



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

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

### List of issues prior to submission of the second periodic report of Rwanda\*

#### Section I

##### A. General information

- Given that the Constitution and organic laws take precedence over international treaties ratified by the State party (Constitution, art. 95), please indicate whether the State party intends to adopt legislative measures to give the Convention a higher status in the hierarchy of laws in order to ensure its implementation even if it conflicts with national legislation.
- Please indicate whether the State party holds regular training sessions on the provisions and direct applicability of the Convention for judges, prosecutors, police officers, immigration officials, labour inspectors, social workers and other agents of the State who deal with migrant workers at the national and local levels, as recommended by the Committee in its previous concluding observations (CMW/C/RWA/CO/1, para. 16).<sup>1</sup>
- Please provide information on efforts made or envisaged to ensure a transparent and participatory process for the selection and appointment of members of the National Human Rights Commission, at all stages of the process. Please inform the Committee about its organization and functioning.

##### B. Information relating to individual articles of the Convention

###### 1. General principles

- Please provide information on the measures taken to ensure that migrant workers and members of their families, including those in an irregular situation, enjoy in law and in fact the same rights as nationals to lodge complaints of violations of their rights under the Convention and to access effective remedies, as recommended by the Committee in its previous concluding observations (para. 18). In particular, please indicate the measures taken or envisaged to amend articles 87 and 88 of Law No. 21/2012 of 14 June 2012 establishing the Code of Civil, Commercial, Social and Administrative Procedure, to ensure that migrant workers are not obliged to deposit a sum of money before their complaints are heard.

\* Adopted by the Committee at its twenty-eighth session (9–20 April 2018).

<sup>1</sup> Paragraph numbers in brackets refer to the Committee's previous concluding observations, issued as document CMW/C/RWA/CO/1.



5. Please indicate whether the provisions of the Convention have been directly applied by public officials or directly invoked before the courts. If so, please provide examples. Please also provide information on:

- (a) The judicial and administrative entities competent to examine and decide on complaints by migrant workers and members of their families, including when they are non-documented or in an irregular situation, whose rights have been violated, particularly in the case of victims of torture, trafficking and sexual abuse;
- (b) The number and type of complaints examined by such mechanisms in the past five years and their outcome, disaggregated by sex;
- (c) Whether legal assistance and access to a public defence attorney was provided;
- (d) Any redress, including compensation, provided to the victims of such violations;
- (e) Any measures taken to inform migrant workers and members of their families about the remedies available to them for violations of their rights.

## **2. Part II of the Convention**

### **Article 7**

6. Please indicate what specific measures have been taken or are envisaged to guarantee the implementation of all the rights enshrined in the Convention, both in law and in practice, including, where appropriate, structural, institutional, budgetary and other adjustments, and to prevent and eradicate discriminatory attitudes and social stigmatization of migrant workers and members of their families in the State party.

7. Please provide detailed information on efforts made or planned to ensure that migrant workers in an irregular situation in the State party are able to benefit from the same protection of their rights as migrant workers in a regular situation. Please also indicate the measures taken or envisaged to promote the empowerment of migrant women.

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

### **Article 11**

8. In the light of information received by the Committee according to which migrant workers in an irregular situation are often exposed to forms of exploitation akin to cruel, inhuman or degrading treatment or punishment, and that the victims do not lodge complaints for fear of being prosecuted for breaching immigration laws, please indicate the measures taken to:

- (a) Make the necessary legislative amendments to protect victims from prosecution in such cases and to inform law enforcement officials thereof;
- (b) Encourage the victims to file complaints;
- (c) Ensure that migrants, including those in an irregular situation, are able to lodge complaints without being arrested and without fear of any reprisals.

### **Articles 16–18**

9. Please indicate the measures taken or envisaged to bring Law No. 04/2011 of 21 March 2011 on immigration to and emigration from Rwanda into conformity with the spirit of the Convention, with a view to decriminalizing immigration offences committed by migrant workers or members of their families, treating such violations as administrative offences and establishing appropriate penalties for offences of this kind, as recommended by the Committee in its previous concluding observations (para. 22).

10. Please provide information on efforts made or envisaged to ensure that detention of migrants for violations of immigration law is used only as a measure of last resort and in special facilities; and to ensure that, insofar as practicable, migrants detained for

immigration offences are held separately from ordinary prisoners, as recommended by the Committee in its previous concluding observations (para. 24). Please also indicate whether independent observers regularly monitor and may make unannounced visits to places of detention where migrant workers may be held.

