Committee welcomes the adoption of the following legislative measures:

(a) The adoption of Children's Law No. 21 of 2021, which, *inter alia*, provides protection from child labour and protection for children from trafficking in persons;

(b) The adoption of Law No. 14 of 2021 to combat the smuggling of persons in the Syrian Arab Republic;

(c) The adoption of Law No. 2 of 2014, on the entry into, exit from and residence of foreigners in the Syrian Arab Republic, as amended by Law No. 30 of 2016 and Law No. 13 of 2017, insofar as it provides for a legal framework for the management of migration flows in, through, out of and back into the country;

(d) The adoption of Legislative Decree No. 65 of 2013 as amended by Law No. 40 of 2017, regarding the employment of non-Syrian workers, including migrant domestic workers;

(e) The adoption of Employment Law No. 17 of 2010, which provides for the regulation of the employment of "non-Syrian Arab" migrant workers, including domestic migrant workers, and an authorization for the Prime Minister and the Minister of Social Affairs and Labour to regulate private recruitment agencies in this context;

(f) The adoption of Law No. 3 of 2010, on prevention of human trafficking, which criminalizes trafficking in persons.

7. The Committee also welcomes the following institutional and policy measures:

(a) The adoption of a national plan to reduce child labour and eliminate the worst forms of child labour;

(b) The creation of the Commission for Planning and International Cooperation to oversee the implementation of the national programme for the post-war Syrian Arab Republic (Strategy 2030), which contains an employment programme;

(c) The adoption of a national plan to combat trafficking in persons and the creation of the Anti-Trafficking Department and of the National Committee to Combat Trafficking in Persons.

8. The Committee notes as positive that the State party voted in favour of the Global Compact for Safe, Orderly and Regular Migration, endorsed by the General Assembly in its resolution 73/195. The Committee recommends that the State party continue to make efforts to implement it, within the framework of its international obligations contained in the Convention, given that both international instruments converge on the protection of the rights of migrant workers and members of their families.

## C. Factors and difficulties impeding the implementation of the Convention

9. The Committee recognizes the particularly severe effects of the ongoing armed conflict, political, economic and social instabilities, also as a result of unilateral coercive measures, and the presence of foreign armed forces and non-State armed groups – some designated as terrorist entities by the United Nations. These lead to grave human rights violations that have a severe impact on migrant workers and members of their families, both in the Syrian Arab Republic and abroad, and constitute a serious obstacle to the implementation of the rights enshrined in the Convention. The Committee is aware of the difficulty in ensuring the rights of migrant workers and members of their families in territories where the State party does not exercise effective control, including the occupied Syrian Golan. The Committee is, however, troubled by allegations that it has received regarding the conditions to which migrants are subjected, leading to death, suffering and serious physical injury and harm to their mental or physical health. Such treatment is, according to the allegations, widespread in both areas under the control of the State party and areas where the State party does not exercise effective control. Acts of violence committed

against migrants include unlawful killings, torture and other forms of cruel, inhuman or degrading treatment or punishment, rape, sexual enslavement and other forms of sexual violence, enforced disappearances or abductions, trafficking in persons, arbitrary deprivation of liberty and exploitative working conditions for migrant domestic workers, which are not only serious violations of human rights but could constitute crimes under international law.

10. The Committee reminds the State party of the continuity of its international human rights obligations, that the rights enshrined in the Convention apply to all migrant workers and members of their families at all times and that the State party bears primary responsibility for protecting them and should therefore take immediate measures to prevent further violence against them. The Committee urges the State party to immediately take the measures necessary, including during any reconstruction efforts, to protect all migrant workers and members of their families from any conditions that might violate their rights under the Convention and applicable international law and guarantee all rights in the Convention to them throughout its territory without discrimination, independently of where they live, to promote a culture of tolerance, peace and reconciliation among all communities. The Committee also urges the State party to ensure that its amnesty laws, including those adopted to encourage the return of Syrian migrant workers and members of their families, are in compliance with international law, that is that they do not: (a) prevent prosecution of individuals who may be criminally responsible for war crimes, genocide, crimes against humanity or gross violations of human rights; (b) interfere with victims' rights to an effective remedy, including reparation; or (c) restrict victims' and societies' rights to know the truth about violations of human rights and humanitarian law.

11. The Committee notes with concern that, in situations of a migration crisis, different receiving countries apply a different approach depending on the nationality of the people involved. Some have been quick to express their solidarity with Ukrainian migrants fleeing the armed conflict. In seven months, they mobilized the means, the media and the population to welcome, rightly and rightfully, more than 7 million Ukrainians who will be able to stay, work, and access social services, housing, the education system and medical care in the receiving countries. While welcoming and encouraging such a system, which has demonstrated that reception and hospitality are possible and achievable, the Committee strongly regrets that Syrians have not been treated in the same way. The Committee ardently deplores this difference in treatment and strongly hopes that the Ukrainian case can change mindsets and serve as a model in the years to come.

## **D. Principal subjects of concern and recommendations**

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

#### **Current context**

12. **The Committee recommends that the State party protect the rights of migrant workers and members of their families, in particular their right to health, and mitigate the adverse effects of the coronavirus disease (COVID-19) pandemic in the light of the joint guidance note on the impacts of the COVID-19 pandemic on the human rights of migrants issued by the Committee and the Special Rapporteur on the human rights of migrants.<sup>4</sup> In particular, the Committee recommends that the State party guarantee equitable access to vaccination against COVID-19 to all migrants and members of their families, irrespective of their nationality, migration status or other prohibited grounds for discrimination, in accordance with the recommendations issued by the Committee and other regional human rights mechanisms in the above-mentioned joint guidance note.**

<sup>4</sup> See <https://www.ohchr.org/sites/default/files/CMWSPMJointGuidanceNoteCOVID-19Migrants.pdf>.

