



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

Distr.: General
26 December 2023

Original: English
English, French and Spanish only

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

List of issues prior to submission of the initial report of the Gambia*

Section I

A. General information

1. Please provide information on new provisions of or changes to the domestic legal framework relating to the Convention, including the following:

(a) Efforts made to ensure that the provisions of the Convention are reflected in all relevant national legislation;

(b) Measures taken within the framework of bilateral and multilateral agreements to protect migrant workers' rights in transit and destination countries, in particular with respect to social security, detention, repatriation or expulsion and family reunification procedures, specifying the cooperation arrangements in place with States members of the Economic Community of West African States (ECOWAS) and States that are not yet parties to the Convention;

(c) Progress that has been made and that is expected, with supporting data, towards protecting the rights of migrant workers and members of their families in the Gambia and those of Gambians who are working abroad as a result of the implementation of the National Migration Policy for the period 2020–2030 and related action plans and strategies, and the resources that have been set aside to implement the labour migration strategy and its action plan for the period 2022–2026 in order to enhance labour migration governance.

2. Please provide information on the ongoing negotiations on the adoption of a new partnership agreement between the Organization of African, Caribbean and Pacific States and the European Union. Please also provide specific information on the challenges to and opportunities for good governance in connection with cooperating on the return and readmission of migrants and in connection with the sustainable reintegration of all migrants who have returned to the State party. Please describe the measures taken to make cooperation by the police, the gendarmerie and internal security services more robust and to promote freedom of movement, freedom of establishment and the sharing of skills and experience.

3. Please provide information and supporting data on the extent of the State party's participation and implementation of the African Continental Free Trade Area and its support to Free Movement of Persons and Migration in West Africa, a project launched by ECOWAS to help member States collect and manage migration data. In particular, please provide information on the following:

* Adopted by the Committee at its thirty-seventh session (27 November–8 December 2023).



(a) Steps taken to harmonize the process of collecting and managing migration data within ECOWAS;

(b) Measures taken to collect data from diplomatic and consular missions, which should include information regarding all migrants.

4. Please provide updated information on measures and activities to improve coordination at all levels of government, including at the local level and in border areas. Please also provide information on the human, financial and technical resources allocated to the office tasked with labour migration matters of the Ministry of Trade, Industry, Regional Integration and Employment, which coordinates labour migration issues.

5. Please provide information on the progress made towards:

(a) Making the declarations provided for in articles 76 and 77 of the Convention;

(b) Ratifying the following International Labour Organization instruments: the Migration for Employment Convention (Revised), 1949 (No. 97); the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143); the Occupational Safety and Health Convention, 1981 (No. 155); the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187); the Protocol of 2014 to the Forced Labour Convention, 1930 (No. 29); the Labour Inspection Convention, 1947 (No. 81); the Employment Policy Convention, 1964 (No. 122); the Labour Inspection (Agriculture) Convention, 1969 (No. 129); the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144); the Domestic Workers Convention, 2011 (No. 189); and the Violence and Harassment Convention, 2019 (No. 190);

(c) Strengthening the capacity of the National Human Rights Commission of the Gambia, including by ensuring sufficient financial, human and technical resources for the effective implementation of its mandate and reinforcing the role of its thematic committee on migration and any plans to include the functions of the national preventive mechanism in its mandate;

(d) Promoting the establishment of complaint mechanisms and legal support for migrants facing difficulties caused by their status as a migrant, for example discrimination, ill-treatment and exploitation in the workplace, arrests, pretrial detention, immigration detention, imprisonment, deportation and repatriation.

6. Please provide information on the following:

(a) Existing education and training programmes on the Convention organized by the State party for public officials and other professionals in migration-related areas and capacity-building programmes for State agents, in particular border control agents, law enforcement agents, labour inspectors and members of the judiciary, indicating the human, technical and financial resources allocated for that purpose;

(b) Measures taken to make the Convention widely known, promote its implementation and familiarize the general public, migrant workers and members of their families and relevant professionals with its provisions;

(c) Measures taken to involve civil society organizations in the implementation of the Convention and the preparation of the State party's initial report as a reply to the present list of issues prior to reporting.

