



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 to be taken up in connection with the consideration of the initial report of Morocco (CMW/C/MAR/1),* adopted by the Committee at its eighteenth session (15–26 April 2013)

I. General information

1. Please provide data disaggregated by sex, age and nationality or, if such statistics are not available, estimates, on the number of migrant workers residing in or transiting through Morocco who are in an irregular situation. Please also provide, insofar as possible, statistics, disaggregated by sex and age, on the number of Moroccan migrant workers and members of their families who are outside the country, including those who are in an irregular situation.
2. Please indicate what measures have been taken or are planned with a view to ratifying the following conventions of the International Labour Organization (ILO): the Migration for Employment Convention (Revised), 1949 (No. 97), the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), and the Domestic Workers Convention, 2011 (No. 189).
3. Please indicate whether the State party has taken or plans to take steps to make the declarations provided for in articles 76 and 77 of the Convention.

II. Information relating to the articles of the Convention

A. General principles

4. Please provide examples of cases in which the Convention has been applied by the national courts or administrative authorities. Please also provide information on: (a) the judicial bodies and/or administrative structures authorized to examine complaints from migrant workers and their family members concerning violations of their rights, including those who are undocumented or in an irregular situation; (b) the complaints examined by

* The paragraphs cited in parentheses refer to the report of the State party, which was issued under the symbol CMW/C/MAR/1.

those bodies since the Convention entered into force for the State party and the decisions handed down in those cases; and (c) the compensation awarded to the victims of those violations.

5. The Committee has been informed that migrant workers, in particular sub-Saharan migrants, are subjected to racism and discrimination in the State party. Please indicate what measures have been taken to tackle this phenomenon.

B. Part III of the Convention

Article 8

6. Under article 50 of Act No. 02-03 on the entry and residence of foreigners in Morocco and illegal emigration and immigration, any person leaving Morocco in a clandestine manner is liable to a fine and/or imprisonment. Please provide detailed information on the cases in which a Moroccan migrant worker's exit from Morocco is considered to be clandestine. Please also provide data on the cases in which this provision has been applied and the penalties imposed.

Article 10

7. The Committee has been informed that migrants in an irregular situation are subjected to physical and psychological violence, including sexual violence, extreme violence and life-threatening violence by the Moroccan authorities, in addition to degrading treatment and other forms of ill-treatment. In addition, the Committee is informed that migrants, including injured migrants, pregnant women and minors, are being refouled to desert areas in Algeria and Mauritania, to mined areas and to areas where they are vulnerable to violence, including sexual violence against women. Please provide information on the measures taken and those that are planned in order to put an end to this situation. Please also indicate whether inquiries have been carried out in this regard and provide information on the enforcement of any penalties.

Article 13

8. The Committee has received reports indicating that officials from organizations involved in the defence of migrant rights have been subjected to intimidatory measures, such as arrest. Please comment on this information and indicate the measures that have been taken to remedy the situation.

Article 15

9. The Committee has been informed that the security forces (police and Auxiliary Forces) confiscate the money and valuables or destroy the belongings of migrant workers in an irregular situation. Please comment on this information and indicate the measures taken or planned to put an end to this practice.

Articles 16, 17 and 18

10. The Committee has been informed of the difficulties that sub-Saharan migrant workers face in registering complaints with the police, in particular when they wish to file a complaint against an official. Please comment on this information and indicate the measures taken to remedy the situation.

11. Please indicate whether, in law and in practice, migrant workers who are arrested are systematically informed at the time of their arrest, if possible in a language that they understand, of the reasons for their arrest and whether they are informed without delay, in a

language that they understand, of any charges against them. Please indicate whether there are any provisions that would allow migrant workers and members of their families charged with a criminal offence to obtain legal assistance of their own choosing and to have legal assistance assigned to them, free of charge if they do not have sufficient means to pay for it.

12. Please provide information on the number of migrant workers, disaggregated by sex, age and nationality, placed in administrative custody or judicial detention since 2010 for having violated the immigration law. Please provide information on the decisions taken in their cases, the number of cases in which migrants benefited from free assistance from an interpreter if they did not understand or speak the language used, the places of detention where they are held, the conditions under which they are held and whether they are segregated from convicted persons and persons being held in pretrial detention.

13. Act No. 02-03 on the entry and residence of foreigners in Morocco and illegal emigration and immigration provides for fines and prison sentences for migrants in an irregular situation. Please provide detailed data on the convictions handed down and the penalties applied in this regard. In addition, please indicate whether the State party is considering amending its legislation to provide for appropriate measures instead of fines and imprisonment for migrant workers in an irregular situation.

Article 21

14. The Committee has been informed that the security forces more or less systematically confiscate the documents of migrants, in particular when they are in a regular situation and trying to assert their rights. Please comment on this information and indicate the measures that have been taken to put an end to this practice.

Article 22

15. The Committee has been informed that hundreds of migrants have been collectively expelled to Algeria and Mauritania. Please comment on this information. Furthermore, insofar as the law does not refer to collective expulsion (para. 232 of the report by the State party), please indicate whether the State party intends to amend its legislation to explicitly prohibit this type of expulsion.

