



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

Distr.: General
4 January 2024
English
Original: Spanish
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 fourth periodic report of Mexico*

Section I

A. General information

1. Please provide detailed information on measures taken to harmonize the national legal framework with the Convention, particularly the Constitution and federal, state and municipal legislation, on progress achieved in the legislative process to amend article 33 of the Constitution, on the harmonization of the Migration Act with the General Act on the Rights of Children and Adolescents and the General Act on Enforced Disappearance of Persons, Disappearance Perpetrated by Individuals and the National Missing Persons System and its draft regulations, and on measures taken to ensure the application of this legislation, based on the recommendations issued by the Committee in its previous concluding observations¹ and the follow-up letter sent by the Committee to the State Party on 5 October 2022.²

2. Also provide information on the existence and scope of bilateral and multilateral migration agreements with other countries in the Americas, including information on agreements related to irregular migration concluded with the United States of America, and on negotiations that have taken place with the Governments of the Bolivarian Republic of Venezuela, Brazil, Colombia, Cuba and Nicaragua regarding the reception of nationals of these countries who have been deported at the border between Mexico and the United States. Please specify the extent to which these and any other agreements contain provisions that serve to protect the rights of Mexican migrant workers in destination countries and the rights of migrants of other nationalities in Mexico.

3. In the light of the Committee's previous recommendations,³ please provide information on steps taken to apply a human rights-based approach that includes a gender perspective and is focused on children and non-discrimination in the work of all agencies with migration-related responsibilities and to keep human rights central to inter-agency coordination efforts and the implementation of the relevant policies at the federal, state and municipal levels.

4. Please provide qualitative information and statistical data, disaggregated by sex, age, nationality, ethnic and racial origin, gender identity, disability and migration status, on migration movements – including labour migration movements – to and from the State party,

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

¹ [CMW/C/MEX/CO/3](https://www.unhcr.org/refugees-and-migrants/press-releases/2023/11/23-cmw-c-mex-co-3).

² See https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCMW%2FFUL%2FMEX%2F50353&Lang=en.

³ [CMW/C/MEX/CO/3](https://www.unhcr.org/refugees-and-migrants/press-releases/2023/11/23-cmw-c-mex-co-3), para. 14.



including information on migrants in transit, returns, unaccompanied and separated children and children left behind when their parents have emigrated. Please also provide qualitative and statistical data or, if precise data are not available, details of studies or estimates, on migrant workers in an irregular situation in the State party and Mexican migrants abroad.

5. Please describe the steps taken to strengthen the National Human Rights Commission to enable it to prevent, monitor and investigate human rights violations that occur in immigration detention centres (migrant holding centres and other facilities) and during migration checks and controls of migrants in transit and to promote the rights of migrants and their families. Also provide information on the Commission's human, technical and financial resources, the services that it provides for migrant workers and their families, such as complaints mechanisms and helplines, and the action taken to put an end to the immigration detention of children, families and other persons in vulnerable situations and ensure that adult migrants are detained only as an exceptional measure of last resort, for the shortest possible time, and that they benefit from all procedural safeguards and appropriate conditions that conform to applicable standards.

6. In the light of the Committee's previous recommendation,⁴ please provide information on measures taken to improve training initiatives on the rights enshrined in the Convention, other treaties and national legislation on this subject designed for officials of the National Institute for Migration and other institutions at the federal, state and municipal levels, including all security forces involved in migration-related matters, the bodies of the judiciary, officials of the Ministry of Foreign Affairs and other public officials that work on migration-related issues.

7. Please provide information on initiatives and resources intended to facilitate and reinforce the broad and systematic participation of civil society representatives working on issues related to migrant workers' rights, including in the design and evaluation of migration-related policies, inter alia. Please indicate whether civil society organizations were involved in the preparation of the responses to this list of issues. Also provide information on the measures adopted to guarantee the life, liberty and integrity of migrant rights defenders, including measures to prevent, investigate and ensure appropriate penalties for abuse and attacks against them and to publicly acknowledge their work.