### **Article 25**

11. Please provide information on measures taken or envisaged to ensure that migrant workers enjoy equality of treatment with nationals in respect of remuneration and conditions of work. Please also indicate whether the State party has taken or plans to take legislative measures to extend the application of Law No. 13/2009 of 27 May 2009 regulating labour in Rwanda to the informal sector, and to ensure that the Labour Inspectorate conducts more regular monitoring of the working conditions of migrant workers in both regular and irregular situations.

12. Given the large number of girls exploited as domestic workers, please indicate the efforts made to prohibit the employment of children as domestic workers, to prohibit and eliminate the use of children in all forms of hazardous work, to prosecute and severely punish those who exploit child labour and to strengthen the powers of labour inspectors to monitor workplaces, including private households. Please also indicate whether the State party has amended Law No. 54/2011 of 14 December 2011 relating to the rights and the protection of the child to prohibit the employment of children under 18 years of age in underground mines.

13. Please indicate whether the State party has taken steps to organize awareness-raising campaigns on the rights of domestic workers and the risks associated with domestic work.

14. Please indicate the resources allocated to the implementation of the Labour Code (Law No. 13/2009 of 27 May 2009). Please also indicate the measures taken or envisaged to increase the number of labour inspections and impose appropriate penalties on employers exploiting child migrant workers or subjecting them to forced labour and abuse, especially in the informal economy, as recommended by the Committee in its previous concluding observations (para. 20).

### **Article 27**

15. Please indicate the efforts made or planned to pursue the conclusion of bilateral or multilateral social security agreements in order to guarantee the social protection of migrant workers, as recommended by the Committee in its previous concluding observations (para. 32).

16. Please indicate the measures taken or envisaged to ensure that no distinction is made between national and migrant workers in the formal sector in terms of the payment of retirement pensions. Please also indicate whether the State party has taken measures to allow migrant workers to transfer their pension contributions.

### **Article 28**

17. Please describe the conditions under which migrant workers, including migrant workers in an irregular situation, can access health care and what type of care is available to them. Please indicate, in particular, what measures have been taken by the State party, in law and in practice, to ensure that all migrant workers and members of their families have access to basic health services, such as urgent medical care.

18. Please describe the measures taken or envisaged to ensure that all migrant workers and members of their families are able to subscribe to a health insurance scheme and that they are informed of their rights in this regard.

### **Article 29**

19. Please provide information on the measures taken by the State party to ensure the right of children of Rwandan migrant workers abroad, including children of migrant workers who are undocumented or in an irregular situation, to be registered at birth and to have their nationality of origin recognized in law and in practice. Please also provide

information on the measures taken to ensure the birth registration of foreign migrant children in the State party and provide statistics on Rwandans born and registered abroad.

#### **Article 30**

20. Please give details of the measures taken to ensure that children of migrant workers in an irregular situation have access to education on the basis of equality of treatment with nationals of the State party. Please also provide data, disaggregated by sex, age and nationality, on the number of children of migrant workers in primary and secondary schools, including those in an irregular situation or whose parents are in an irregular situation, as recommended by the Committee in its previous concluding observations (para. 34).

#### **Article 33**

21. Please indicate whether the State party has increased its efforts to ensure that migrant workers and members of their families have effective access to information about their rights under the Convention and under immigration law, in particular their rights to have access to basic social services, to join trade unions and to enjoy the same treatment as nationals of the State party in respect of conditions of work, as recommended by the Committee in its previous concluding observations (para. 36).

22. Please indicate whether the State party has taken any specific measures:

- (a) To ensure that women migrant workers and wives or partners of migrant workers have access to information about the different ways of obtaining assistance to facilitate their empowerment;
- (b) To prevent, and to protect victims of, violence against women;
- (c) To disseminate information on how to file a complaint concerning violence against women.

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

#### **Article 40**

23. Please clarify whether migrant workers and members of their families can form, and participate in the leadership of, associations and trade unions without restriction.

#### **Article 41**

24. Please indicate whether the State party has taken measures to allow Rwandans living abroad to be elected at elections of the State party, as recommended by the Committee in its previous concluding observations (para. 38). Please also indicate whether the State party has taken measures to ensure that Rwandan migrant workers and members of their families living abroad are able to exercise the right to vote.

#### **Article 54**

25. Please provide information on measures taken by the State party to ensure that migrant workers enjoy equality of treatment with nationals of Rwanda in respect of: unemployment benefits; access to public work schemes for combating unemployment; and access to alternative employment in the event of loss of work or termination of other remunerated activity. Please also indicate whether the State party has taken specific protective measures against unfair dismissal.