16. Please provide information on the effective implementation of Act No. 02-03 on the entry and residence of foreigners in Morocco and illegal emigration and immigration, and in particular on the implementation of: (a) article 21, paragraph 1, which indicates the need for a reasoned decision in cases where a foreigner who is unable to demonstrate that his entry was regular is removed; (b) articles 23 and 30, which provide for a remedy with suspensive effect against removal decisions; and (c) article 29, which provides that no pregnant foreigner and no foreign minor may be removed. Please indicate whether there is a mechanism to monitor implementation of these provisions. Please also indicate whether there are provisions that require migrant workers to be notified in writing of a removal decision. Please also provide data, disaggregated by sex, age and nationality, on migrant workers and members of their families who have been expelled from Morocco since 2003, the number of administrative appeals lodged by migrants and information concerning the decisions handed down in that regard.

Article 23

17. Please provide information on the effective application of article 24 of Act No. 02-03 on the entry and residence of foreigners in Morocco and illegal emigration and immigration, according to which upon being notified of a removal decision, a foreigner may immediately notify his national consulate. Please also indicate whether there are measures to monitor the application of this provision. Please also indicate the measures

taken or planned to ensure that the State party's consular authorities can assist Moroccan nationals working abroad and members of their families in cases of detention or expulsion, and inform them about their rights in such cases.

Article 25

18. Please provide information on the measures that have been taken or that are planned to ensure that migrants employed in domestic service are not exploited or subjected to abusive working conditions.

Article 27

19. Please provide disaggregated data on the number of migrant workers, including those in an irregular situation, who are registered in the social security system of the State party. Please indicate whether migrant workers in an irregular situation and members of their families are covered by the social security system. Please provide information on the benefits granted to migrant workers, including those in an irregular situation.

Article 28

20. According to the State party report (paras. 257 and 258), the new rules of procedure for hospitals (Ministry of Health Order No. 456-11 of 6 July 2010) state that non-nationals who are sick or injured must be admitted on the same conditions as nationals regardless of their status. Please provide information on the effective implementation of this rule. Please also provide data on the number of migrants who have benefited from such care and indicate whether, in practice and in the context of the new Moroccan health system, migrant workers and members of their families receive urgent medical care that is required to save their lives or prevent irreparable harm to their health. Please also indicate the measures taken to ensure that migrants in an irregular situation have access to health facilities and medical care without fear of arrest.

Article 30

21. The State party mentions that in principle, foreign minors have the right to enrol in public schools, irrespective of their migration status (para. 281). However, the Committee has been informed that the children of migrant workers face practical difficulties in obtaining access to education because of the need to provide a birth certificate, because the maximum enrolment age is 8 years and because fluency in Arabic is a precondition for enrolment. Please comment on this information in relation to article 30 of the Convention.

Article 33

22. Please inform the Committee about any steps taken to inform Moroccan migrants and migrant workers in or in transit through the State party, as well as members of their families, of their rights under the Convention and of their rights and obligations in the State of employment. Please also indicate whether the State party has conducted any specific information and training programmes on the Convention for relevant public officials, such as police officers, embassy and consular staff, social workers, judges, prosecutors and government officials.

C. Part IV of the Convention

Article 41

23. The State party indicates that under article 17 of the Constitution, Moroccans living abroad enjoy the right to vote and be elected (para. 322). Please indicate the measures taken

to facilitate the exercise of the right to vote by Moroccan migrant workers and members of their families in elections held in the State party, such as the possibility of voting at Moroccan consulates in the countries where they reside.

Articles 43, 54 and 55

24. Please provide information on the measures taken to ensure that migrant workers are treated on an equal basis with State party nationals with regard to: (a) access to education, professional training, housing, social and health services; (b) protection against dismissal, unemployment benefit, access to alternative employment in the event of loss of work or termination of other remunerated activity, subject to article 52 of the Convention; and (c) the exercise of their remunerated activity.

Article 47

25. Please indicate what measures have been adopted to facilitate the transfer of Moroccan migrant workers' earnings and savings to the country, including any agreement to reduce the cost of these operations for migrant workers.

D. Part VI of the Convention

Article 65

26. Please provide information on the assistance provided by the State party to Moroccan migrant workers and the support provided by embassies and consulates in order to resolve their grievances. Please indicate the number of persons who have benefited from these services since 2010, the circumstances under which these services have been provided, and any problems or obstacles that the State party has encountered in providing them.

Article 67

27. Please provide information on the number of Moroccan migrant workers who have returned to the country since 2010. Please indicate the measures taken to ensure that their return goes smoothly and to facilitate their long-term economic, social and cultural reintegration. In addition, please indicate the measures that have been taken or that are envisaged as to cooperation with the Algerian Government so that it returns the legitimate assets of Moroccan migrant workers expelled in the past or provides them with fair and adequate compensation, in accordance with article 15 of the Convention. Please also indicate the measures that have been taken to facilitate the economic and social reintegration of these Moroccan migrants in the State party.

Article 68

28. The Committee has been informed that: (a) some migrant women are forcibly subjected to prostitution; (b) some migrants are subjected to forced labour; (c) some migrant workers in domestic service are subjected to exploitation and sexual abuse; (d) victims of trafficking are afraid to lodge complaints for fear of being deported; and (e) few traffickers are convicted. The Committee has also been informed that some Moroccan men, women and children are subjected to prostitution and forced labour in Europe and in the Middle East. Please indicate the measures that have been taken to prevent and combat the smuggling and trafficking of migrants and describe the impact of those measures. Moreover, please describe the measures that have been taken to prosecute and punish traffickers, and provide detailed information on cases in which individuals have been convicted for offences related to trafficking in persons and smuggling of migrants. Lastly, please indicate whether there is a law on trafficking in persons and a national plan to combat trafficking in persons and indicate what measures exist to assist and protect victims of trafficking in persons.