8. Please provide information on measures taken to prevent and punish violations of the human rights of migrants, such as harassment, corruption and abuse of authority on the part of law enforcement officials, including cases of extortion involving the families of detained migrants, and on the establishment of safe, gender- and child-sensitive spaces and mechanisms to protect complainants from reprisals, in line with the Committee's recommendation.⁵ Please indicate how many reports related to such violations have been registered, investigated, prosecuted and punished, and provide information on measures taken to ensure access to justice and reparation, including in cases where the victims are migrants who have subsequently migrated or returned to another country. Also provide information on the measures taken to comply with recommendation No. 34/2021 of the National Human Rights Commission concerning the case of Ms. Victoria Salazar, a Salvadoran migrant living in Mexico with refugee status who died in March 2021 during a police operation in the state of Quintana Roo.

B. Information relating to the articles of the Convention

1. General principles

9. Please provide examples of cases in which the Convention has been applied by courts, administrative authorities and consular offices. Also provide information on:

(a) The judicial and/or administrative mechanisms competent to examine and adjudicate complaints made by migrant workers and members of their families, including those in an irregular situation;

⁴ Ibid., para. 18.

⁵ Ibid., para. 24.

- (b) The number and type of complaints examined by such entities since 2017 and their outcome, disaggregated by sex, age, nationality, field of occupation and migration status;
- (c) Whether legal assistance was provided in these cases;
- (d) Any reparations granted to victims of violations of rights protected under the Convention;
- (e) Measures taken to inform migrant workers and members of their families about the remedies available to them in the event that their rights are violated.

2. Part II of the Convention

Article 7

10. In the light of the Committee's previous recommendation,⁶ please share details of the measures taken to ensure that all migrants and members of their families enjoy the rights protected under the Convention without distinction of any kind. Provide information on measures taken to prevent xenophobia and its impact on the rights of migrants and their families, on any form of social, institutional and communicational criminalization of migration – especially irregular migration – and on efforts made to promote a migration narrative with a focus on human rights and intercultural integration.

3. Part III of the Convention

Articles 8–15

11. In the light of the Committee's previous recommendation,⁷ please provide information on measures taken to guarantee respect for the labour rights of women migrant workers, including domestic workers, within a framework of equality and non-discrimination and particularly as regards access to social security, pay, work contracts, termination and compensation, irrespective of their migration status. Describe the steps taken to:

- (a) Improve oversight of the working conditions of women migrant workers, make it easier for them to report abuse without fear of reprisals and ensure that those responsible are investigated and punished;
- (b) Facilitate access to justice and guarantee effective reparation, including in cases of sexual harassment and bullying, indicating the number of cases investigated, prosecuted and punished and the number in which reparations were made;
- (c) Ensure that the mechanisms used to select applicants for bilateral labour migration programmes are gender-sensitive;
- (d) Facilitate the participation of women migrant workers in trade unions and non-governmental organizations, including associations of domestic workers;
- (e) Ensure that the Mexican Commission on Assistance for Refugees recognizes that gender-based violence is a factor relevant to the granting of refugee status and guarantees a safe environment during the asylum application procedure.

Articles 16–35

12. In the light of the Committee's previous recommendations⁸ and its follow-up letter dated 5 October 2022, please provide detailed information on the measures adopted to ensure access to justice and reparation for all migrants and their families in respect of abuses and violations of rights established in the Convention, in accordance with the General Victims Act. In particular, please describe any measures adopted with a view to escalating efforts to investigate the massacres in Tamaulipas and Nuevo León – including the possible responsibility, by act or omission, of State agents – thoroughly and independently and to

⁶ Ibid., para. 26.

⁷ Ibid., para. 30.

