

A/C.3/42/WG.1/CRP.5

1 October 1987

ENGLISH

ORIGINAL: ARABIC/CHINESE/
ENGLISH/FRENCH/
RUSSIAN/SPANISH

Forty-second session
THIRD COMMITTEE
Working Group I
Agenda item 12

REPORT OF THE ECONOMIC AND SOCIAL COUNCIL

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

Proposals for Part VII (formerly Part VI) of the Draft Convention

PART VII

Application of the Convention

(As contained in document A/C.3/39/WG.1/WP.1)

Article 70

1. [For the purpose of reviewing the application of the present Convention], there shall be established a Committee on the Protection of the Rights of All Migrant Workers and Their Families (hereinafter referred to as "the Committee") consisting of [eighteen] experts of high moral standing, impartiality and recognized competence in the field covered by the Convention. [The Committee shall carry out the functions hereinafter provided for.]

2. (a) [Twelve] members of the Committee shall be elected by secret ballot by the States Parties from a list of persons nominated by the States Parties, consideration being given to equitable geographical distribution, including both States of origin and States of employment, and to the representation of the principal legal systems. Each State Party may nominate one person. [These persons shall be nationals of the nominating State.]

[(b) The remaining six members shall be appointed by the Governing Body of the International Labour Office.]

(c) [All] members shall serve in their personal capacity.

3. The initial election shall be held no later than six months after the date of the entry into force of the present Convention. At least three months before the date of each election the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties not later than one month before the date of each election, together with the curricula vitae of the persons thus nominated.

PART VII

Application of the Convention

(Alternative proposal as contained in document A/C.3/40/WG.1/CRP.4)

Article 70

1. For the purpose of reviewing the application of the present Convention, there shall be established a Committee on the Protection of the Rights of All Migrant Workers and Their Families (hereinafter referred to as "the Committee") consisting of [eighteen] experts of high moral standing, impartiality and recognized competence in the field covered by the Convention.

2. (a) Members of the Committee shall be elected by secret ballot by the States Parties from a list of persons nominated by the States Parties, consideration being given to equitable geographical distribution, including both States of origin and States of employment, and to the representation of the principal legal systems. Each State Party may nominate one person, who [shall be a national of the nominating State.]

(b) Members shall serve in their personal capacity.

3. The initial election shall be held no later than six months after the date of the entry into force of the present Convention. At least three months before the date of each election the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties not later than one month before the date of each election, together with the curricula vitae of the persons thus nominated.

4. Elections of members of the Committee shall be held at a meeting of States Parties convened by the Secretary-General at United Nations Headquarters. At that meeting, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of

4. Elections of members of the Committee shall be held at a meeting of States Parties convened by the Secretary-General at United Nations Headquarters. At that meeting, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of votes of the States Parties present and voting.

[5. The Secretary-General shall inform the Director-General of the International Labour Office of the result of the elections and shall invite the Governing Body of the International Labour Office to appoint the remaining members.]

6. The members of the Committee shall serve for a term of four years. However, the terms of [six] [nine] of the members elected in the first election [and three of the appointed members] shall expire at the end of two years; the names of these nine members shall be chosen by lot by the Chairman of the Committee.

7. If an expert has ceased to function as a member of the Committee before the expiry of his term, the State Party which nominated the expert [or the Governing Body of the International Labour Organisation which appointed the expert,] shall appoint another expert for the remaining part of the term. [In cases where the new expert is appointed by the State Party], the appointment is subject to the approval of the Committee.

[8. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee.]

[8. The States Parties shall be responsible for all expenses incurred in connection with the administration of the present Convention pursuant to part VI and shall reimburse the United Nations for all costs of meetings, staff, facilities and emoluments.]

votes and an absolute majority of votes of the States Parties present and voting.

5. The members of the Committee shall serve for a term of four years. However, the terms of [nine] of the members elected in the first election shall expire at the end of two years; the names of these nine members shall be chosen by lot by the Chairman of the Committee.

6. If an expert has ceased to function as a member of the Committee before the expiry of his term, the State Party which nominated the expert shall appoint another expert for the remaining part of the term. The new appointment is subject to the approval of the Committee.

7. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee.

[8. The members of the Committee shall receive emoluments from United Nations resources on such terms and conditions as the General Assembly may decide, having regard to the importance of the Committee's responsibilities.]

9. Members of the Committee shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

[9. The members of the Committee shall receive emoluments from United Nations resources on such terms and conditions as the General Assembly may decide, having regard to the importance of the Committee's responsibilities.]

10. The members of the Committee shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

* * *

Article 71

No alternative proposal.

Article 71

1. States Parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the position of the law and practice in regard to the rights recognized in the Convention and to other provisions included herein:

- (a) Within one year after the entry into force for the State Party concerned;
- (b) Thereafter every four years.

2. Reports shall indicate factors and difficulties, if any, affecting the implementation on the present Convention and shall provide information on the characteristics of migration flows in which States Parties to the present Convention are involved.

* * *

Article 72

1. The Committee shall examine the reports submitted by each State Party to the present Convention and shall transmit such comments as it may consider appropriate to the other State Party concerned. This State Party may submit to the Committee observations on any comments made by the Committee in accordance with this article. The Committee may request supplementary information from States Parties when considering these reports. States Parties may participate in meetings of the Committee when their respective reports are being considered.

