



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

Distr.: General
5 December 2023

Original: English

Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families Thirty-seventh session

Summary record of the 536th meeting*

Held at the Palais des Nations, Geneva, on Wednesday, 29 November 2023, at 3 p.m.

Chair: Mr. Corzo Sosa

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The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 73 of the Covenant
(continued)

Second periodic report of Kyrgyzstan (CMW/C/KGZ/2; CMW/C/KGZ/QPR/2)

1. *At the invitation of the Chair, the delegation of Kyrgyzstan joined the meeting.*
2. **Mr. Bazarbaev** (Kyrgyzstan) said that more than 1 million of his country's total population of 7 million were labour migrants. Migration processes were a central part of people's lives in Kyrgyzstan and affected almost everyone. The Government strove to reduce the negative consequences and risks associated with migration and to maximize the advantages it brought, always acting in compliance with the highest international human rights standards. As labour migration trends had changed over the previous decade, the Government had expanded the social focus of its approach to migration and introduced economic instruments to regulate it in the best interests of migrants. Legislative and institutional changes had also been undertaken in order to make public services more easily accessible to Kyrgyz citizens, better protect and represent their interests and simplify procedures enabling foreign labour migrants to stay in the country.
3. Foreign nationals and stateless persons had rights and obligations on an equal footing with Kyrgyz citizens, except where national legislation or international treaties to which Kyrgyzstan was a party provided otherwise, for example in areas relating to national and public security, the right to vote and to stand for election, property rights and employment in State institutions. Economic growth had seen Kyrgyzstan shift from being a country predominantly of origin to become a country of destination for migrants as the demand for labour outstripped supply. The Government's Migration Policy Framework for 2021–2030 sought to identify priorities in the field of migration; align State policy with the interests of migrants; and provide for the active participation of non-governmental organizations in protecting, informing and assisting migrants and helping to improve sectoral policies. Efforts were being made to create jobs in Kyrgyzstan so that citizens could stay in the country and live and work close to their families.
4. The Mekendeshter (Compatriots) Forum was held on a regular basis to foster constructive dialogue with migrants. At the most recent event held in November 2023, the subjects discussed had included investment, job creation and the use of new technologies to improve electoral rights. Working in partnership with the International Organization for Migration, the Government had launched a pilot programme to encourage returning migrants to invest in business projects in Kyrgyzstan. Under the initiative, the State matched private investments by paying in the same amount from its own coffers.
5. The most recent version of the Criminal Code incorporated significant changes to articles on crimes relating to migration. For example, trafficking in persons was now considered to involve exploitation, and trafficking in minors implied illegal adoption. In addition, work undertaken to criminalize people smuggling had seen the addition of a new article to the Code with definitions in keeping with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. Amendments were also being made to improve the Act on Preventing and Combating Trafficking in Persons.
6. **Ms. Dzumhur** (Country Rapporteur) said that she would be interested to know what results had been achieved in the implementation of recent legislation to criminalize trafficking in persons, people smuggling and other illegal actions committed in the context of migration. She would be grateful if the delegation could provide statistical data on emigration trends affecting the State party, disaggregated by gender and age, including up-to-date information on emigration to the Russian Federation which was the most common destination for Kyrgyz migrants. Given that Kyrgyzstan and the Russian Federation were both signatories of the Treaty on the Eurasian Economic Union, she wondered what impact the war in Ukraine had had on Kyrgyz nationals in the Russian Federation and wished to know the status of the approximately 76,000 citizens of Kyrgyzstan who had been refused entry to the Russian Federation in February 2022. She would also like to know whether the

Government had taken any steps to support HIV-positive Kyrgyz citizens living in the Russian Federation.

7. It would be interesting to learn about the current implementation status of the Migration Policy Framework for 2021–2030. She would also like the delegation to explain why the International Labour Organization (ILO) Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), the ILO Private Employment Agencies Convention, 1997 (No. 181) and the ILO Domestic Workers Convention, 2011 (No. 189) had not been ratified by the State party.

