



**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**  
Sixteenth session  
16–27 April 2012

**List of issues prior to the submission of the second periodic  
report of El Salvador (CMW/C/SLV/2)\***

**Specific information on the implementation of articles 1 to 71 of the  
Convention, including with regard to the Committee’s previous  
recommendations**

**I. General information**

1. Please provide information on the measures taken by the State party for the prompt harmonization of its legislation, in particular the draft Law amending the “Ley de Migracion y Extranjeria (1958)”, with the provisions of the Convention as recommended in paragraph 12 of the Committee’s previous concluding observations (CMW/C/SLV/CO/1).
2. Please provide disaggregated statistical data and information on migration flows and on other migration-related issues. Please also provide statistical data or, if precise data are not available, data based on studies or estimates with regard to migrant workers in an irregular situation (CMW/C/SLV/CO/1, para. 20).
3. Please provide information on training programmes organized by the State party since 2009 for public officials at national and local levels working in the area of migration, including border police officers, social workers, judges and prosecutors (CMW/C/SLV/CO/1, para. 22). Please also indicate any measures taken to disseminate the Convention and the Committee’s concluding observations throughout the State party (para. 53).
4. Please indicate the measures taken to provide sufficient financial and human resources to the National Human Rights Institution (PDDH) so that it can effectively

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\* The present list of issues was adopted by the Committee at its sixteenth session, in accordance with the new optional procedure adopted by the Committee at its fourteenth session, which consists in the preparation and adoption of lists of issues to be transmitted to States parties prior to the submission of their respective periodic report. The replies to the present list of issues will be considered as the State party’s periodic report under article 73 of the Convention.

protect and promote human rights, including the rights of all migrant workers and members of their families.

5. Please indicate whether the State party has established a procedure for involving non-governmental organizations (NGOs) in the preparation of the State party's periodic reports under article 73 of the Convention (CMW/C/SLV/CO/1, para. 52) and whether the State party holds regular consultations with NGOs, including, the *Grupo de Monitoreo Independiente de El Salvador* (GMIES), the Instituto de Derechos Humanos de la Universidad Centroamericana Simeon Canas (IDHUCA) and CARITAS El Salvador, on questions related to the implementation of the Convention.

6. Please indicate whether the State party has taken any steps towards ratifying International Labour Organization (ILO) Conventions No. 97 (revised, 1949) concerning Migration for Employment, and No. 143 (1975) concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers, as recommended by the Committee in its previous concluding observations (CMW/C/SLV/CO/1, para. 17), as well as No. 189 (2011) concerning Decent Work for Domestic Workers.

7. Please indicate any steps taken or planned for making the declarations provided for in articles 76 and 77 of the Convention, recognizing the competence of the Committee to receive communications from States parties and individuals (CMW/C/SLV/CO/1, para. 14).

8. Please provide information on the specific steps taken by the State party to review its declarations regarding articles 32, 46, 47, 48 and 61, paragraph 4, of the Convention, with a view to withdrawing them (CMW/C/SLV/CO/1, para. 16).

## **II. Information relating to each of the articles of the Convention**

### **A. General principles**

9. With reference to the Committee's previous concluding observations (CMW/C/SLV/CO/1, para. 24), please provide detailed information on the measures taken to ensure that all migrant workers and members of their families within the State party's territory or subject to its jurisdiction enjoy the rights provided for in the Convention without any discrimination, in conformity with article 7.

10. Please indicate what measures the State party has taken to strengthen its efforts to inform migrant workers about the administrative and judicial remedies available to them and to address their complaints in the most effective manner. What steps have been taken to ensure that, in law and in practice, migrant workers and members of their families, including those in an irregular situation, have the same rights as nationals of the State party to file complaints and to obtain effective redress in the courts, including the labour courts (CMW/C/SLV/CO/1, para. 26)?

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

#### **Articles 10 and 16**

11. Please provide detailed information on the measures taken to investigate allegations of harassment and corruption by the police and by immigration authorities at national and local levels and abuse of power by law enforcement authorities through the use of extortion

and arbitrary detention of migrant workers and members of their families. How many such officials have been brought to trial and how many have been convicted?

#### **Articles 18 and 22**

12. Please provide information on measures taken to ensure that in criminal and administrative proceedings, including expulsion proceedings, migrant workers and members of their families, in particular those in an irregular situation and/or coming from overseas (“*migrantes extraregionales*”), are provided with legal assistance and interpretation, as necessary, and that they have access to information in a language they understand.

