



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

Distr.: General
21 December 2023
English
Original: French
English, French and Spanish only

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

List of issues in relation to the initial report of Benin*

I. General information

1. In addition to the information provided in the State party's report,¹ please inform the Committee in detail about the domestic legal framework regarding the Convention, including:

(a) Laws concerning the protection of migrant workers and members of their families under the Convention, and specifically Act No. 2017-05 of 29 August 2017;

(b) The measures taken by the State party to bring its legislation into line with the Convention, in particular with regard to the detention and expulsion of persons in an irregular situation;

(c) The existence of bilateral and multilateral agreements concluded with other non-member States of the Economic Community of West African States (ECOWAS), in particular with the three main Asian countries of origin of migrant workers indicated in the State party's report (China, India and Lebanon), concerning the rights that the Convention confers on migrant workers and members of their families, and their scope of application; please specify how these agreements protect migrant workers' rights in transit and destination countries, especially with respect to detention, repatriation, expulsion and family reunification procedures; please also provide information on any measures taken to strengthen the protection of Beninese migrant workers abroad, including by reviewing and amending the bilateral and multilateral agreements;

(d) The State party's intention to ratify regional treaties on migration and employment.

2. Please provide information on the countries of origin of irregular migrants in the State party, in particular those of migrants from ECOWAS member States.

3. Please provide further information about the policies and strategies relating to the rights of migrant workers and members of their families in the State party. Please also provide information on the human, technical and financial resources allocated to the implementation of those programmes and strategies.

4. Please provide information on the government ministry or institution responsible for intergovernmental coordination and coordination with civil society organizations on the implementation of the Convention in the State party, including information on the available staffing and resources, monitoring activities and follow-up procedures. Please also provide information on the mandate of that ministry or institution and the resources allocated to it for promoting, protecting and upholding the rights of migrant workers and members of their families under the Convention.

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

¹ [CMW/C/BEN/1](#).



5. In light of the information provided by the State party during the fourth cycle of the universal periodic review on the operationalization of the Benin Human Rights Commission,² please provide information on the measures taken to strengthen the Commission's mandate and operational capacities in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). Please also provide information on the human, technical and financial resources made available to the Commission to enable it to carry out activities relating to the application of the Convention, as well as on complaints received by the Commission from migrant workers and members of their families, the manner in which they have been dealt with and the results obtained. In particular, provide information on the work of the Subcommission on Children, Statelessness, Refugees, Immigrants and Internally Displaced Persons and its strategies related to migrant workers and their families.

6. In light of the information on migration flows contained in paragraphs 41–51 of the State party's report, please provide information on the measures taken to collect qualitative and statistical data on nationals of the State party working abroad in an irregular situation. Please provide qualitative information and statistical data, disaggregated by sex, age, nationality and migration status, covering the last three years, on labour migration movements to and from the State party, including returns; other labour migration-related issues; and unaccompanied children and children left behind by migrant parents. Please provide statistical data on infant mortality rates among migrant families and on the strategies put in place to reduce infant and child mortality and maternal mortality and to address ritual infanticide. Please also provide qualitative and statistical data or, if precise data are not available, data based on studies or estimates, on migrant workers and their families in an irregular situation in the State party and abroad, in particular those working in less regulated sectors such as agriculture and domestic service. In addition, please provide information on measures taken by the State party to establish a coherent and comparable system of data collection on those issues, including measures aimed at making the information public.

7. Please indicate whether the State party intends to make the declarations provided for in articles 76 and 77 of the Convention and hence to recognize the competence of the Committee to receive communications from States parties and individuals, specifying, where necessary, the constraints and challenges that explain why it has not yet done so. Please also indicate whether the State party is considering ratifying the following instruments:

- (a) The International Labour Organization (ILO) Migration for Employment Convention (Revised), 1949 (No. 97), having already ratified the ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143);
- (b) The ILO Labour Inspection (Agriculture) Convention, 1969 (No. 129);
- (c) The ILO Occupational Safety and Health Convention, 1981 (No. 155);
- (d) The ILO Protection of Workers' Claims (Employer's Insolvency) Convention, 1992 (No. 173);
- (e) The ILO Home Work Convention, 1996 (No. 177);
- (f) The ILO Private Employment Agencies Convention, 1997 (No. 181);
- (g) The ILO Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187);
- (h) The ILO Domestic Workers Convention, 2011 (No. 189);
- (i) The ILO Violence and Harassment Convention, 2019 (No. 190);
- (j) The Protocol of 1990 to the ILO Night Work (Women) Convention (Revised), 1948 (No. 89);
- (k) The Protocol of 1995 to the ILO Labour Inspection Convention, 1947 (No. 81).