⁸ Ibid., paras. 32 and 34.

punish all those responsible, as well as the efforts made to shed light on possible irregularities in the investigation and guarantee the rights to truth, justice and reparation for all direct and indirect victims. Also provide information on measures taken to reinforce the prevention, investigation, prosecution and punishment of enforced disappearances, abductions, gender-based violence and other offences committed against migrants and Mexicans in transit, taking into account the recommendations issued by the Committee on Enforced Disappearances.⁹

13. Please indicate whether an expansion of the mandate and increase in the funding of the Forensic Commission has been approved to enable it to address any situation considered a serious violation of the human rights of migrants. Provide information on the measures adopted to ensure that the Mechanism for Mexican Support in Search and Investigation Activities Abroad is fully operational, with the guidelines adopted in 2022 being applied, and to enhance the National Register of Missing and Disappeared Persons by cross-checking its content against information compiled by institutions recognized in the field with a view to updating the data contained therein. Please describe the steps taken to strengthen cooperation between the competent Mexican authorities (the Attorney General's Office, the Ministry of Foreign Affairs, the Executive Commission for Victim Support and the National Search Commission), and between these authorities and their counterparts in countries of origin, as well as coordination with institutions involved in efforts to prevent violence against women, those working to uphold the right to asylum and those working to protect children and adolescents or persons with disabilities, among others.

14. In the light of the Committee's previous recommendation,¹⁰ please provide information on the measures adopted to ensure a comprehensive evaluation of the impact of migration check and control policies and operations in terms of increasing the risk of violations of the right to life and physical integrity of migrants in transit, and on the measures consequently taken to prevent such risks, protect migrants and promote, from a rights- and human safety-based perspective, channels for regular entry, transit and residence. In accordance with the follow-up letter sent by the Committee on 5 October 2022, please provide information on the impact on the rights of migrants in transit of the militarization of border controls following the amendment of the National Guard Act and of the involvement of the armed forces (army and navy) and state and municipal police officers, among other forces. Please clarify the difference between so-called "migrant rescue operations" and operations carried out with a view to intercepting irregular migrants in transit and transferring them to detention centres for subsequent return or deportation to their country of origin. Also provide quantitative and qualitative information on the impact on regular entry and residence of the visa requirement imposed on Venezuelan nationals as of January 2022.

15. Please provide information on legislative and other measures that have been adopted to comply with the decision of the First Chamber of the Supreme Court in *amparo* review No. 275/2019, in which the Court declared articles 97 and 98 of the Migration Act to be unconstitutional, finding administrative migration check and control procedures carried out in places other than points of entry to the country and on the basis of racial and gender profiling, among other factors, to be contrary to human rights and discriminatory.

16. In the light of the Committee's previous recommendation¹¹ and the follow-up letter dated 5 October 2022, please provide information on the legislative, institutional, operational and budgetary measures taken to put an immediate end to the immigration detention of migrant children and families. Describe the measures taken to bring all aspects of the "channelling centres" for children and families and the centres of the National System for the Comprehensive Development of the Family in which they are placed into compliance with the standards set by the Committee in its general comments No. 3 and 4 (2017). In particular, please describe the steps taken to ensure that, instead of being places of deprivation of liberty on migration-related grounds, these centres fulfil a protective function for children and adolescents, in line with the provisions of the General Act on the Rights of Children and Adolescents, providing, inter alia, alternative care based on the principle of the best interests

⁹ CED/C/MEX/VR/1 (Recommendations), paras. 43–53.

¹⁰ CMW/C/MEX/CO/3, para. 36.

¹¹ Ibid., para. 38.

of the child, according special priority to young children and under the oversight of the agencies responsible for safeguarding the rights of children and adolescents. Please provide quantitative and qualitative information, from a rights-based perspective, on these measures, including those related to budgetary issues, training and oversight by independent State and civil society mechanisms, and information regarding reports of and investigations into cases of abuse, violence and corruption.

17. In the light of the Committee's previous recommendation¹² and the follow-up letter dated 5 October 2022, please provide information on the measures taken to ensure, as a matter of urgency, that persons in certain vulnerable situations (asylum seekers and victims of trafficking, among others) are not detained on migration-related grounds, in accordance with the standards established by the Committee in paragraph 52 of its general comment No. 5 (2021) on migrants' right to liberty and freedom from arbitrary detention. Similarly, please provide information on all legislative, operational and budgetary measures adopted with a view to devising and implementing, as recommended by the Committee, an action plan for ensuring that deprivation of liberty on migration-related grounds is applied for adult migrant workers as a measure of last resort only, for the shortest possible time and based on the principles of exceptionality, proportionality, necessity and reasonableness, that immigration detention is duly justified in each case and that its use is never automatic.