### Legislation and application

13. The Committee notes that the State party has taken some legislative measures since the adoption of the previous concluding observations,<sup>5</sup> in 2008, to bring domestic legislation into line with the provisions of the Convention. It is, however, concerned that Law No. 2 of 2014, on the entry into, exit from and residence of foreigners in the Syrian Arab Republic, which criminalizes irregular entry, stay and exit and is geared towards border protection and the prevention of violations of border security on the basis of vague criteria such as “requirements of security and public interest” (art. 26), has not yet been brought into line with the provisions of the Convention.

**14. The Committee recommends that the State party adopt comprehensive legislation on migration and bring its domestic legislation into line with the provisions of the Convention and the Committee’s general comments.**

### Articles 76 and 77

15. The Committee notes that the State party has yet to make the declarations provided for in articles 76 and 77 of the Convention.

**16. Reiterating its previous recommendation,<sup>6</sup> the Committee recommends that the State party make the declarations provided for in articles 76 and 77 of the Convention recognizing the competence of the Committee to receive and consider communications from States parties and individuals concerning violations of the rights established by the Convention.**

### Ratification of relevant instruments

17. The Committee notes the explanation provided by the State party that the possibility of ratifying or acceding to additional International Labour Organization (ILO) conventions to which it is still not a party is being considered.

**18. Reiterating its previous recommendation,<sup>7</sup> the Committee recommends that the State party ratify or accede to, as soon as possible, the International Convention for the Protection of All Persons from Enforced Disappearance, the ILO Migration for Employment Convention (Revised), 1949 (No. 97), the ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), the ILO Safety and Health in Construction Convention, 1988 (No. 167), the ILO Private Employment Agencies Convention, 1997 (No. 181), and the ILO Domestic Workers Convention, 2011 (No. 189). The Committee also recommends that the State party consider ratifying the ILO Violence and Harassment Convention, 2019 (No. 190).**

### Comprehensive policy and strategy

19. The Committee notes the lifting of certain restrictions for the employment of foreign migrant workers in the State party by Legislative Decree No. 65 of 2013 as amended by Law No. 40 of 2017, and Employment Law No. 17 of 2010. It is, however, concerned at the absence of a comprehensive national migration strategy that includes labour migration issues.

**20. The Committee recommends that the State party adopt a national migration strategy and also recommends that the State party:**

**(a) Ensure that the strategy places emphasis on the implementation of the Convention and provides for a comprehensive gender-responsive, child-sensitive and human rights-based migration policy that addresses the rights of foreign migrant workers and members of their families in particular;**

**(b) Take effective measures, with clear time frames, indicators and monitoring and evaluation benchmarks, to implement the strategy, provide sufficient human, technical and financial resources for its implementation, and include in its next**

<sup>5</sup> CMW/C/SYR/CO/1.

<sup>6</sup> Ibid., para. 12.

<sup>7</sup> Ibid., para. 14.

periodic report relevant information on the results obtained and the difficulties encountered, supported by statistics.

### Coordination

21. The Committee notes the explanation by the State party that the Ministry of Social Affairs and Labour is responsible for the employment sector and related issues. The Committee is nevertheless concerned about the lack of information on the ministry or government institution responsible for the coordination of the implementation of the Convention and the promotion of the rights of migrant workers and members of their families, both in the State party and abroad.

**22. The Committee recommends that the State party create an appropriate high-level interministerial body with a clear mandate and sufficient authority to coordinate all activities for the effective implementation of the rights protected under the Convention and equip such a coordinating body with the human, technical and financial resources necessary for its effective and sustainable operation.**

### Data collection

23. The Committee notes that the State party has been able to collect some data on migration-related issues over the past two years. It is, however, concerned about the absence of a system for the collection and analysis of migration-related data in the State party that would enable it to fully assess the extent and the manner to which the rights set out in the Convention are implemented in the State party, in particular with regard to migrant workers abroad and their conditions of employment, the situation of returnees, in particular those who have been forcibly returned and/or pushed back at the State party's international borders, women migrant workers, unaccompanied migrant children, children left behind by migrant parents, migrants in transit and foreign migrant workers present in the State party.

**24. With reference to its previous recommendation,<sup>8</sup> the Committee recommends that the State party:**

(a) Establish, in accordance with target 17.18 of the Sustainable Development Goals and objective 1 of the Global Compact for Safe, Orderly and Regular Migration, a system to collect data on the situation of migrant workers and members of their families in the State party, in particular those in an irregular situation, covering all aspects of the Convention, and provide publicly available statistics on foreign migrant workers, in both regular and irregular situations, and migrant workers in transit, members of their families, nationals working abroad and their conditions of employment, returnees, children who migrate abroad, including unaccompanied children, and spouses and children of migrant workers who are left behind in the State party, to effectively promote human rights-based migration policies;

(b) Apply a gender-responsive, child-sensitive and human rights-based approach when collecting data and ensure that the rights to privacy, personal information and data protection of migrant workers and members of their families are protected, including by establishing appropriate reporting firewalls and access limitations, and that personal information is erased once the purpose of the data collection has been achieved, so that personal data are not used for migration control or for discrimination in public and private services;

(c) Include in such a system the situation of all migrant workers and members of their families for whom the Syrian Arab Republic is a country of origin, transit, destination or return, and compile data disaggregated by, inter alia, sex, age, nationality, reason for entry into and departure from the country, the type of work performed, category of migrant worker, ethnic origin, migration status and disability;

<sup>8</sup> Ibid., para. 18.