B. Information relating to the articles of the Convention

1. General principles

7. Please clarify the status of the Convention in the hierarchy of norms in the State party and provide information on provisions of the Convention that have been directly applied by public officials and on court decisions in which the Convention has been directly invoked. Please also provide information on the following:

(a) The ordinary and administrative courts competent to investigate and rule on complaints from migrant workers, in both regular and irregular situations, and members of their families;

(b) The number and nature of the complaints considered by those courts in the past five years and the outcome of those complaints, disaggregated by the complainant's sex, age, nationality, field of occupation and migration status;

(c) Any legal aid provided and any measures taken to inform migrant workers and members of their families of the remedies available to them for asserting their rights under the Convention;

(d) Any redress, including monetary compensation, obtained by victims of violations of rights enshrined in the Convention.

8. Please provide data for the past five years on complaints brought by migrant workers and members of their families, including those in an irregular situation, that have been dealt with by the competent courts and have resulted in compensation, where appropriate. In addition, please describe the means by which migrant workers, including those in an irregular situation, are informed of the legal remedies available to them. Please also describe the measures in place to help migrant workers to gain access to justice.

2. Part II of the Convention

Article 7

9. Please describe the measures taken to ensure that all migrant workers and members of their families in the State party or subject to its jurisdiction, regardless of whether they are in a regular situation, enjoy the rights provided for in the Convention without discrimination of any kind. In particular, please provide information on the following:

(a) Progress that has been made towards the adoption of a comprehensive anti-discrimination legislative framework that ensures, inter alia, that all migrant workers and members of their families can exercise the rights under articles 1 (1) and 7 of the Convention, without distinction of any kind, and covers all the grounds on which discrimination is prohibited under the Convention;

(b) Measures taken to ensure that non-discrimination, the protection of labour rights and gender equality in all matters relating to migration policy prevail in law and in practice, specifying the mechanisms in place to assess the individual situations of migrants in transit and to determine their protection needs without discrimination, in accordance with international human rights law, humanitarian law and refugee law;

(c) How the new labour law of 2023 strengthens the protection of migrant workers' human rights through the effective application of the principle of non-discrimination and the promotion of the principle of equal treatment of all workers.

10. Please inform the Committee of any cases of racism and xenophobia, discrimination, ill-treatment and violence, including gender-based violence, to which migrant workers and members of their families have been subjected in the State party or in States in which migrant workers from the Gambia are employed and provide information on the normative, institutional and procedural measures adopted by the State party to prevent and combat all forms of racism, xenophobia, discrimination, ill-treatment and violence, including gender-based violence, with a view to protecting the rights of the victims, not least their right to justice.

3. Part III of the Convention

Articles 8 to 15

11. Please provide information on the Government's policies over the past five years that have improved the rights of migrants in an irregular situation, in accordance with the Committee's general comment No. 2 (2013) on the rights of migrant workers in an irregular situation and members of their families.

12. Please also provide information on progress towards the prevention and elimination of labour exploitation, including slavery, forced labour and forced begging, and the institution or institutions responsible for detecting the illegal employment of migrant workers.

13. Please inform the Committee about steps taken to accede to the Slavery Convention, signed at Geneva on 25 September 1926, as amended by the 1953 Protocol, and to the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, signed at Geneva on 7 September 1956.

14. Please describe the measures taken to ensure that the rights of migrant children, in particular those who are unaccompanied, in an irregular situation or transiting through the State party, are respected and that they are protected from all forms of exploitation, in line with joint general comment No. 4 of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families/No. 23 of the Committee on the Rights of the Child (2017).