18. Please provide information on the existence of alternatives to deprivation of liberty for migrants in an irregular situation and indicate whether these alternatives are used as a matter of priority and based on each person's individual circumstances. Please provide data on the number of persons detained in migrant holding centres (long- or short-stay) and other custodial facilities on migration-related grounds, irrespective of the given reason (shelter, safety or attendance at proceedings), in the last five years and the number who were subject to non-custodial measures in the same period. Please also provide information on the legislative and operational measures adopted to comply with the decision of the First Chamber of the Supreme Court in *amparo* review No. 388/2022, which stipulates that immigration detention may not exceed 36 hours, including communiqué No. 173/2023 of the National Institute of Migration concerning the aforementioned ruling.

19. Please provide information on the measures taken by the State party to ensure that no person is detained without due process, including, in particular, compliance with the obligation to immediately bring detainees before an independent and impartial judge and provide them with free legal assistance, access to an interpreter and information on the reasons for their detention, their rights and available remedies. Provide information on the human, technical and financial resources allocated to the Federal Public Defender Institute in order to guarantee the right to free legal assistance and representation in immigration detention proceedings and on the conclusion of agreements with civil society organizations specialized in the provision for supplementary assistance. Please indicate the measures adopted to ensure that detainees are able to exercise their right of access to justice, without the consequent extension of their detention in application of article 111.V of the Migration Act.

20. In the light of the Committee's previous recommendation,¹³ please provide information on measures taken to ensure appropriate and dignified conditions in all facilities used for immigration detention, including information on improvements to health services, water, sanitation and hygiene, food, recreation and leisure activities. Please indicate whether the use of punishment cells has been ended and provide details of the measures taken to address overcrowding. Please describe the measures taken to improve the training on Convention rights and other human rights standards provided for officers working in detention facilities and the efforts made to investigate allegations of violations of migrants' rights in such facilities and implement Mexican Official Standard NOM-046-SSA2-2005 on family and sexual violence and violence against women. Also provide information on the adoption of protocols or mechanisms to ensure that civil society organizations have access to

¹² Ibid.

¹³ Ibid., para. 42.

migrant holding centres and similar facilities, including channelling centres, on a regular and standardized basis.

21. Bearing in mind the press release forwarded to the State party by the Committee on 5 April 2023,¹⁴ please provide information on all measures implemented with the aim of ensuring a thorough and independent investigation into the events that occurred on 27 March 2023 at the immigration detention centre (temporary migrant holding centre) in Ciudad Juarez, where 40 migrants died and a further 27 were injured while deprived of their liberty in the facility. Give details of the measures taken to provide care and support for the injured, the survivors and the relatives of the deceased and guarantee access to justice, identification of those involved, the prosecution and punishment of all persons responsible and adequate, effective and timely reparation.

22. In the light of the Committee's recommendation,¹⁵ please describe the policies and mechanisms adopted in order to provide alternatives to expulsion or return, including the right to asylum, complementary protection, leave to remain on humanitarian grounds and other forms of regularization, and also the measures taken to prevent the arbitrary and collective expulsion of migrants and uphold the principle of non-refoulement, including of persons seeking protection because of their sexual orientation and gender identity. Also indicate the measures taken to guarantee access to free legal representation for persons subject to an administrative expulsion or return order or seeking refugee status or other forms of complementary protection.

23. In the light of the Committee's previous recommendation,¹⁶ please indicate the measures taken to harmonize labour and social security legislation with the Convention in order to protect the rights of migrant workers in an irregular situation, without discrimination. Also indicate the mechanisms established to prevent and punish the exploitation of migrant workers, whether in a regular or irregular situation, to inform them of their labour rights and to make it easier for them to report any abuse they face without fear of reprisals or risk of deportation.