(d) **Ensure the coordination, integration and dissemination of such data and design indicators to measure progress and the results of policies and programmes based on such data;**

(e) **Submit data based on studies or estimates where it is not possible to obtain precise information, such as on migrant workers in an irregular situation, in its next periodic report.**

#### **Independent monitoring**

25. The Committee notes with appreciation that the State party committed to the establishment of a national human rights institution in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) during the third cycle of its universal periodic review, in 2022.<sup>9</sup> It regrets, however, that the national human rights institution has yet to be established and notes the explanation provided by the State party during the interactive dialogue that: (a) although work towards its establishment began some years ago, the State party had to rearrange its national priorities and focus on combating terrorism, maintaining security and stability, confronting the negative repercussions of unilateral coercive measures on living conditions, providing for the humanitarian needs of its citizens and addressing the economic and social consequences of the COVID-19 pandemic; (b) there are currently three parliamentarian committees on the protection of human rights in the People's Assembly; and (c) the State party is currently studying the experiences of other countries with their national human rights institutions.

26. **The Committee recommends that, despite the security and institutional challenges, the State party, without further delay, establish a national human rights institution that is in full compliance with the Paris Principles, and avail itself of technical assistance from the Office of the United Nations High Commissioner for Human Rights (OHCHR) in this process.**

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

27. The Committee notes the information provided by the State party about training and dissemination initiatives regarding the rights under the Convention for stakeholders. The Committee is, however, concerned:

(a) About the lack of specific information in this regard and that efforts might therefore have been insufficient;

(b) That migrant workers and members of their families who do not speak Arabic may not have access to information concerning their rights under the Convention.

28. **In the light of its general comment No. 1 (2011), and reiterating its previous recommendation,<sup>10</sup> the Committee recommends that the State party:**

(a) **Develop and strengthen education and training programmes on the rights of migrant workers and members of their families under the Convention and make such programmes available to all officials and persons working in the area of migration, in particular, law enforcement and border authorities, judges, prosecutors and relevant consular officials, as well as national, regional and local officials, social workers and civil society organizations, including migrants' organizations;**

(b) **Take further steps to ensure access by migrant workers to information and guidance on their rights under the Convention in all commonly used languages in the State party without discrimination, in particular through pre-employment and pre-departure orientation programmes that include information on the conditions of admission and employment and on rights and obligations under the law and practice of States of employment;**

<sup>9</sup> A/HRC/50/6, paras. 133.78–133.81; and A/HRC/50/6/Add.1.

<sup>10</sup> CMW/C/SYR/CO/1, para. 20.

(c) **Strengthen its work with civil society organizations and the media to disseminate information about and promote the Convention throughout the State party;**

(d) **Establish a comprehensive mechanism for the implementation of, and follow-up on, the present concluding observations, as committed to during its universal periodic review,<sup>11</sup> and involve the national human rights institution, once it has been established, and non-governmental organizations, in particular migrants' organizations, in the work of the mechanism, taking into account the four key capacities of a national mechanism for reporting and follow-up, namely, engagement, coordination, consultation and information management.**

#### **Participation of civil society**

29. The Committee notes that the General Federation of Trade Unions, the Federation of Chambers of Commerce, the Bar Association, academia and non-governmental organizations were involved in the preparation of the State party's report. The Committee is, however, deeply concerned about allegations that some civil society organizations advocating for human rights have reportedly been subjected to intimidation and reprisals by State officials, including when searching for persons who have disappeared or asking about the whereabouts of persons in detention, and that such organizations have limited access to detention centres.

30. **Reminding the State party that human rights defenders deserve special protection as their work is critical for promoting human rights for all, including migrant workers and members of their families, the Committee urges the State party to ensure that:**

(a) **Human rights defenders and non-governmental organizations enjoy their rights to freedom of expression, opinion and association without intimidation or reprisals;**

(b) **Reported instances of intimidation of and reprisals against human rights defenders and members of non-governmental organizations are promptly and independently investigated, and those responsible for such abuses are held accountable;**

(c) **Non-governmental organizations are encouraged to support migrant workers and members of their families, including those in an irregular situation;**

(d) **Non-governmental organizations, including organizations serving the Syrian diaspora, and academia, are systematically involved in the implementation of the Convention, including in the preparation of the State party's periodic reports;**

(e) **Non-governmental organizations are provided with unhindered access to detention centres to enable them to support detained migrant workers and members of their families effectively.**

#### **Corruption**

31. The Committee regrets the lack of information about measures taken to prevent corruption among officials who have responsibilities relating to the Convention, and is concerned about reports of instances of corruption by immigration and border officials and police officers in this regard.