15. Please clarify the following:

(a) The progress made in the implementation of the 2023 child labour policy, which is aimed at setting the pace for the implementation of the child labour provisions in the Children's Act, indicating the outcomes and the number of child victims of labour exploitation, including those abroad, who have been provided with adequate assistance, protection and rehabilitation services;

(b) The mandate, purview and activities of the Directorate of Children's Affairs and the unit responsible for child labour matters of the Department of Labour and how they coordinate, monitor and implement policies on child protection, including policies on child sexual abuse and exploitation, children on the move and child labour;

(c) The measures taken to develop protection policies that address the challenges faced by unaccompanied migrant children, including those begging in the streets, in markets and in other public places, and to create a mechanism for the identification and protection of unaccompanied migrant children;

(d) The procedures for cooperation with origin, transit and destination countries to protect unaccompanied migrant children and ensure that those who are victims of crime are properly protected and receive specialized care tailored to their needs.

16. Please provide detailed information on the measures taken to investigate allegations of harassment, corruption and abuse of authority by law enforcement officials who, for example, detain migrant workers and members of their families arbitrarily. Please indicate the number of cases that have been reported, the number of criminal proceedings that have been instituted, the number of officials who have been brought to justice and the number of convictions that have been handed down.

Articles 16 to 22

17. Please inform the Committee on the following:

(a) Whether breaches of immigration law are criminal offences in the State party, and describe what safeguards, including access to a lawyer and interpreter, are in place to ensure due process when migrant workers and members of their families are being investigated or facing arrest, detention or expulsion for such breaches of the law;

(b) Measures taken to ensure that, in law and in practice, effect is given to article 16 (7) of the Convention, pursuant to which migrant workers and members of their families who are detained must be allowed contact with the consular or diplomatic authorities of their State of origin;

(c) Any specific due process safeguards for unaccompanied children in migration-related administration procedures, including the right to be heard and the right to a guardian.

18. Please provide information on border control measures, in particular with respect to procedures applicable to migrant workers and asylum-seekers arriving at the international borders of the State party and to reception facilities and the ways in which they operate and

are funded. Please indicate how the State party processes requests for protection in such a way as to ensure that it observes the principle of non-refoulement and the prohibition of arbitrary and collective expulsion, including in respect of nationals of States that are not members of ECOWAS.

19. Please provide information on the measures taken to ensure that migrant workers and members of their families are detained for violations of immigration laws only as a last resort and for the shortest period of time possible and to offer alternatives to immigration detention.

20. Please describe the measures that have been taken to ensure that children and families are never detained for reasons related to immigration enforcement and that alternatives to detention that are designed to protect children's rights are available, in line with joint general comment No. 4 of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families/No. 23 of the Committee on the Rights of the Child (2017).

21. Please provide disaggregated data on the number of migrant workers detained for breaches of immigration law and on the location, type of proceedings, reasons for detention, average length of detention, conditions of detention and efforts made to improve those conditions. Please provide information on holding centres for migrant workers and on the conditions of detention at such centres, how many such centres there are and their geographical location and distribution, and specify, in particular, the following:

- (a) Whether persons detained for immigration-related reasons are systematically separated from ordinary prisoners;
- (b) Whether women are separated from men;
- (c) Whether female prisoners are under the supervision of female guards;
- (d) Whether victims of trafficking in persons are identified and provided with adequate protection and redress.

22. Please provide information on the safeguards in place in the State party to ensure that, in immigration-related proceedings, including expulsion proceedings, migrant workers and members of their families, in particular those in an irregular situation, are provided with due process, including legal assistance and interpretation, as necessary, and access to information in a language they understand. Please indicate whether migrant workers can challenge expulsion orders and whether such remedies have suspensive effect. Please also indicate how the right to family life, in particular the right of migrant children not to be separated from their parents in case of an expulsion order against the latter, is guaranteed. Please provide up-to-date information, including disaggregated data, on migrant workers and their families in an irregular situation who have been or are in the process of being expelled.

Article 23

23. Please describe the measures taken to ensure that consular services respond effectively to the protection and assistance needs of Gambian migrant workers and members of their families abroad, including those in an irregular situation, and in particular those who are victims of abuse, deprived of their liberty and/or subject to expulsion measures. Please indicate the measures taken to strengthen the consular presence in border areas. Please provide details of the efforts made to inform Gambian migrant workers and members of their families abroad about ways of accessing consular services and to increase collaboration with host countries and of the financial and human resources allocated to consular officers and the capacity-building programmes offered to them.