24. Please provide information on measures taken to remove obstacles to the registration of Mexican nationality for children of Mexican migrant workers at consulates and to provide assistance to authorities in other States, particularly the United States of America. Please indicate the measures adopted to guarantee access to education and other social services for the children of Mexican migrant workers who return to the country, irrespective of the documents they have and their nationality and in line with the Committee's recommendations.¹⁷

25. Please provide information on measures taken to facilitate access to education for migrant children and adolescents, especially those who are undocumented. Also indicate the legislative and practical measures taken at the federal, state and local levels to prevent and punish discrimination against migrant children and ensure that they will not face arrest or deportation when seeking access to education services.

26. Based on the Committee's previous recommendations,¹⁸ please provide information on the measures taken to facilitate access to a unique civil registry identity number for migrants and applicants for refugee status or complementary protection with leave to remain on humanitarian grounds, in accordance with articles 25 and 27 of the Convention. Provide quantitative information on access to residence on humanitarian grounds and to a unique civil registry identity number for unaccompanied children. Please also provide information on steps taken to eliminate the requirement to have a unique civil registry identity number or voter registration card in order to receive medical care in health centres, including information on the training provided for the administrative staff of these facilities.

¹⁴ See <https://www.ohchr.org/es/press-releases/2023/04/mexico-un-experts-call-investigations-migrant-deaths-ciudad-juarez>.

¹⁵ [CMW/C/MEX/CO/3](#), para. 44.

¹⁶ *Ibid.*, para. 48.

¹⁷ *Ibid.*, para. 53.

¹⁸ *Ibid.*, para. 28.

4. Part IV of the Convention

Article 44

27. Please provide quantitative and qualitative information on measures taken to protect the unity of the families of migrant workers and facilitate the reunification of migrant workers with their children, spouses or persons with whom they have a relationship that, according to applicable law, produces effects equivalent to marriage, and other family members, based on article 44 (3) of the Convention. Please provide information on measures taken, including at the consular and transnational judicial level to protect the right to family unity of Mexican nationals deported from the United States and separated from children born and/or residing in the United States.

5. Part V of the Convention

Article 59

28. Please provide information on all measures taken to protect the rights of Mexican temporary migrant workers in Canada and the United States of America, including in labour matters and in access, without discrimination, to social services. In particular, please provide information about the working conditions of agricultural workers with H-2A, H-2B or other visas and the extent to which they are protected against deceit, fraud, workplace accidents and abuse by employers and intermediaries, including information about any cases of exploitation, gender discrimination or abuse of migrant workers from Indigenous communities, and about the measures taken to ensure that they have access to justice (including transnational justice) and reparation. Please also provide information on any steps taken to address claims for justice and reparation brought by migrant workers employed under the Bracero Programme and affected members of their families. Also provide details of the policies adopted to address the structural causes of the migration of Mexican workers from rural areas and of the impact of such policies.

6. Part VI of the Convention

Articles 64–71

29. Please provide information on progress made towards the alignment of migration policies with the rights of children and adolescents, including the principle of non-refoulement, and in the implementation of the procedures for determining the best interests of the child set forth in the Migration Act, the Refugees, Complementary Protection and Political Asylum Act and the General Act on the Rights of Children and Adolescents, which provide guarantees for due process safeguards including the right to information, the right to be heard, the right to free legal assistance from specialized professionals and, in the case of unaccompanied children, the right to a guardian, as has already been recommended by the Committee.¹⁹ Please also share details of the measures taken to protect migrant children and adolescents from violence, abuse and exploitation, including labour exploitation on coffee plantations, begging, street situations, exploitation by criminal organizations and sexual exploitation.

30. Please provide information on the measures taken to strengthen and guarantee specialized training on children's rights in the context of migration for federal, state and municipal officials, including, in particular, for all staff of the National System for the Comprehensive Development of the Family, the prosecution service offices specializing in children's rights, all authorities with migration-related duties and all parts of the judiciary. Provide information on operational, budgetary and other measures implemented to ensure that the decisions taken by child protection agencies and the procedures they apply are in all cases implemented independently from the National Institute of Migration and in accordance with the standards set by the Committee in its general comments Nos. 3 and 4 (2017), particularly in all matters relating to the assessment and determination of the best interests of

¹⁹ Ibid., paras. 54 and 56.

the child, as the primary interest to be protected, and to the identification of appropriate protection measures and lasting solutions based on a rights-based approach.