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

#### **Article 65**

26. Please indicate the efforts made by the State party to ensure that its consular or diplomatic authorities provide information and appropriate assistance to Rwandan migrant workers and members of their families living abroad regarding requisite authorizations and formalities and arrangements for their departure, travel, arrival, stay, remunerated activities,

exit and return, as well as on conditions of work and life in the State of employment and on customs, currency, tax and other relevant laws and regulations, as recommended by the Committee in its previous concluding observations (para. 42). Please also indicate whether the State party has developed education and training programmes on the provisions of the Convention specifically for Rwandan migrant workers who intend to emigrate.

27. Please inform the Committee of the efforts made to review Law No. 04/2011 of 21 March 2011 on immigration to Rwanda and/or Ministerial Order No. 02/01 of 31 May 2011 establishing regulations and procedures implementing the Law so as to regulate and facilitate the return to the State party of Rwandan migrant workers who do not meet the criteria set out in article 6 of the Law, namely, the requirement that they hold a valid travel document or other proof of Rwandan citizenship, as recommended by the Committee in its previous concluding observations (para. 44 (a)).

28. Please indicate the steps taken to adopt measures, such as the establishment of local mechanisms, to facilitate the voluntary return of Rwandans living abroad and members of their families as well as their long-term economic, social and cultural reintegration in the State party, as recommended by the Committee in its previous concluding observations (para. 44 (b)).

### **Articles 66–68**

29. Please specify the measures taken to:

(a) Adopt a law to combat trafficking in persons and protect victims of trafficking, and indicate whether the draft law on trafficking in persons has now been adopted;

(b) Provide training to border guards, labour inspectors, immigration officials and other law enforcement officials to ensure the prompt identification of victims of trafficking;

(c) Establish effective mechanisms for the identification and protection of victims of human trafficking;

(d) Bring perpetrators of crimes related to trafficking to justice; and

(e) Undertake an assessment of trafficking in persons to, in transit through and from the State party and systematically compile disaggregated data in this regard, as recommended by the Committee in its previous concluding observations (para. 46).

30. Please provide information on any cases identified in the State party of forced labour and sexual exploitation, including commercial sexual exploitation involving migrant workers, in particular women and children, and on measures to prevent and combat these phenomena.

### **Article 69**

31. Please specify the measures taken to address the delays in the registration of migrant workers by their employers and ensure that all migrant workers are registered, to avoid them being placed in an irregular situation, as recommended by the Committee in its previous concluding observations (para. 48).

32. Please inform the Committee of the measures carried out in order to guarantee regular, safe and accessible migration channels by facilitating access to residence permits and/or such measures as refugee resettlement programmes, complementary and temporary protection programmes, humanitarian visa programmes, visitor visa programmes, family reunification programmes and work or residence visa programmes.

## **Section II**

33. The Committee invites the State party to provide information (in no more than three pages) regarding the protection of migrant workers and members of their families with respect to the following:

- (a) Bills or laws and their respective implementing regulations;
- (b) Institutions (and their mandates) or institutional reforms;
- (c) Policies, programmes and action plans covering migration and non-refoulement, and their scope and financing;
- (d) Human rights instruments and other relevant instruments recently ratified, including the International Labour Organization (ILO) conventions, particularly the Migration for Employment Convention (Revised), 1949 (No. 97), the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), the Private Employment Agencies Convention, 1997 (No. 181) and the Domestic Workers Convention, 2011 (No. 189);
- (e) Recent comprehensive studies on the situation of migrant workers and members of their families.

### **Section III**

#### **Data, official estimates, statistics and other information, if available**

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

- (a) The volume and nature of migratory flows to and from the State party since the Convention entered into force in the State party;
- (b) Migrant workers detained in the State party, including persons detained for immigration-related offences;
- (c) Migrant workers and members of their families who have been expelled from the State party or who are subject to expulsion procedures;
- (d) The number of non-accompanied migrant children or migrant children separated from their parents in the State party;
- (e) Remittances received from nationals of the State party working abroad;
- (f) Reported cases of trafficking in migrants, investigations, prosecutions and sentences imposed on perpetrators (disaggregated by sex, age, nationality and purpose of trafficking);
- (g) Legal assistance services provided to migrant workers and members of their families in Rwanda and to nationals working abroad or in transit through third States.

35. Please provide additional information on any significant or important measure related to the implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families that the State party considers to be priorities; in particular, please clarify whether the State party intends to make the declaration under article 76 of the Convention recognizing the competence of the Committee to receive and consider State-to-State communications, and/or the declaration under article 77 of the Convention recognizing the competence of the Committee to receive and consider individual communications, as recommended by the Committee in its previous concluding observations (para. 8).

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