32. **The Committee urges the State party to:**

(a) **Thoroughly investigate all instances of corruption, including all cases of collusion and complicity in smuggling, trafficking and extortion, and to adopt appropriate preventive and punitive measures, including the dismissal of public servants where appropriate;**

(b) **Establish safe, gender-responsive spaces or mechanisms to protect complainants from reprisals;**

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<sup>11</sup> [A/HRC/50/6](#), para. 133.82; and [A/HRC/50/6/Add.1](#).

(c) **Conduct awareness-raising campaigns with a view to encouraging migrant workers and members of their families who claim to be victims of corruption to report it;**

(d) **Provide, in its next periodic report, information on measures taken to prevent corruption among officials who have responsibilities relating to the Convention, including statistical information on investigations and sanctions.**

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

### Non-discrimination

33. The Committee notes the prohibited grounds of discrimination included in articles 8 (4) and 33 (3) of the Constitution and Employment Law No. 17 of 2010. It is, however, concerned that:

(a) Law No. 2 of 2014, on the entry into, exit from and residence of foreigners in the Syrian Arab Republic, does not contain any provisions on non-discrimination and that the Constitution and Law No. 17 of 2010 do not cover all the prohibited grounds of discrimination set out in articles 1 (1) and 7 of the Convention;

(b) Men can prevent their wives from leaving the country by filing a request with the Ministry of the Interior, which has a severe impact on the right of women migrant workers to seek employment abroad.

34. **Reiterating its previous recommendation,<sup>12</sup> the Committee recommends that the State party:**

(a) **Deepen its legislative and policy measures to ensure that all migrant workers and members of their families within the territory or subject to its jurisdiction, regardless of their status, enjoy without discrimination the rights recognized by the Convention, in accordance with articles 1 (1) and 7 thereof, and adopt a comprehensive law against all forms of discrimination;**

(b) **Provide information in its next periodic report on the measures taken to improve and implement its legislative framework on non-discrimination as regards the rights of migrant workers and members of their families, irrespective of their migration status.**

### Right to an effective remedy

35. The Committee notes that Employment Law No. 17 of 2010 provides mechanisms to resolve labour disputes and prohibits some grounds of discrimination. It is, nevertheless, deeply concerned about the widespread impunity for violations of the rights recognized under the Convention, and that migrant workers, including those in exploitative working conditions, migrant workers in an irregular situation and victims of trafficking, might be unable to seek justice for violations of their rights due to the lack of independence of the judiciary, the risk of arbitrary detention or fear of being detained or expelled for irregular entry and stay.

36. **Reiterating its previous recommendation,<sup>13</sup> the Committee recommends that the State party:**

(a) **Ensure that, in law and in practice, migrant workers and members of their families, regardless of their migration status, have opportunities equal to those of nationals of the State party to file complaints and obtain effective redress in the courts, including by revising laws to guarantee the principle of separation of powers and the independence of judges and lawyers, and launch an effective investigation when crimes and violations of rights are brought to its attention;**

<sup>12</sup> CMW/C/SYR/CO/1, para. 24.

<sup>13</sup> Ibid., para. 26.

(b) Provide assistance with legal defence, interpretation services, the right to individual consideration, gender-responsive interviewing, the right of appeal and reparation and/or compensation to victims;

(c) Ensure that migrant workers and members of their families have access to justice and law enforcement services without fear of being arrested, detained or deported.

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

**Protection from violence, threats and intimidation**

37. The Committee notes that acts of torture and other forms of ill-treatment are prohibited by article 53 of the Constitution and criminalized by article 391 of the Criminal Code and article 216 of the Military Code, and that article 53 of the Constitution, the Criminal Procedure Code and other relevant legislation contain certain safeguards against enforced disappearances, which is defined as abduction in national legislation. The Committee is, however, deeply concerned about reports of:

(a) Migrant workers, refugees and asylum-seekers being subjected to torture, including sexual violence, or enforced disappearance upon return to the State party, including following the adoption of amnesty laws to encourage their return;

(b) Widespread impunity for State officials for unlawful killings, acts of torture, ill-treatment and enforced disappearances.

**38. The Committee urges the State party to:**

(a) **Vigorously enforce the Criminal Code with regard to crimes committed against migrant workers and members of their families, ensure that those acts are thoroughly investigated and impose penalties commensurate with the gravity of the crime committed;**

(b) **Take urgent and decisive steps to ensure that State officials are prevented from committing crimes against migrants and protect migrants from acts of torture and all forms of ill-treatment and enforced disappearance;**

(c) **Ensure that victims are identified and referred to gender-responsive and child-sensitive services, including medical and psychosocial services;**

(d) **Adopt comprehensive measures to provide assistance, protection and rehabilitation to migrant workers and members of their families who are victims of serious crimes, including rape and other forms of sexual violence, trace, locate and release disappeared migrants and, in the event of death, exhume and identify the remains of disappeared persons and arrange for their dignified return;**

(e) **Ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.**

**Labour exploitation and other forms of ill-treatment**

39. The Committee notes with appreciation the adoption of Children's Law No. 21 of 2021 and of a national plan to reduce child labour and eliminate the worst forms of child labour, which provide protection against child labour, including for migrant children, such as by setting the minimum age for work at 15 years. The Committee is, however, deeply concerned about:

(a) The prevalence of child labour, including in hazardous and vulnerable conditions, and instances of sexual exploitation, which have been exacerbated by the armed conflict and have affected both migrant children in the State party and Syrian children in neighbouring countries;

(b) Reports of foreign migrant workers working without a formal contract in the State party, leading to exploitative working conditions, in particular in the security sector.