31. Please share details of measures adopted to facilitate the regularization of migration, based on article 69 of the Convention, including quantitative disaggregated data on their implementation. In particular, please describe the measures taken to:

(a) Make it easier for migrant workers and members of their families to obtain a temporary or permanent residence permit or a border worker visitor card;

(b) Facilitate effective access to a “visitor for humanitarian reasons” card for all persons in the applicable categories, including their renewal, and require all authorities to recognize the card as a valid document;

(c) Guarantee the accessibility and affordability of the residence permits established in current legislation;

(d) Facilitate access to regularization channels for persons in immigration detention;

(e) Enable access to residency regularization procedures at land points of entry to the country;

(f) Facilitate access to regularization for the children and adolescents referred to the centres and other facilities of the National System for the Comprehensive Development of the Family.

32. Please provide information on short-, medium- and long-term strategies adopted at the federal, state and municipal levels and on the measures taken, including consultations and cooperation with other States, to promote sound, equitable and humane conditions for migrant workers and members of their families. Provide information on measures taken to clearly define the roles of government authorities with competence in migration matters and to intensify efforts to ensure that they coordinate their work effectively at the national and local levels, especially in border areas.

33. Please describe the specific measures in place to protect migrant women and girls in transit to the United States of America, whether they are Mexican or foreign nationals, against all types of criminal conduct, and particularly against the various forms of sexual violence and abuse, including sexual exploitation, as well as the measures adopted to provide redress to victims. Provide details of cases in which members of the security forces and non-State actors have used violence against migrant women involved in prostitution, including details of measures taken to prevent and provide effective protection against such conduct. Please provide quantitative and qualitative data on the results obtained, the difficulties encountered and the success of these measures, taking account of the guidelines established by the Committee on the Elimination of Discrimination against Women in its general recommendation No. 26 (2008) on women migrant workers.

34. Please provide information on measures taken, including through international, regional and bilateral cooperation with countries of origin, transit and destination, to prevent and combat trafficking in persons, in particular women and children, in accordance with general recommendation No. 38 (2020) of the Committee on the Elimination of Discrimination against Women, on trafficking in women and girls in the context of global migration, as well as details of the corresponding financial and human resources allocated by the State party. In particular, provide details of:

(a) Programmes to prevent trafficking in persons, provide effective protection for trafficking victims and ensure that they have access to justice, legal remedies and the regularization of their situation;

(b) Training on identifying victims of trafficking and people smuggling intended for judges, law enforcement officers, border guards, consular officials and social workers, particularly in remote and rural areas;

(c) Reported cases of trafficking and smuggling of migrant workers, disaggregated by sex, age, nationality and purpose of trafficking, as well as investigations carried out, prosecutions brought and perpetrators convicted;

(d) The establishment of shelters, protection programmes and rehabilitation and social integration programmes to help victims to rebuild their lives, including assistance for their physical, psychological and social recovery.

Section II

35. Please provide information on the steps taken to ensure the effective implementation of the International Labour Organization (ILO) Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the ILO Domestic Workers Convention, 2011 (No. 189) and the ILO Violence and Harassment Convention, 2019 (No. 190), ratified in 2018, 2020 and 2022 respectively, including, in particular, the provisions aimed at ensuring the protection of migrant workers and members of their families.

Section III

Data, official estimates, statistics and other information

36. Please provide, if available, disaggregated statistical data and qualitative information for the last five years on:

- (a) The volume and nature of migratory flows to and from the State party;
- (b) Progress towards the alignment of migration policies with the rights of children and adolescents;
- (c) The number of migrant workers and members of their families infected with the coronavirus disease (COVID-19), the number who have been vaccinated and the number who died as a result of the infection (disaggregated by sex, age and nationality);
- (d) Remittances received from nationals of the State party working abroad.

37. Please provide any additional information on any important developments and measures taken in implementation of the Convention relating to the protection of the rights of migrant workers and members of their families that the State party considers a priority, including, for example, whether the State party envisages making the declaration under article 76 of the Convention recognizing the competence of the Committee to receive and consider State-to-State communications.