1. The Committee shall examine the reports submitted by each State Party to the present Convention and shall transmit such comments as it may consider appropriate to the other State Party concerned. This State Party may submit to the Committee observations on any comments made by the Committee in accordance with this article. The Committee may request supplementary information from States Parties when considering these reports. [States Parties may participate in meetings of

* * *

Article 72

[1 bis. In order to facilitate the co-operation of the International Labour Organisation in the application of the present Convention,

(a) Not later than sixty days before the opening of each regular session of the Committee, the Secretary-General of the United Nations may transmit to the Director-General of the International Labour Office all available information relevant to the application of this Convention, including the reports and commentaries from States Parties referred to in paragraph 1 of this article;

(b) The Committee shall receive and consider the technical opinion and commentaries transmitted to it by the Director-General of the International Labour Office which may be relevant to matters covered in articles 7, 11, 25, 26, 27, 28, 32 and 33 of part II, in part III, in part V and in part VII of the present Convention;

(c) The Committee may also request the technical advice of the International Labour Organisation in other matters relevant to this Convention.]

2. The Committee shall [through the Economic and Social Council] report annually to the General Assembly of the United Nations on its activities and may make suggestions and general recommendations based on the examination of reports and information received from the States Parties. Such suggestions and recommendations shall be included in the report of the Committee together with comments from States Parties.

3. The Secretary-General shall transmit the reports of the Committee to the [Economic and Social Council and] the Commission on Human Rights of the United Nations [and to the Governing Body of the International Labour Office].

4. The Committee may invite the specialized agencies and other organs of the United Nations, as well as regional intergovernmental organizations, to submit information on such matters dealt with in the Convention as fall within their field of competence. Such agencies and organizations may participate, in an advisory capacity, in the consideration by the Committee of such matters.

* * *

the Committee, when their respective reports are being considered.]

2. In order to facilitate the co-operation of the International Labour Organisation in the application of the present Convention,

(a) Not later than 60 days before the opening of each regular session of the Committee, the Secretary-General of the United Nations shall transmit to the Director-General of the International Labour Office all available information relevant to the application of this Convention, including the reports and commentaries from States Parties referred to in paragraph 1 of this article;

(b) The Committee may receive and consider the technical opinion and commentaries transmitted to it by the Director-General of the International Labour Office which may be relevant to matters covered in articles 7, 11, 25, 26, 27, 28, 32 and 33 of part II, in part III, in part V and in part VII of the present Convention;

(c) The Committee may also request the technical advice of the International Labour Organisation in other matters relevant to this Convention.

3. The Committee may invite the specialized agencies and other organs of the United Nations, as well as regional intergovernmental organizations, to submit information on such matters dealt with in the Convention as fall within their field of competence. Such agencies and organizations may participate, in an advisory capacity, in the consideration by the Committee of such matters.

4. The Committee shall report annually to the General Assembly of the United Nations on its activities and may make suggestions and general recommendations based on the examination of reports and information received from the States Parties. Such suggestions and recommendations shall be included in the report of the Committee together with comments from States Parties.

5. The Secretary-General shall transmit the reports of the Committee to the Economic and Social Council and the Commission on Human Rights of the United Nations.

* * *

Article 73

1. The Committee shall adopt its own rules of procedure. [but these rules shall provide, inter alia, that]
2. The Committee shall elect its officers for a term of two years.
3. The Committee shall normally meet annually in order to consider the reports submitted in accordance with article 72 of the present Convention.
4. The meetings of the Committee shall normally be held at United Nations Headquarters.

* * *

Article 74

1. If a State Party considers that another State Party is not giving effect to the provisions of the present Convention, it may bring the matter to the attention of the Committee. The Committee shall then transmit the communication to the other State Party concerned. [This State shall, within three months, submit to the Committee] [The Committee may ask the latter to submit to the Committee within three months] written explanations or statements clarifying the matter and the remedy, [if any,] that may have been taken by that State.
2. If within six months of the Committee's transmission of the initial communication to the State Party concerned the matter is not adjusted to the satisfaction of both parties, [either State] [either bilateral negotiations or by any other means which are open to them, States Parties concerned, if they so agree] shall have the right to request the Committee to deal with the matter in accordance with the following paragraphs of this article.
3. The Committee shall make available its good offices to the States Parties concerned with a view to a friendly solution of the matter on the basis of respect for the present Convention.

..

Article 73

No alternative proposal.

* * *

Article 74

No alternative proposal.

4. The Committee shall hold closed meetings when examining communications under this article.

5. In any matter referred to it, the Committee may call upon the States Parties concerned, referred to in paragraph 2, to supply any relevant information.

6. The States Parties concerned, referred to in paragraph 2, shall have the right to be heard by the Committee and to make submissions in writing.

7. The Committee shall, within 12 months after the transmission of the initial communication under paragraph 2, submit a report:

(a) If a solution within the terms of paragraph 5 is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached;

(b) If a solution within the terms of paragraph 5 is not reached, the Committee shall confine its report to a brief statement of the facts; the written submissions and record of the oral submissions made by the States Parties concerned shall be attached to the report.

The report shall be communicated to the States Parties concerned.

* * *

Article 75

The provisions of the present Convention concerning the settlement of disputes or complaints shall be applied without prejudice to other procedures for settling disputes or complaints in the field covered by the present Convention laid down in the constituent instruments of, or in conventions adopted by, the United Nations and its specialized agencies, and shall not prevent the States Parties from having recourse to other procedures for settling a dispute in accordance with international agreements in force between them.

* * *

* * *

Article 75

No alternative proposal.

* * *

...

Article 76

Nothing in the present Convention shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Convention.

Article 76

No alternative proposal.