8. She would like to receive information on the country's diplomatic missions, including their capacities, especially in the countries that received the highest number of migrants from Kyrgyzstan, which included the Russian Federation, Türkiye and Kazakhstan. She would also be grateful if the delegation could clarify how the Treaty on the Eurasian Economic Union had resulted in practical improvements in people's enjoyment of their rights. For example, she wondered how Kyrgyz citizens living in the Russian Federation should proceed if they wished to draw their pension there.

9. It would be helpful to receive more information about migrants for whom Kyrgyzstan was the destination country. She wondered who migrated to the country, what rights they enjoyed, what institutions were responsible for supporting them and what the status of planned migrant reception centres was. She wished to know whether legislative amendments to improve the legal framework of the Office of the Ombudsman had resulted in practical changes in how that body handled its cases, particularly those that involved migrants. She wondered whether the Ombudsman visited facilities where migrants were accommodated. With reference to the proposal to open branches of the Ombudsman's Office abroad, it was unclear how they would be able to monitor the implementation of human rights standards by State agencies in other countries.

10. **Mr. Taghi-Zada** (Country Rapporteur) said that he wished to know whether the delegation had any up-to-date information on worrying reports that Kyrgyz migrant workers in the Russian Federation were sometimes recruited as mercenaries and involved in military activities. He would like to know how many individuals were affected and what measures were being taken to protect their rights. In the light of the State party's youthful population, he wondered whether young people were given training that would help them find skilled employment abroad. He would also be interested to receive more detailed information about the inter-agency job placement agreement with Japan. Lastly, he wondered whether the increasing numbers of Kyrgyz migrant workers leaving the country for the Russian Federation over the previous decade had been accompanied by a corresponding expansion in the consular services provided to them, in particular with a view to enabling them to participate in elections in Kyrgyzstan.

11. **Mr. Ünver** (Country Rapporteur) said that he too wished to know whether the State party had taken any new steps to enhance consular and other types of assistance to Kyrgyz workers in the Russian Federation and other countries. The State had an obligation to raise awareness among its citizens who were intending to seek work abroad, in the period prior to their departure, and to inform them of the challenges they were likely to encounter. He would be interested to hear about any measures the Government was taking in that connection. The delegation should inform the Committee about any initiatives being contemplated to guarantee the voting rights of Kyrgyz migrant workers abroad, perhaps by postal vote.

12. **Mr. Charef** said that, if he had understood correctly, of the country's 2.6 million strong workforce, 1 million were migrant workers and 60 per cent of the latter were women. In the light of that situation, he wished to know whether any gender-based field studies had been conducted into the risks women migrant workers faced, both as migrants and as women. Did the Migration Policy Framework for 2021–2030 incorporate a gender dimension? How did the Government intend to achieve the objective enshrined in the Framework of promoting migrant associations in order to achieve sustainable development at the local, regional and national levels? Given that cash remittances from migrant workers amounted to more than \$2.5 billion per year, he would be interested to hear of any policies intended to regulate their flow.

13. **Mr. Ceriani Cernadas** said that he would be interested to hear more details about a proposal to limit or restrict the emigration of Kyrgyz women aged under 23, which was apparently intended as a protection measure against potential abuse. What policies and measures did the State have in place, at the local and national levels, to ensure the physical and mental well-being of Kyrgyz children whose parents had migrated for work abroad? The Committee was concerned by reports that violence based on sexual orientation or gender identity was driving people to migrate to other countries, where they could also face abuse on the same grounds. He wished to know what steps were being taken to address that phenomenon.

14. **Ms. Poussi** said that she would like to know if there had been any changes to how migrant workers were defined in national legislation. As the law currently stood, the definition seemed to apply only to those in a regular situation thereby excluding irregular migrant workers who, nonetheless, were also protected under the Convention. She understood that the State encouraged migrant workers to appoint a legal guardian for their children who remained behind in Kyrgyzstan, and she wished to know whether that practice was informal or was regulated within a legal framework. How did the State act to ensure the welfare of children whose parents had migrated without designating a legal guardian?