Articles 25 to 30

24. Please provide information on the following:

- (a) Existing legal and labour protection and enforcement mechanisms to ensure that migrant workers, including women, in particular in the tourism industry and in the construction, transport, agricultural, domestic work and other sectors, enjoy decent work and treatment not less favourable than that enjoyed by nationals in respect of remuneration and conditions of work;

(b) Measures taken to promote the rights of Gambian migrant workers abroad;

(c) Measures taken to ensure that bilateral and multilateral agreements on labour migration include social security provisions in order to facilitate the transfer of social security contributions paid by Gambian nationals to countries of migration, to create a mechanism for extending social security coverage to the families of Gambian nationals working abroad and to enable women, who work mainly in the informal sector and have thus far had limited access to social security, to benefit fully from it;

(d) The negative impact of the tourism industry on young Gambians, in particular with regard to education.

25. Please also provide information on the measures taken:

(a) To ensure access to health care, including emergency medical care and mental health care, for all migrant workers and members of their families, including those in an irregular situation and those who have been victims of violence, in particular gender-based violence;

(b) To guarantee that children born to migrant workers are registered, regardless of the parents' migratory status, and that those children are provided with personal identity documents;

(c) To ensure that the children of migrant workers, in particular those in an irregular situation and asylum-seekers, have full access to education, including disaggregated data on access to public preschools, schools and universities;

(d) To guarantee that health facilities and schools are not obliged to report children with an irregular migration status to the authorities.

4. Part IV of the Convention

Article 37

26. Please provide information on the following:

(a) Targeted pre-departure and awareness-raising programmes for Gambian nationals wishing to emigrate, including the information with which they are provided on the conditions of their admission and employment and on their rights and obligations in the State of employment;

(b) Measures taken to regulate and supervise private recruitment agencies, including regular checks, to prevent abusive recruitment practices.

Articles 41 and 42

27. Please provide information on the measures taken to ensure that Gambian migrant workers residing abroad and members of their families are able to exercise their rights to vote, participate in public affairs and be elected to public office.

Articles 44 and 50

28. Please describe the measures taken:

(a) To ensure the protection of the unity of the families of migrant workers and facilitate the reunification of migrant workers with their spouses or persons with whom they are in a relationship that, according to applicable law, produces effects equivalent to marriage and with their dependent unmarried children, including in the context of expulsion procedures;

(b) To grant a residence permit to family members in the case of the death of a migrant worker or the dissolution of a marriage.

Articles 46 to 48

29. Please provide information on the following:

- (a) Legislation relating to import and export duties and taxes in respect of personal and household effects and necessary work-related equipment of migrant workers;
- (b) Existing policies to enhance the portability of social security and other entitlements and benefits;
- (c) Measures taken to avoid double taxation of the earnings and savings of migrant workers and members of their families;
- (d) Existing policies to facilitate remittances and the legal framework giving migrant workers the right to transfer their earnings and savings from the State of employment to the State of origin.

Article 49

30. Please indicate the following:

- (a) The measures taken to ensure that, in the event that their remunerated activity is terminated before the expiration of their work permit, migrant workers do not have their residence permit withdrawn and thus fall into an irregular situation, at least for a period corresponding to that during which the migrant worker may be entitled to unemployment benefits;
- (b) Whether legislation allows migrant workers to remain in the State party upon termination of their contracts, regardless of the reason for such termination, in order to seek alternative employment and to participate in public work schemes and retraining activities.

5. Part V of the Convention**Articles 58 to 63**

31. Please provide information on measures taken to ensure that frontier, seasonal and itinerant workers enjoy equal treatment to that enjoyed by workers who are nationals of the State party, in particular with respect to remuneration and conditions of work, and to ensure systematic monitoring by the relevant authorities of employers' compliance with relevant international labour standards.

6. Part VI of the Convention**Article 64**

32. Please provide information on measures taken, including consultations and cooperation with other States, to promote sound, equitable and humane conditions in connection with the international migration of migrant workers and members of their families, including through multilateral and bilateral agreements. Please include information on how such measures have been mainstreamed into overall migration policies and programmes, including the National Migration Policy, and how they address the social, economic, cultural and other needs of migrant workers and members of their families.