8. In view of the multilingual character of the State party, the information provided on the countries of origin of migrant workers and the low level of awareness of international,

² See [A/HRC/WG.6/42/BEN/1](#).

regional and/or national provisions in favour of migrant workers and members of their families, please indicate the measures taken to make migrant workers who do not speak French aware of their rights under the Convention. Please also describe the measures taken to:

(a) Provide State officials dealing with migration and related issues with training on the rights of migrant workers and members of their families, to ensure that they are protected from arbitrary arrest and detention, forced labour, torture and ill-treatment, gender-based violence and violence against children, including sexual violence, and unlawful killings; specifying the kind of legal assistance provided in these situations;

(b) Make the Convention widely known, particularly in local languages, promote its implementation and familiarize the general public, migrant workers and members of their families and relevant professionals with its provisions.

9. With reference to paragraphs 38–40 of the State party’s report, please describe how civil society organizations participate in the implementation and dissemination of the Convention. Please explain the type of support they receive for this purpose and their involvement in the preparation of the State party’s periodic reports and the responses to the present list of issues. Please indicate whether there is a platform accessible to migrant workers on civil society organizations that can assist them.

II. Information relating to the articles of the Convention

A. General principles

10. Please provide information on the provisions of the Convention that have been directly applied by government officials, as well as on current case law, i.e. court decisions in which the Convention has been directly invoked. Please provide information on the ordinary courts competent to investigate and rule on complaints from migrant workers in a regular or an irregular situation and members of their families, in particular:

(a) The number and type of complaints examined by such entities and their outcome, with data disaggregated by sex, age, nationality, field of occupation and migration status;

(b) Whether legal assistance was provided;

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

11. Please also provide information on the procedures for lodging complaints, as well as on the number of complaints from regular and irregular migrant workers and members of their families examined by the Mediator of the Republic, the nature of these complaints and the decisions to which they gave rise, breaking down the data by sex, age, nationality, field of activity and migratory status.

B. Part II of the Convention

Article 7

12. 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, whether or not 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:

(a) The existence of a comprehensive anti-discrimination legislative framework that ensures, inter alia, that all migrant workers and members of their families can exercise their 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) The measures taken both to review the State party's legislation with a view to repealing all discriminatory provisions to which migrant workers and members of their families are subject and to adopt comprehensive anti-discrimination legislation, specifying the measures taken to explicitly prohibit and eliminate all forms of discrimination against women and girls, as well as the status of the implementation of a comprehensive strategy in this respect;

(c) The 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;

(d) The measures taken to guarantee non-discrimination and mitigate the impact of the effects of climate change, including natural disasters such as floods, droughts, cyclones, bush fires caused by desertification, and environmental degradation, on the human rights of migrants, and to contribute to greater climate justice.

13. Please provide information on any cases of racism and xenophobia, discrimination, ill-treatment and violence directed at migrant workers and members of their families, and 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 to protect the rights of the victims, including their right to access to justice. Please include quantitative and qualitative information on the types of cases of discrimination and xenophobia, disaggregated by the victim's sex, age, nationality, ethnic origin, migratory status and disability.

14. Please specify whether Act No. 2011-26 of 9 January 2012 on the prevention and repression of violence against women affords protection to migrant working women and to the wives and daughters of migrant workers and indicate the number of cases recorded of violence against women and girls. Please provide information about normative, institutional and procedural measures adopted by the State party to prevent and combat all forms of racism, xenophobia, discrimination, ill-treatment and violence and to protect the rights of the victims, including their right to access to justice.

15. Please provide updated information on measures taken to ensure that, in particular, migrant workers who are not nationals of ECOWAS member States and members of their families are not discriminated against in practice.

C. Part III of the Convention

Articles 8–15

16. With reference to paragraphs 103 and 104 of the State party report, please provide information on the measures taken to ensure in practice that migrant workers, particularly women and those in an irregular situation, are protected from forced or compulsory labour under the relevant ILO Conventions on the prohibition and the abolition of forced labour,³ which the State has ratified and transcribed into the Labour Code. Please provide information on the measures taken by the State party to respect the freedom of parents and legal guardians to ensure the religious and moral education of their children in conformity with their own convictions, in accordance with article 12 of the Convention.