40. In accordance with targets 8.7 and 16.2 of the Sustainable Development Goals, the Committee recommends that the State party:

- (a) Increase unsolicited and unannounced labour inspections, in particular in the informal sector of the economy and in the security sector, and prosecute, punish and sanction persons or groups exploiting migrant workers, in particular children, or subjecting them to forced labour, abuse, in particular in the informal economy and in the security sector, or sexual exploitation;
- (b) Effectively implement the national plan to reduce child labour and eliminate the worst forms of child labour, availing itself of the technical assistance of ILO and the United Nations Children's Fund, and provide adequate assistance, protection and rehabilitation, including psychosocial rehabilitation, to migrant workers, in particular children, who have been victims of labour and other forms of exploitation;
- (c) Compile information on the extent of child labour, including by migrant children in the State party and abroad, to ensure compliance with its legislative and policy framework and its obligations under the ILO Forced Labour Convention, 1930 (No. 29), the ILO Abolition of Forced Labour Convention, 1957 (No. 105), and the ILO Worst Forms of Child Labour Convention, 1999 (No. 182).

#### **Due process, detention, equality before the courts and conditions of detention**

41. The Committee notes that article 53 of the Constitution and the Criminal Procedure Code and other relevant legislation contain certain safeguards against arbitrary arrest and detention and enforced disappearances or abductions, and that humanitarian agencies have been able to carry out visits to detention centres. The Committee is, however, deeply concerned about:

- (a) Reports of the arbitrary detention of migrant workers, refugees and asylum-seekers upon their return from abroad, including following the adoption of amnesty laws to encourage their return, and of their family members who have been left behind;
- (b) Information it has received about deaths and violence occurring in immigration detention facilities;
- (c) Chapter VIII of Law No. 2 of 2014, on entry into, exit from and residence of foreigners in the Syrian Arab Republic, providing for criminal sanctions, including imprisonment, and detention and expulsion for irregular entry, stay and exit;
- (d) Article 26 of Law No. 2 of 2014 foreseeing the detention of foreigners before expulsion at the discretion of the Minister of the Interior without any criteria determined by legislation as to the circumstances under which immigration detention may be ordered other than the vague criterion of “requirements of security and public interest”;
- (e) Law No. 2 of 2014 not providing for the right to appeal decisions relating to the administrative detention of migrants;
- (f) Law No. 2 of 2014 not prohibiting immigration detention of children and other vulnerable groups of migrants;
- (g) Reports of deplorable conditions of detention in prisons, detention centres and internment camps that may amount to cruel, inhuman or degrading treatment.

42. The Committee, in accordance with its general comment No. 5 (2021) and joint general comments No. 3 and No. 4 of the Committee/No. 22 and No. 23 of the Committee on the Rights of the Child (2017) on the human rights of children in the context of international migration, recommends that the State party:

- (a) Release all migrants detained arbitrarily and effectively investigate and prosecute all cases of arbitrary detention, violence, other human rights abuses and deaths of detained migrants and provide, on a systematic basis, mandatory training on human rights, gender equality, the best interests of the child and non-discrimination for all State officials dealing with migrants, with a view to preventing such violations;

- (b) Decriminalize irregular migration, adopt measures to phase out, and ultimately put an end to, immigration detention and enact a presumption in law against detention and therefore in favour of freedom;
- (c) Immediately cease immigration detention of children, whether unaccompanied, separated from their parents or together with their families, and of other vulnerable groups of migrant workers and members of their families, as well as asylum-seekers, refugees and stateless persons;
- (d) Ensure that:
  - (i) In all other cases, the detention of migrants is an exceptional measure of last resort, pursuing a legitimate end and permitted by law, and that it is necessary and proportionate and applied for the shortest possible period of time;
  - (ii) The grounds for detention are specified in each case, with specific reasons provided as to why alternative measures cannot be implemented;
  - (iii) The measure is reviewed within 24 hours by an independent and impartial judicial authority;
  - (iv) In line with its human rights obligations, alternative measures to detention are considered and made use of before imposing detention measures. The Committee recognizes alternatives to detention as being all community-based care measures or non-custodial accommodation solutions – in law, policy or practice – that are less restrictive than detention and must be considered in the context of lawful detention decision procedures to ensure that detention is necessary and proportionate in all cases, with the aim of respecting the human rights and avoiding the arbitrary detention of migrants, asylum-seekers, refugees and stateless persons;
- (e) Ensure that alternative measures to detention are applied to asylum-seekers and refugees, and in all cases of voluntary return, and that migrant workers and members of their families are informed of their rights and about procedures in the detention context in a language they understand and have access to legal aid, effective remedies, justice and consular services;
- (f) Ensure that, in administrative and judicial proceedings, including for charges not related to immigration status, migrants are guaranteed due process and the right to a fair trial on an equal basis with nationals of the State party before the courts and tribunals;
- (g) In exceptional cases where detention cannot be avoided, ensure that all immigration detention facilities are officially designated for this purpose, guarantee adequate and decent conditions, including gender-responsive health services, including sexual and reproductive health services, psychological care, water, sanitation and hygiene, food, sufficient space and ventilation, leisure and recreational activities and access to outdoor areas;
- (h) Ensure that women detainees are held separately from men, are guarded only by adequately trained women officers and are protected against violence, in particular sexual violence, and that specific provisions are made for pregnant and nursing women;
  - (i) Strengthen mechanisms to regularly monitor conditions in migrant detention centres and grant human rights monitors, including humanitarian agencies and non-governmental organizations, unannounced and unhindered access to all migrant detention centres.