13. What measures has the State party taken to ensure that (a) migrant workers and members of their families are only expelled from the territory of the State party pursuant to a decision taken by the competent authority following a procedure established by law and in conformity with the Convention, and that this decision can be reviewed on appeal, (b) pending such appeal, the person concerned has the right to seek a stay of the decision of expulsion (CMW/C/SLV/CO/1, para. 28).

#### **Article 25**

14. Please provide detailed information on the measures taken to ensure in practice the right of equality of treatment of migrant workers, particularly migrant women, in agricultural and domestic employment and to take measures to effectively monitor the employment conditions of migrant workers in agricultural and domestic employment, as requested in paragraph 30 of the Committee’s previous concluding observations. What legal and labour protection and enforcement mechanisms are in place to ensure that migrant agricultural and domestic workers are remunerated not less favorably than nationals?

#### **Articles 28 and 30**

15. Please provide detailed information on the measures taken by the State party to ensure, in law and in practice, that all migrant workers and members of their families have adequate access to basic services such as urgent medical care and that all children of migrant workers have access to education.

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

#### **Article 40**

16. Please provide information on the measures taken, including legislative amendments, to guarantee to migrant workers and members of their families the right to form, and to form part of the leadership of, associations and trade unions, in accordance with article 40 of the Convention (CMW/C/SLV/CO/1, para. 32).

#### **Article 41**

17. Please provide information on the measures taken by the State party to review its legal framework, as well as on other steps to facilitate the exercise of voting rights by Salvadoran migrant workers residing abroad (CMW/C/SLV/CO/1, para. 34).

#### **Articles 51 and 52**

18. Please indicate whether the State party has amended article 26 of its Migration Law, which requires migrant workers to leave the State party upon termination of their contracts,

regardless of the reason for such termination, in order to ensure compatibility of its legislation with the provisions of the Convention, in particular articles 51 and 52 (CMW/C/SLV/CO/1, para. 36).

## **D. Part V of the Convention**

### **Article 58**

19. Please provide information on measures taken to implement the El Salvador-Honduras Pilot Project for regularization (*Plan Piloto El Salvador-Honduras*) aimed at improving the situation of frontier workers, and to include in its national legislation the definition of frontier workers as well as specific provisions related to the protection of their rights, in accordance with article 58 of the Convention (CMW/C/SLV/CO/1, para. 40).

### **Article 59**

20. Please provide information on the measures taken by the State party to ensure that seasonal workers enjoy equal treatment as national workers, particularly in respect of remuneration and conditions of work, and to ensure systematic monitoring by the relevant authorities of employers' compliance with relevant international standards (CMW/C/SLV/CO/1, para. 38).

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

### **Articles 64-68**

21. Please provide information on the efforts undertaken to continue developing the "Welcome Home" (*Bienvenida a casa*) programme, in accordance with the principles of the Convention, with a view to assisting returning migrants, in their reintegration into the Salvadoran economic and social life (CMW/C/SLV/CO/1, para. 42).

22. In line with the recommendations of the Committee on the Rights of the Child (CRC/C/SLV/CO/3-4, para. 73), please indicate the measures taken by the State party to:

(a) Ensure the rights of migrant children, particularly those unaccompanied and/or in an irregular situation, in or in transit through the State party;

(b) Promote adequate conditions for the resettlement and reintegration of Salvadorian migrant children and their families upon their return.

23. Please provide information on the measures taken to intensify and allocate adequate financial and other resources to prevention campaigns aimed at countering misleading information relating to emigration and raising awareness among Salvadorian nationals, including children, about the dangers of irregular migration (CMW/C/SLV/CO/1, para. 44). Please also provide information on cooperation efforts with countries of transit and destination, with a view to ensuring the safety of Salvadorian migrant workers, including migrant children, whether accompanied or not, in transit through third States and upon arrival in the countries of destination.

24. Please indicate the measures taken by the State party to combat trafficking and smuggling of migrants, in particular women and children, including by effectively detecting the illegal or clandestine movement of migrant workers and members of their families, systematically compiling disaggregated data and bringing perpetrators of trafficking and smuggling of migrants to justice (CMW/C/SLV/CO/1, paras. 48 and 50). Please provide updated information on the number of reported cases of trafficking and smuggling of

migrants, investigations, prosecutions, and the sentences imposed on perpetrators since 2008.

### **III. Additional information**

25. Please provide any additional information on measures taken to implement the Convention and the Committee's recommendations since its consideration of the State party's initial periodic report in 2008 (CMW/C/SLV/CO/1, para. 51), including relevant statistical data, as well as information on any other important developments in the State party relating to the provisions of the Convention.

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