15. She hoped that the delegation could inform the Committee about how the Migration Policy Framework for 2021–2030 was being implemented, in the light of the matrix of indicators that had been adopted for monitoring and evaluating the status of implementation. Lastly, she was concerned that the State might be overly reliant on statistics from host countries as a source of data on its migrant workers abroad, particularly as host-country statistics would probably focus on persons in a regular situation and overlook irregular migrant workers altogether.

16. **Mr. Frasheri** said that he hoped to hear more details about how outward migration was having an impact on the local labour market, particularly in the light of the fact that Kyrgyzstan was also becoming a country of destination for migrant workers. In that context, he would be interested to know what skills were absent from the local labour market and what skills incoming workers were bringing. The Committee would also like to learn about any challenges the State faced in enforcing the Convention.

17. **Ms. Gahar** said that she wished to know what action had been taken to update national legislation to bring it into line with the 2021 Constitution of Kyrgyzstan, which gave great prominence to children’s rights. She wished to know whether the State provided training to the public officials involved in raising awareness among potential migrant workers prior to their departure, particularly vis-à-vis care arrangements for their children. Did the authorities envisage any measures to support the family reunification of Kyrgyz migrant workers with their children left behind in Kyrgyzstan?

18. She commended the State party for making free legal aid available to a wide range of persons, including foreign citizens, stateless persons and refugees. In that connection, she wished to know what support measures were available to help children with disabilities and persons with mental disabilities involved in legal proceedings. She would be interested to hear more about the State’s system for early response to and prevention of inter-ethnic conflicts. The delegation should inform the Committee about measures taken to ensure the birth registration of children who lived a nomadic lifestyle; to protect girls against the risk of abduction and forced marriage; and to guarantee the right to education for children who were stateless or undocumented.

19. **Ms. Diallo** said that she was happy to see that the State party collected migration data on a basis of “transparency and reliability”. Nonetheless, the Committee would appreciate more precise statistics on both foreign workers in Kyrgyzstan and Kyrgyz migrant workers abroad, disaggregated according to sex and age. She also wished to know if information and statistics on migration were collected in a centralized database and, if so, if that database was accessible to the Committee.

20. She would be interested to hear about the outcome of the general agreement between the Cabinet of Ministers, the Federation of Trade Unions of Kyrgyzstan and the national associations of employers for 2022–2024, which had analysed the national socioeconomic situation to determine whether the country was ready to ratify the ILO Domestic Workers

Convention, 2011 (No. 189). She welcomed the news that the Ombudsman's Office intended to open branches abroad in order to provide comprehensive support to migrants, and was disappointed that the initiative was still pending due to a lack of funding. In that connection, she wished to know whether the officials appointed to work on a voluntary basis to represent the Ombudsman's Office in the Russian Federation also had a mandate to provide support and assistance to migrant workers there.

21. **The Chair** said that he was perplexed by the fact that the Migration Policy Framework for 2021–2030 should have a plan of action that covered only the first phase, from 2022 to 2025. Since no plan of action appeared to have been approved for the second phase, from 2025 to 2030, the Migration Policy Framework really only extended as far as 2025. Beyond that date, it was merely an expression of good intentions but not a concrete policy document.

22. He would appreciate an update on the status of the revised version of the constitutional law on the Ombudsman and further information on the additional powers, human resources and financial independence that would be granted to the Ombudsman's Office under that law. The delegation might indicate whether the increase in salary granted to the staff of the Ombudsman's Office in August 2022 had been accompanied by an increase in responsibility, in view of the extension of the Office's activities to the Russian Federation. Since many Kyrgyz nationals migrated to the Russian Federation to find work, he wondered whether there were plans to open additional Kyrgyz consular offices in the Russian Federation and, if so, whether the staff of the Ombudsman's Office would play a role in supervising their activities. He wished to echo the recommendation made by the Human Rights Committee in October 2022 calling on Kyrgyzstan to consult with civil society with a view to bringing the mandate of the Ombudsman, which currently enjoyed category B status, into full conformity with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), including by ensuring its full independence from the executive authorities.