Articles 16–22

17. Please provide information on migrant workers in detention in the State party, including their nationality, and on migrant workers who are nationals of the State party who have been detained abroad in countries of employment or transit, specifying whether their detention was related to their migratory status. Please also provide information on cases of migrant workers detained at border posts and repatriated, indicating whether the persons

³ ILO Forced Labour Convention, 1930 (No. 29) and Abolition of Forced Labour Convention, 1957 (No. 105).

concerned were able to appeal against the repatriation decision and whether they received consular assistance from their country of origin.

18. With reference to paragraph 179 of the State party report, please clarify whether immigration-related offences are criminalized in the State party and describe the corresponding due process safeguards, including access to a lawyer and an interpreter, in situations of investigations, arrests, detentions and expulsions of migrant workers and members of their families for immigration-related offences. Please describe the measures take to guarantee that children and members of their families are never detained for immigration control purposes and that alternative measures are taken in order to protect children's rights, in line with the joint general comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families and No. 23 (2017) of the Committee on the Rights of the Child. Please provide information on migrant detention centres, the conditions of detention for migrant workers and members of their families and the measures taken to improve those conditions, including whether persons detained for immigration-related reasons are held in separate facilities or together with convicted persons or persons detained pending trial. Please provide updated information on the measures taken to implement the Committee's previous recommendation that migrant workers in an irregular situation should be detained only as a measure of last resort and with respect for the rules of due process, in line with its general comment No. 5 (2021). Please also provide information on the measures taken to facilitate access to detention centres by domestic, regional and international organizations, in order to monitor the human rights situation and provide humanitarian assistance to detainees, including that offered by the International Organization for Migration and other partners.

19. Please provide information on measures taken by the State party to improve coordination with Nigeria, the Congo and other West African countries on extradition.

Article 23

20. With reference to paragraphs 171–174 of the State party's report, please provide information on the geographical distribution of embassies and consulates and their role, as well as that of labour attachés, in assisting and protecting Beninese nationals working abroad, including those in an irregular situation, and particularly in cases of ill-treatment, arrest, detention or expulsion. Please indicate the number of Beninese nationals who have renewed their passports from abroad since 2020. Please provide detailed disaggregated data on the number of nationals of the State party working abroad or in transit in third countries, including those who have been arrested, detained or expelled, and indicate whether legal aid services have been provided.

Articles 25–27

21. With reference to paragraphs 105 and 183 of the State party report, please provide details of the measures taken to guarantee in practice the fundamental rights of migrant workers, in particular those employed in the informal sector, namely the right to receive the national minimum wage and to have access to social protection and social security services, including retirement pensions, as well as on the data collected by the labour inspection services. Please provide information on the mechanism used by the Labour Inspectorate to monitor the working conditions of both regular and irregular migrant workers, the human, material and other resources available to them, the number of visits carried out in this context, the notifications sent to employers and the follow-up given to complaints received.

22. Please provide information on measures taken to promote access to social security and social assistance and on the registration of migrant workers, particularly women, with the social protection system in accordance with the ILO Social Security (Minimum Standards) Convention, 1952 (No. 102), which the State has ratified.

Articles 28–31

23. With reference to paragraphs 132–135 of the State party's report, please provide information on the measures taken to ensure, in law and in practice, that children of migrant workers have full access to primary and secondary education, regardless of their migration

status. Please provide data, disaggregated by sex, age, nationality and migration status, on the levels of school enrolment and attendance among children of migrant workers, in particular those in an irregular situation, in the State party's education system. Please provide data and information on child labour and the presence of unaccompanied children in the agricultural and informal sectors in the State party.

24. With reference to paragraph 182 of the State party's report, please provide information on what the State party has done to ensure, in law and in practice, that all migrant workers and members of their families have adequate access to health services, including emergency medical care.

Articles 32 and 33

25. With reference to paragraphs 156–159 of the State party's report, please describe the measures taken to ensure that migrant workers and members of their families living in the State party are able to transfer their earnings and savings on termination of their stay. Please also provide statistical data on the trends, amounts and size, as well as the geographical distribution, of remittances sent by migrant workers to and from the State party, both through the formal banking system and through informal systems. Please indicate the measures taken by the State party to channel, stimulate, attract and direct remittances from migrants, their evolution and their breakdown by country of origin. Please provide information on whether there is a strategy to involve migrants in the development of the State party.

26. Please describe the measures taken to inform Beninese nationals who intend to work abroad of their rights and obligations in the State of employment. Please also provide information on the availability or otherwise of pre-departure sessions for family members of migrant workers and persons migrating for the purpose of family reunification.