33. Please describe the measures taken:

- (a) To address the irregular migration of nationals of the State party, including through multilateral and bilateral agreements, policies and programmes aimed at enhancing legal migration channels and at addressing the root causes of irregular migration;
- (b) To promote regular pathways for migrants and members of their families;
- (c) To integrate those measures into overall migration policies and programmes, including the National Migration Policy for the period 2020–2030 and the labour migration strategy and its action plan for the period 2022–2026, and indicate whether there has been a reduction in the number of irregular migrants as a result of such measures;

(d) To provide information on campaigns aimed at countering misleading information relating to irregular migration and raising awareness among the population, including women and children, of the risks and dangers of irregular migration, and on the measures taken to assist returning migrant workers and members of their families in resettlement and reintegration into the economic and social life of the State party;

(e) To provide information on measures taken to address the phenomenon of children left behind by a parent or parents going abroad for work, in order to ensure that they are appropriately provided and cared for.

Article 66

34. Please provide information on the establishment in the State party of private agencies for the employment of migrant workers abroad. Please also provide information about the legal framework for the functioning of such agencies and about the laws, rules and regulations relating to private recruitment.

35. Please identify the provisions to prevent the unlawful recruitment of migrant workers in the State party through the establishment of a transparent licensing system and monitoring and inspection procedures for recruitment.

36. Please indicate what legal and labour law protection and enforcement mechanisms have been put in place, including within the framework of the common approach to migration of ECOWAS, to ensure that migrants, including women, enjoy the same rights as nationals of the State party.

Article 67

37. Please provide information on the signing of bilateral and multilateral agreements with countries of destination and transit over the past five years with the objective of promoting regular and safe migration. In this regard:

(a) Please indicate whether a survey of the memorandums of understanding and bilateral agreements with countries hosting Gambian migrant workers has been carried out with a view to including provisions in line with articles 22 and 67 of the Convention;

(b) Please provide information on the activities reportedly carried out jointly by the Civil Guard of Spain and the defence and security forces of the Gambia to control migratory flows;

(c) Please describe the measures taken to consult civil society before negotiating bilateral agreements on the recruitment of Gambian migrants for work abroad;

(d) Please indicate the progress that has been made towards the adoption of an appropriate legal framework for the assistance and protection of returning migrant workers and returnees;

(e) Please describe the cooperation programmes and readmission agreements in place between the State party and relevant States of employment for the voluntary return of migrant workers and members of their families to the State party to facilitate their sustainable reintegration when they decide to return or when they are in the State of employment in an irregular situation;

(f) Please also describe the cooperation programmes between the State party and relevant States of employment on promoting adequate economic conditions for the resettlement and reintegration of migrant workers in a regular situation in the State party;

(g) Please indicate the measures taken to assist returning migrant workers and members of their families, including by promoting conditions that facilitate their reception and reintegration and by recognizing practical work experience and occupational qualifications acquired abroad;

(h) Please provide disaggregated statistical data on readmitted migrants.

38. Please provide information about cooperation initiatives at the regional level, in particular with States members of ECOWAS, and data on the evaluation of cooperation

programmes for the management of voluntary returns of migrant workers and members of their families to the national territory. Please indicate the initiatives developed by the State party within the framework of the Africa Migration Data Network, established in 2021.