23. In the light of the information provided in paragraph 44 of the State party's report, on the status of the Convention in domestic law, he would welcome clarification as to whether the Convention, which he understood to be an integral part of the Kyrgyz legal system, was itself directly applicable or whether its provisions were applied indirectly by means of a separate law. Lastly, it would be useful to receive information on any cases of incitement to racial, ethnic, religious or interregional hostility, intolerance or hatred that had been prosecuted under article 330 of the Criminal Code or the relevant provisions of the Mass Media Act and the penalties that had been imposed on the perpetrators of those offences.

The meeting was suspended at 4.10 p.m. and resumed at 4.45 p.m.

24. **A representative of Kyrgyzstan** said that Kyrgyzstan had a robust legislative framework for combating human trafficking comprising, inter alia, the Constitution, the Criminal Code, which punished the offence with imprisonment, and relevant international treaties, such as the United Nations Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. That legislative framework was complemented by a strong institutional and policy framework, which included the National Referral Mechanism for Victims of Trafficking in Persons and the Cabinet of Ministers Programme to Combat Trafficking in Persons for 2022–2025, alongside an action plan for its implementation.

25. According to data collected by the Ministry of Internal Affairs, nine cases of human trafficking had occurred in 2021, of which three had involved trafficking for the purpose of sexual exploitation and four for the purpose of labour exploitation. Five cases of human trafficking had been recorded in 2022. Kyrgyzstan continued to partner with the international community in the fight against human trafficking, via its own consular network abroad and through international organizations such as, inter alia, the Organization for Security and Cooperation in Europe, the United Nations Office on Drugs and Crime and the International Centre for Migration Policy Development.

26. **Mr. Bazarbaev** (Kyrgyzstan) said that an agreement on pension provision for workers of the States members of the Eurasian Economic Union had been in force since November 2021. Its purpose was to ensure that migrant workers from countries within the Union had the same pension rights as the citizens of their State of employment. In 2023, the

Social Fund of Kyrgyzstan had calculated the pensions payable to 53 foreign citizens, including citizens of the Russian Federation, Kazakhstan and Belarus, while some 20 Kyrgyz citizens had received pension payments from the Russian Federation. A treaty on social security between Kyrgyzstan and Türkiye, which established equal rights for the citizens of the two countries in the area of pensions and social security, had been in force since November 2020. Under the treaty, 119 requests had been submitted, of which 108 had been processed. Under the Memorandum of Cooperation between the Social Fund and the National Pension Service of the Republic of Korea, Kyrgyz citizens were eligible to receive a payment corresponding to the pension credits that they had accumulated but never claimed during their period of employment in the Republic of Korea. The next of kin of Kyrgyz migrant workers could also benefit from those pension credits. To date, 95 requests for the simultaneous disbursement of pension benefits accrued in the Republic of Korea and in Kyrgyzstan had been received, of which 78 had been approved. The average amount disbursed had been approximately \$1,400.

27. Kyrgyz citizens could obtain free treatment for HIV and hepatitis from specialized centres and schedule follow-up appointments online. Prophylactic treatment was available on request through a dedicated website. Kyrgyz citizens with HIV who worked abroad could nominate a proxy to collect their medication if they were unable to travel to Kyrgyzstan themselves. Kyrgyz citizens residing in the Russian Federation could receive treatment for HIV free of charge.

28. Kyrgyzstan was attracting increasing numbers of foreign workers. In 2022, the quota for foreign labour had been set at 16,000 workers while, in 2023, it had been raised to 25,000. In recent months, over 380,000 foreign citizens, mainly from the Russian Federation and Kazakhstan, had been registered in Kyrgyzstan. Kyrgyzstan was consulting closely with the ILO country office on the financial, legal and policy ramifications of ratifying the ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), the ILO Private Employment Agencies Convention, 1997 (No. 181) and the ILO Domestic Workers Convention, 2011 (No. 189).