#### **Expulsion**

43. The Committee notes the explanation provided by the State party that administrative decrees, including expulsion decisions, can be appealed before administrative courts. The Committee is, nevertheless, concerned that:

(a) Article 26 of Law No. 2 of 2014 leaves the decision on the expulsion of foreigners and the regulation of expulsion proceedings, including the right to appeal, to the discretion of the Minister of the Interior without any criteria determined by legislation as to under what circumstances removal may be ordered other than the vague criterion of “requirements of security and public interest”;

(b) There is a lack of information on whether an administrative appeal has automatic suspensive effect, on the extent to which migrant workers subject to expulsion proceedings make use of that right and on policies designed to provide alternatives to expulsion or return.

**44. In line with the Recommended Principles and Guidelines on Human Rights at International Borders, the Committee recommends that the State party:**

(a) Take the necessary legislative steps to provide for a statutory and automatic suspensive effect of appeals in court against expulsion orders, and guarantee due process and procedural safeguards and ensure that migrant workers and members of their families who are subject to expulsion proceedings may exercise their rights to seek a stay of the decision of expulsion pending consideration of their case by a competent authority, in accordance with article 22 (4) of the Convention;

(b) Ensure observance of the principle of non-refoulement at all times and in all situations and effective coordination with the State of origin or the receiving State;

(c) Devise policies and mechanisms that are designed to provide alternatives to expulsion or return, including asylum and international protection procedures, leave to remain on humanitarian grounds and ordinary regularization mechanisms that are regulated by law, in accordance with article 69 of the Convention, and that apply to all migrants, irrespective of their migration status.

**Remuneration, conditions of work and freedom of movement**

45. The Committee notes with appreciation the adoption of Legislative Decree No. 65 of 2013, which provides for a legal framework, including for the employment of migrant domestic workers, which was previously regulated solely by the contract between the employer and the migrant domestic workers, leading to reportedly exploitative and even slavery-like living and working conditions. The Committee is, however, concerned about:

(a) The lack of information about the practical impact of the legislative measures regulating domestic work;

(b) Women not enjoying the same rights as men to freedom of movement in the territory of the State party and to choose their residence there, which has a severe impact on the enjoyment of the rights under the Convention by migrant domestic workers, who are mostly women;

(c) The fact that the State party has yet to ratify the ILO Domestic Workers Convention, 2011 (No. 189).

**46. In the light of its general comment No. 1 (2011) on migrant domestic workers, the Committee recommends that the State party:**

(a) Ensure that legislation regulating domestic work is effectively implemented in practice so that migrant domestic workers enjoy the same level of protection as national workers with respect to minimum wage, hours of work, days of rest, freedom of association and other conditions of work and, in particular, that it:

(i) Protect the rights of migrant domestic workers to freedom of movement and residence and to retain possession of their travel and identity documents;

(ii) Ensure that migrant domestic workers have explicit, written terms of employment, in a language that they understand, outlining their specific duties, hours, remuneration, days of rest and other conditions of work in contracts that are free and fair and to which they fully consent;

- (iii) **Ensure access to justice for migrant domestic workers and strengthen labour inspection services to monitor conditions of domestic work effectively and to receive, investigate and address complaints of alleged violations in that regard;**
- (b) **Ratify the ILO Domestic Workers Convention, 2011 (No. 189);**
- (c) **Provide relevant information, supported by statistical data and analysis, in its next periodic report.**

### **Social security**

47. The Committee notes the information before it that all migrant workers have the right to social security. It regrets, however, the lack of information on certain aspects of the practical implementation of this right, such as the legal requirements that migrant workers in an irregular situation would have to fulfil to have access to social security on equal terms with nationals, and also regrets that the State party has concluded only a few bilateral and multilateral social security agreements.

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

- (a) **Ensure that all migrant workers and members of their families, regardless of their status, are able to subscribe to a social security scheme and retirement pension and that they are informed of their rights in this regard;**
- (b) **Enter into gender-responsive and non-discriminatory bilateral and multilateral social security agreements with all destination countries, to guarantee the social protection of migrant workers.**

### **Birth registration and nationality**

49. The Committee notes the efforts made by the State party to facilitate the procedures related to civil status, including amendments to the Civil Status Law in 2021 and the lifting of fees for late registration, in order to regularize the civil status of previously unregistered Syrian nationals (*maktoumeen*) or of Syrians who left the country in an irregular manner, upon their return to the State party. It is, however, concerned that:

- (a) Children born to Syrians abroad, including Syrian migrant workers and members of their families, may not have been able to obtain the necessary birth certificate for their children born abroad due to a lack of consular services;
- (b) Mothers, including migrant workers and members of their families, cannot transfer their nationality to their children born in the State party, while noting the explanation provided by the State party that a reform is currently being studied;
- (c) The State party is not a party to the Convention relating to the Status of Stateless Persons or the Convention on the Reduction of Statelessness.