D. Part IV of the Convention

Articles 36–56

27. With reference to paragraphs 61 and 62 of the State party's report, please provide information on the measures taken to ensure that Beninese migrant workers residing abroad and members of their families are able to exercise their right to vote, to participate in public affairs and to be elected to public office. Please provide data, disaggregated by age, sex and country of residence, on the number of migrant workers and their family members residing abroad who exercised their right to vote in the 2023 parliamentary elections, as well as information on the measures taken to facilitate the exercise of their right to vote.

28. With reference to paragraphs 142–147 of the State party's report, please describe the measures taken to:

(a) Ensure the protection of the unity of the families of migrant workers and to facilitate the reunification of migrant workers with their spouses or persons who have with the migrant worker a relationship that, according to applicable law, produces effects equivalent to marriage, as well as with their minor dependent unmarried children, including in the context of deportation proceedings;

(b) Issue residence permits to family members in cases of the death of a migrant worker or the dissolution of the marriage.

29. Please clarify whether it is possible under, when a remunerated activity ceases before the expiry date of the work permit, for the migrant worker's residence permit not to be withdrawn, in order to avoid the worker being placed in an irregular situation, and whether the legislation allows migrant workers to remain in the State party after termination of their contract, for whatever reason, in order to seek alternative employment, participate in programmes of public interest and follow retraining courses.

E. Part VI of the Convention

Articles 64–71

30. With reference to paragraphs 175–178 of the State party's report, please provide information on the measures implemented to promote sound, equitable and humane conditions in connection with international migration of migrant workers and members of their families, and to address irregular migration to and from the State party, in particular that of unaccompanied or separated children, including by means of multilateral and bilateral agreements, policies and programmes aimed at strengthening legal migration channels and addressing the root causes of irregular migration.

31. Please indicate what steps have been taken to adopt a comprehensive law on trafficking in and smuggling of persons, in accordance with the Protocols to the United Nations Convention against Transnational Organized Crime, a policy to combat such practices and a strategy to end trafficking in persons for the purpose of sexual exploitation. Please indicate what resources the State party has allocated to prevent and combat trafficking in persons, especially women and children. Please also specify the institutional body responsible for centralizing activities to combat trafficking in persons. In particular, provide information on:

(a) Any cases of domestic servitude, forced labour or sexual exploitation of migrant workers identified by the State party, including in the context of sex tourism, and measures to prevent and combat these phenomena;

(b) The programmes aimed at preventing trafficking in persons, effectively protecting victims of trafficking and ensuring their access to justice and judicial remedies;

(c) The mechanisms that enable the effective identification of traffickers and victims of trafficking;

(d) The efforts made to conduct effective and impartial investigations, investigate all cases and punish all acts of trafficking, including the number of judgments, the number of convictions, the nature of sentences and the reparations granted to victims;

(e) The shelters set up, support provided and programmes implemented to help victims rebuild their lives, in particular by promoting their physical, psychological and social rehabilitation;

(f) The measures taken to provide appropriate training and capacity-building to law enforcement officials, judges, prosecutors, labour inspectors, service providers, teachers, embassy and consulate staff and other relevant professionals in the State party;

(g) The annual budget allocated to the detection and elimination of cases of trafficking and the protection of victims;

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

(i) The possibility for victims of trafficking and people smuggling to obtain a temporary or permanent residence permit;

(j) The measures taken to ensure the broad dissemination of information on smuggling and trafficking in persons, the risks associated with irregular migration and assistance to victims, including through prevention campaigns, and measures taken to counter the dissemination of misleading information on emigration and immigration;

(k) The measures taken to improve international, regional and bilateral cooperation to prevent and combat trafficking in persons and people smuggling;

(l) The measures taken to ensure the conduct of search and rescue operations for missing migrants; also indicate whether the State party has endeavoured to incorporate into its national legislation preventive measures, prompt and thorough investigations, the use of forensic information, the exhumation and identification of remains and international cooperation in relation to the disappearance of migrants.

32. With reference to paragraphs 180 and 181 of the State party's report, please provide information disaggregated by sex, age and origin on migrant workers and members of their families in an irregular situation in the State party who have benefited from the measures mentioned in those paragraphs to regularize their situation in accordance with the provisions of article 69 of the Convention. Please describe the steps taken by the State party, including the signing of bilateral and multilateral agreements, to improve the protection and assistance provided to its nationals abroad, including initiatives taken to facilitate the regularization of their situation. Please provide specific examples and make available the data collected.