29. **A representative of Kyrgyzstan** said that, according to information from the authorities of the Russian Federation, at the start of 2023, 5,311 Kyrgyz citizens were being held in Russian prisons. In 2022, Kyrgyz officials had visited Russian prisons to verify the conditions in which their fellow citizens were being held and to explore the possibility of repatriation. Individual meetings had taken place with more than 500 Kyrgyz citizens and, in 2023, inmates from 58 facilities had been repatriated. During those meetings, Kyrgyz citizens had been provided with legal advice and informed that participation in a conflict on foreign soil was a criminal offence under Kyrgyz law. The Kyrgyz authorities regularly shared their concerns about the possibility of their citizens' being forced to take part in the special military operation against Ukraine with their Russian counterparts and had underscored the unacceptability of sending Kyrgyz prisoners to participate in the conflict. The Russian authorities had confirmed that no Kyrgyz prisoners had been forced to take part in the hostilities, including as part of the group of mercenaries known as the Wagner Group.

30. More generally, the Kyrgyz authorities had taken steps to inform Kyrgyz citizens, at home and abroad, that participation in the ongoing conflict between the Russian Federation and Ukraine, including as mercenaries, would result in criminal prosecution and a possible prison term of between 5 and 15 years. Unfortunately, there were no reliable data on the number of mercenaries currently engaged in the conflict. The number of foreign citizens currently involved in the hostilities, including as mercenaries, was difficult to determine on account of the fact that many of them had acquired Russian citizenship.

31. **Mr. Bazarbaev** (Kyrgyzstan) said that representatives of the Ministry of Labour, Social Security and Migration of Kyrgyzstan travelled to the Russian Federation to assist the many Kyrgyz citizens employed in the country. To date, some 150,000 citizens had benefited from the annual information sessions conducted by the Ministry. Kyrgyz migrants were, for the most part, low-skilled workers. The national vocational training system was being upgraded to ensure that Kyrgyz citizens who left the country to find work were better qualified and had increased earning potential. According to official figures, less than 70 per cent of Kyrgyz migrant workers now ended up in the Russian Federation. Many more were taking up employment in European countries, countries in the Persian Gulf, the United

States of America, Türkiye, the Republic of Korea and Japan. In July 2023, Kyrgyzstan had concluded an inter-agency agreement with Japan under which the countries would cooperate in testing and selecting Kyrgyz citizens with a view to matching them with jobs under the “skilled worker” system in Japan.

32. In 2021, the Ministry of Labour, Social Security and Migration had launched an online portal through which Kyrgyz citizens who were planning to leave the country could gain access to information about employment opportunities abroad and safe migration, and confirm whether they had been removed from the “blacklist” of the Russian Federation following the immigration amnesties announced by the Russian authorities. Prospective migrant workers could also complete a pre-departure training course through a specially designed application. A specialized employment centre for Kyrgyz citizens abroad operated a hotline offering migrant workers support and advice.

33. The initiatives undertaken to ensure that Kyrgyz migrant workers residing abroad, and members of their families, were able to exercise their right to vote included a pilot project using new digital technologies to allow eligible persons to use their smart phones to vote using a digital signature stored in the cloud.

34. **A representative of Kyrgyzstan** said that a forum had been held in Bishkek in November 2023 at which the Central Commission for Elections and Referendums had provided information on pilot projects for remote voting to ensure that the electoral rights of migrants outside Kyrgyzstan could be upheld. Electoral legislation had been modified to improve citizens’ enjoyment of their electoral rights and increase the number of voters, including through changes to the register of voters in consulates and other facilities in areas abroad where large numbers of Kyrgyz citizens resided.

35. For the parliamentary elections held on 28 November 2021, during the pandemic, there had been more than 50 polling stations in over 20 countries, an increase from 45 stations in 2020, and the number of voters outside Kyrgyzstan had risen from around 32,600 to 84,000. Citizens had been able to vote in cities without consular facilities, such as New York and Chicago in the United States, Cagliari in Italy, Antalya in Türkiye and Kazan and Tomsk in the Russian Federation. The choice of location for the voting facilities had been based on a number of factors, including the number of Kyrgyz citizens located in the area, the epidemiological situation and the lockdown measures in place.