50. **In line with joint general comments No. 3 and No. 4 of the Committee/No. 22 and No. 23 of the Committee on the Rights of the Child (2017) on the human rights of children in the context of international migration, and in accordance with target 16.9 of the Sustainable Development Goals, the Committee recommends that the State party:**

- (a) **Ensure, also in order to reduce the risk of them becoming stateless, that:**
  - (i) **All children of Syrian migrant workers abroad and children born on the territory of the State party, in particular children born to migrants in an irregular situation and asylum-seekers, are registered at birth and issued with personal identity documents;**
  - (ii) **It systematically provides alternative and simple identity determination procedures for persons, including migrant workers and members of their families, who face challenges in accessing their civil documentation, as it**

committed to doing during the interactive dialogue and the universal periodic review;<sup>14</sup>

(iii) It raises awareness about the importance of birth and other forms of civil registration among migrants, regardless of their migration status;

(b) Amend discriminatory legislation relating to nationality to ensure that women migrant workers and women who are members of the family of a migrant worker are legally able to acquire, transfer to their children, retain and change their nationality on an equal basis with men;

(c) Establish an effective statelessness determination procedure with specific procedural considerations and safeguards, given the critical role of nationality for all people, and provide information, including statistics, in its next periodic report on the extent of the phenomenon;

(d) Ratify or accede to the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness.

**4. Other rights of migrant workers and members of their families in a regular situation (arts. 36–56)**

**Work permits and residency**

51. The Committee notes the issuance and extension of about 2,350 work permits for migrant workers in 2020 and 2021 and also notes that migrants and refugees who are registered with the Office of the United Nations High Commissioner for Refugees in the State party are permitted to work after obtaining a residence and work permit. The Committee is, however, concerned that:

(a) Migrant workers who fail to pay the fee for the issuance or renewal of their work permit are liable for deportation;

(b) Article 12 of Agriculture Law No. 50 of 2004 only exempts migrant workers from Arab countries from the obligation to obtain a residence permit before working in the agricultural sector, while noting the explanation provided during the interactive dialogue that the State party's laws provide for the same rights for all migrant workers.

52. **The Committee recommends that the State party review and improve its work permit system to prevent abusive working conditions and labour exploitation, including by:**

(a) **Repealing provisions that penalize migrant workers and render them liable for deportation for their failure to pay the fee for a work permit;**

(b) **Taking the measures necessary to ensure that all migrant workers enjoy their rights under the Convention without discrimination.**

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

**Migrants in countries of crisis**

53. The Committee is deeply concerned about allegations of indiscriminate and even deliberate shelling of civilians and civilian objects, including medical facilities, unlawful killings, acts of torture and ill-treatment, enforced disappearances or abductions and arbitrary arrests targeting medical personnel that lead to deaths, cause high numbers of medical personnel to migrate and may amount to crimes under international law.

54. **The Committee urges the State party to:**

(a) **Cease indiscriminate and deliberate military attacks targeting civilians, including migrant workers and members of their families, or civilian objects where they**

<sup>14</sup> [A/HRC/50/6](#), para. 133.275; and [A/HRC/50/6/Add.1](#).

work, in compliance with the principles of distinction, proportionality, necessity and humanity;

(b) Protect migrants, in particular migrant children, from the practice of gross and systematic violations of international human rights law;

(c) Facilitate the ability of migrants to move to safety, relocate and evacuate them when needed, provide humanitarian assistance to migrants without discrimination, and include migrants and migrants' organizations in reconstruction efforts, in line with the Guidelines to Protect Migrants in Countries Experiencing Conflict or Natural Disaster.

#### **International cooperation with countries of transit and destination**

55. The Committee notes the conclusion of a number of bilateral cooperation agreements on migrant workers and the explanation provided during the interactive dialogue that the State party will strive to enter into additional ones. The Committee regrets, however, that the State party has not yet signed bilateral or multilateral agreements with all the countries in which significant numbers of Syrians live or through which they transit.

56. **Reiterating its previous recommendation,<sup>15</sup> the Committee recommends that the State party:**

(a) Continue to enter into bilateral and multilateral agreements on the free movement of migrant workers and members of their families, in particular with transit and destination countries with a significant number of Syrians, in order to better protect their rights and facilitate the provision of appropriate consular and other services so as to ensure sound, equitable and humane conditions for Syrian migrant workers and members of their families;

(b) Guarantee, in the implementation of any bilateral or multilateral agreements, the life and physical integrity of migrants, including migrant workers and members of their families, in the light of the current circumstances in the State party, and ensure that such bilateral and multilateral agreements are fully consistent with the Convention and the Committee's general comments;

(c) Engage with OHCHR and seek technical assistance regarding the implementation of said agreements and the negotiation of future agreements to ensure that they are aligned with the Convention.

#### **Recruitment agencies**

57. The Committee takes note of the information provided on the regulatory framework and licensing system for private employment agencies operating in the State party since the adoption of Employment Law No. 17 of 2010 and its implementing rules and regulations. It is, however, concerned about reports it has received of recruitment agencies charging high placement fees for arranging employment abroad, which constitutes an obstacle for Syrian migrant workers seeking employment in foreign countries, and that the competent monitoring bodies intervene only when they have received complaints about violations of migrant workers' rights.

58. **In the light of its general comment No. 1 (2011) and in line with the Guiding Principles on Business and Human Rights, the Committee recommends that the State party:**

(a) Reinforce the regulatory regime for private recruitment agencies and strengthen the existing licensing system for recruitment agencies to ensure the protection of the rights of migrant workers in accordance with the Convention;

(b) Enhance recruitment monitoring and inspections to prevent private recruitment agencies from charging excessive fees for their services and from acting as intermediaries for abusive foreign recruiters;

<sup>15</sup> CMW/C/SYR/CO/1, para. 38.