Article 68

39. Please provide information on the measures taken to prevent and combat trafficking in persons, in particular women and children, including through international, regional and bilateral cooperation with countries of origin, transit and destination and on the relevant resources, including human and financial resources, allocated to that end. Please indicate the progress made in adopting laws to criminalize the smuggling of migrants, in particular by enacting the smuggling of migrants bill. Please also elaborate on the following:

(a) Programmes to prevent smuggling and trafficking in persons, effectively protect victims and ensure their access to justice and legal remedies, and the progress made towards the adoption of the national action plan on the smuggling of migrants;

(b) Efforts made to effectively and impartially investigate all acts of smuggling and trafficking in persons, in particular women and children, and to prosecute and punish perpetrators and accomplices, including public officials, and the number of legal cases and convictions handed down, the type of sentences imposed and the reparations provided to the victims;

(c) Measures taken to combat smuggling networks;

(d) The status of implementation of the national trafficking in persons referral and guidance mechanism, indicating whether it is known to stakeholders and beneficiaries, in particular women and children, and whether its offices are accessible throughout the territory of the State party;

(e) Measures taken to ensure that women in transit who are stranded in the State party are not forced to resort to prostitution in order to survive, and to combat the exploitation of prostitution;

(f) Capacity-building programmes on human rights and on smuggling and trafficking in persons and the measures taken to provide appropriate training to law enforcement officers, judges, prosecutors, labour inspectors, service providers, teachers, embassy and consulate staff, members of the media and other relevant professionals in the State party;

(g) The annual budget dedicated to detecting and eliminating smuggling and trafficking in persons and to providing protection to victims;

(h) Measures taken to strengthen the collection of data on victims, disaggregated by sex, age and origin, in order to prevent smuggling and trafficking in persons;

(i) Whether victims of smuggling and trafficking in persons may be granted temporary or permanent residence permits;

(j) Measures taken to widely disseminate information on smuggling and trafficking in persons, the risks associated with irregular migration and sea crossings and the assistance available for victims, including through prevention campaigns, and measures taken to combat the dissemination of misleading information relating to emigration and immigration;

(k) Measures taken to strengthen international, regional and bilateral cooperation to prevent and combat smuggling and trafficking in persons;

(l) Measures taken to ensure the search for and rescue of migrants who have disappeared at sea and in the desert, indicating whether the State party has made efforts to ensure that preventive measures, effective and thorough investigations, the use of forensic information, the location and identification of remains and international cooperation with regard to the disappearance of migrants are provided for in its national legislation.

Article 69

40. Please provide information on any measures taken to ensure that migrant workers and members of their families in an irregular situation in the State party have the opportunity to regularize their situation in accordance with the provisions of article 69 of the Convention. Please describe actions taken by the State party, including through bilateral and multilateral agreements, to improve the protection and assistance afforded to its nationals abroad, including efforts to promote the regularization of their situation. Please provide concrete examples and collected data.

Section II

41. The Committee invites the State party to provide information, not to exceed 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 regulations;
- (b) Institutions and their mandates or institutional reforms;
- (c) Policies, programmes and action plans covering migration and their scope and financing;
- (d) Recent ratifications of human rights instruments and other relevant instruments;
- (e) Recent comprehensive studies on the situation of migrant workers and members of their families.

Section III**Data, official estimates, statistics and other information**

42. Please provide updated disaggregated statistical data and qualitative information for the past five years on the following:

- (a) The volume and nature of migratory movements to, from and in transit through the State party since the Convention entered into force in the State party;
- (b) Migrant workers, disaggregated by age, sex, nationality and/or origin, in detention in the State party, and migrant workers who are nationals of the State party and are detained abroad in States of employment, and whether such detention is immigration-related, depending on the country of detention;
- (c) Migrant workers and members of their families who have been expelled from the State party;
- (d) Unaccompanied migrant children or migrant children separated from their parents in the State party;
- (e) Remittances received from nationals of the State party working abroad, disaggregated by host country;
- (f) Reported cases of trafficking in and smuggling of migrants, investigations, prosecutions and sentences imposed on traffickers, disaggregated by sex, age, nationality and purpose of trafficking;
- (g) Legal assistance services provided to migrant workers and members of their families in the State party and to nationals working abroad or in transit through third States.

43. Please also provide any additional information on any important developments and measures to implement the Convention relating to the protection of the rights of migrant workers and members of their families that are considered a priority.

44. Please submit an updated common core document in line with the harmonized guidelines on reporting.¹ In accordance with paragraph 16 of General Assembly resolution 68/268, the common core document should not exceed 42,400 words.

¹ [HRI/GEN/2/Rev.6](#).