36. **A representative of Kyrgyzstan** said that, as of September 2023, the country had consular facilities in Saint Petersburg and Kazan, as well as six honorary consulates, providing coverage for the whole of the Russian Federation. Regular visits took place to provide information and consular services in locations that lacked consular facilities.

37. **Mr. Charef** said that he still hoped to learn whether 60 per cent of migrant workers abroad were women, whether they had a typical profile and whether the Migration Policy Framework for 2021–2030 incorporated a gender dimension. He would also appreciate answers to his question concerning cash remittances. The policy to involve immigrants in the sustainable development of Kyrgyzstan was commendable, and it would be helpful to hear what concrete measures were envisaged in that regard. Similarly, while the intention to strengthen civil society was to be encouraged, he was curious as to how citizens would be encouraged to set up local and regional civil society organizations.

38. **Ms. Dzumhur** said that she would like to know whether statistics were available on the registration of children born abroad and what the procedures for registration and obtaining citizenship involved. She would also be grateful for information on children in institutions, particularly on how many were children of migrant workers abroad. It would be helpful to understand the impact of parents working abroad on family life, how many of those abroad were accompanied by their families, how many families had one parent working abroad and what measures had been taken to support the unification of families. Information would be appreciated on inter-country adoption of children from Kyrgyzstan, including how many cases had links with migrants from Kyrgyzstan.

39. She hoped the delegation could provide unemployment data disaggregated by sex, which might help the Committee understand how the causes of migration were being addressed. She would like to hear about the criteria for entitlement to child allowance and if

that had any impact on migration. Information and statistics on Kyrgyz migrants who had returned to the country and how they obtained their rights – for example, access to health care and social security – would also be helpful. The status of the proposed centres for migrants was unclear and she would like to hear about any plans in that regard. She wondered why foreigners were obliged to undergo HIV testing in order to secure residency and whether that was a requirement for all immigrants under the country’s immigration policies. Lastly, she looked forward to hearing about any measures in place for the protection of women and about any laws and mechanisms intended to promote gender equality.

40. **Mr. Frasheri** said that he wished to know whether the statistics provided for foreigners entering Kyrgyzstan related to tourists or migrants. It would be interesting to learn what skills the incomers brought and what skills Kyrgyz migrants took to other countries. The delegation should explain what support the State party would find most useful from the Committee.

41. **Mr. Zounmatoun**, congratulating the State party on its efforts to ensure the application of the Convention, said that he would appreciate clarification about the ratification process for ILO Domestic Workers Convention of 2011 (No. 189), following the study undertaken by the State party. He wished to understand whether the agreements on the transferability of social security entitlements for migrant workers mentioned by the delegation were indeed with the Republic of Korea. Were there similar agreements with other countries, and how did such agreements ensure that eligible migrant workers returning to Kyrgyzstan would be paid their entitlements?

42. It was unclear what progress had been made in implementing the Committee’s recommendations to increase the powers of the Ombudsman’s Office and provide it with sufficient resources to carry out its functions. The definition of migrant workers in Kyrgyz legislation appeared to exclude those in irregular situations, and he wished to know what mechanisms, including administrative procedures, were in place to deal with such persons. Lastly, he would be interested to learn about the extent of civil society involvement in the protection of migrant workers’ rights.

43. **The Chair** said that he would like to understand the scope of migration included in the State party’s report and whether it covered both regular and irregular migration. It would also be helpful if the delegation could explain the term “blacklist”, which was used in the report in relation to the legal situation of Kyrgyz citizens in Russia. Even if a national law existed that replicated the content of the Convention, the Convention needed to be applied directly, and the Committee would like the State party to clarify its statements in the report on that issue.

The meeting rose at 5.40 p.m.