(c) Ensure that private recruitment agencies provide complete information to individuals seeking employment abroad and that they guarantee the effective enjoyment of all agreed employment benefits, in particular salaries;

(d) Investigate and punish illegal practices by recruiters, with a view to preventing exploitative practices;

(e) Adopt a policy on recruitment agencies in favour of persons intending to work abroad.

#### **Return and reintegration**

59. The Committee notes the efforts outlined by the State party during the interactive dialogue to promote the voluntary and dignified return of its nationals from abroad, to improve the standards of living in the country, including through programmes to empower rural communities, in particular migrant women, and its intention to activate bilateral agreements in this area with countries of origin and destination. The Committee is, however, deeply concerned about reports of forced returns of Syrian refugees to the State party and “pushbacks” at the international borders of the State party.

60. **In line with the Recommended Principles and Guidelines on Human Rights at International Borders, the Committee urges the State party to:**

(a) Take the measures necessary to prevent the forced return of Syrian refugees and migrant workers to the State party and ensure that returns are always carried out on a voluntary basis and in compliance with international law, including the Convention, in particular in accordance with due process guarantees, respect for the principle of non-refoulement and protection against arbitrary and collective expulsion;

(b) Ensure that bilateral cooperation and readmission agreements concluded and implemented with other countries safeguard the rights and guarantees contained in the Convention, and that such agreements promote voluntary return and prohibit the forced return of refugees and migrant workers to their countries of origin;

(c) Continue to include in public policies and programmes for returnees, including those who have been coercively returned or pushed back, the appropriate social, economic, legal and other conditions necessary to facilitate their return and sustainable reintegration, including facilitating the reclaiming of real estate property;

(d) Ensure gender-responsive support for the return and reintegration of migrant workers, members of their families and refugees, in particular victims of trafficking, to address the specific physical and mental health needs of those who have experienced violence, including abuse or sexual exploitation.

#### **Trafficking in persons and smuggling of migrants**

61. The Committee notes the adoption of Law No. 3 of 2010 on prevention of human trafficking, Law No. 14 of 2021 to combat the smuggling of persons in the Syrian Arab Republic, Children’s Law No. 21 of 2021, which is also aimed at protecting migrant children from trafficking in persons, a national plan to combat trafficking in persons, the creation of the Anti-Trafficking Department and of the National Committee to Combat Trafficking in Persons, and the State party’s participation, in 2021, in Operation Liberterra to combat migrant smuggling and the trafficking of persons and of migrants in a vulnerable situation. It also notes measures to address irregular migration, in particular the smuggling of migrants, outlined by the State party during the interactive dialogue. The Committee is, however, deeply concerned about the increase, as the State party confirmed during the interactive dialogue, of cases of trafficking in and smuggling of migrants, in particular women and children, including for purposes of sexual exploitation.

62. **The Committee recommends that the State party, in accordance with the Principles and Guidelines on Human Rights and Human Trafficking, intensify its efforts to combat trafficking in persons, the smuggling of migrants and abuse by smugglers and, in particular:**

- (a) Strengthen measures to detect, prevent and curtail irregular flows of migrant workers, including through increased cooperation with other countries, and ensure that measures aimed at addressing irregular migration and the smuggling of migrants do not adversely affect the human rights of migrant workers and members of their families;
- (b) Scale up its campaigns for the prevention of trafficking in migrant workers and members of their families, in particular migrant women and children, and strengthen its efforts to fully implement the national plan to combat trafficking in persons;
- (c) Allocate sufficient human, technical and financial resources for the effective implementation of laws and strategies to prevent and eradicate trafficking in persons and smuggling of migrants, and establish a national referral mechanism to identify victims of trafficking and abuse by smugglers and provide them with protection and assistance;
- (d) Conduct prompt, efficient and impartial investigations into all acts of trafficking in persons, smuggling of migrants and abuse by smugglers, and prosecute and punish the perpetrators of such acts and their accomplices, including public officials.

## 6. Dissemination and follow-up

### Dissemination

63. The Committee requests the State party to ensure the timely dissemination of the present concluding observations, in the official language of the State party, to the relevant State institutions at all levels, including to government ministries, the legislature, the judiciary and relevant local authorities, as well as to non-governmental organizations and other members of civil society.

### Technical assistance

64. The Committee recommends that the State party further avail itself of international and intergovernmental assistance for the implementation of the recommendations contained in the present concluding observations in line with the 2030 Agenda for Sustainable Development. It also recommends that the State party continue its cooperation with specialized agencies and programmes of the United Nations.

### Follow-up to concluding observations

65. The Committee requests the State party to provide, within two years (that is, by 1 October 2024), written information on the implementation of the recommendations contained in paragraphs 18 (ratification of relevant instruments), 26 (independent monitoring), 42 (due process, detention, equality before the courts and conditions of detention) and 46 (remuneration, conditions of work and freedom of movement) above.

### Next periodic report

66. The State party's fourth periodic report is due by 1 October 2027. The Committee will adopt a list of issues prior to reporting under the simplified reporting procedure at one of its sessions preceding this date, unless the State party explicitly opts for the traditional reporting procedure concerning its fourth periodic report. The Committee draws the State party's attention to its harmonized treaty-specific guidelines.<sup>16</sup>

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<sup>16</sup> HRI/GEN/2/Rev.6.