



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

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

### Summary record of the 236th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 11 September 2013, at 10 a.m.

*Chairperson:* Mr. Taghizade (Vice-Chairperson)

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*The meeting was called to order at 10.05 a.m.*

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

*Initial report of Morocco (HRI/CORE/MAR/2012; CMW/C/MAR/1; CMW/C/MAR/Q/1 and Add.1; CMW/C/MAR/Q/1)*

1. *At the invitation of the Chairperson, the delegation of Morocco took places at the Committee table and continued with their replies to the questions asked during the previous session.*
2. **Mr. Soukrati** (Morocco) said that the Moroccan Government was doing everything in its power to bring domestic legislation into line with international treaties on the rights of migrant workers. To date, Morocco had ratified 62 International Labour Organization (ILO) conventions, including 7 of the 8 core conventions, with only the ILO Convention concerning Freedom of Association and Protection of the Right to Organise (Convention No. 87) still not ratified. The ratification process for the ILO Convention concerning Migration for Employment (Revised 1949) (Convention No. 97) had begun. The Ministry of Employment and Vocational Training was striving to bring domestic law into line with the ILO Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers (Convention No. 143). Furthermore, a bill on domestic workers had been adopted by the Government and submitted to parliament in 2013, as a step towards the ratification of the ILO Domestic Workers Convention (No. 189). A government decree containing a model employment contract for domestic workers and their employers, as well as a list of hazardous domestic work prohibited for children under 18 years of age, had been adopted.
3. **Mr. Ouzgane** (Morocco) indicated that the most severe penalties under Act No. 02-03 on the entry and residence of foreign nationals in Morocco applied to members of migrant-trafficking networks, and not to their victims. That legislation also provided for fines — in certain cases — but the penalties were generally intended to be a deterrent rather than a punitive measure. In practice, the penalties imposed on migrants who had committed an offence under Act No. 02-03 had, to date, been rather lenient. The State party had embarked on a process to amend its Criminal Code. As part of that process, the provisions of Act No. 02-03 might be amended to do away with prison sentences for migrants who had no links to trafficking networks.
4. **Mr. Najim** (Morocco) said that the Moroccan Government was making efforts to combat human trafficking, and that many of the provisions contained in international instruments had been incorporated into domestic legislation. Morocco had recently ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (the Palermo Protocol) and adopted legislation on the protection of victims and witnesses, which also provided victims with access to the health care they needed. Units for the protection of women and child victims of trafficking had been set up in cooperation with the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women). The Moroccan Government was working to update its national plan of action to combat trafficking in persons, adopted in 2007, in order to strengthen prevention and protection measures.
5. In Morocco, the right to a fair trial without undue delay, free access to justice, and the right to appeal against an administrative decision and obtain redress were fundamental rights. A draft bill on legal aid provided that foreigners legally resident on Moroccan territory could benefit from such aid. The courts provided interpretation services to foreigners.

6. **Mr. Souhail** (Morocco) said that, in 2011, the powers of the National Human Rights Council had been extended to cover all violations of fundamental rights, irrespective of their nature or the identity of the perpetrator. All Moroccans and all persons attached to the national courts could bring a matter before the Council. The Council had very recently published a report on migration, making recommendations in line with the provisions of the Convention, which would facilitate the development of a new public policy on managing migratory flows. Moreover, the Council for the Moroccan Community Abroad ensured that the rights of Moroccan nationals abroad were protected.

7. **Mr. Bouzaoui** (Morocco) said that the right to asylum was guaranteed under the Moroccan Constitution, article 30 of which stipulated that foreigners enjoyed the same fundamental freedoms as Moroccan citizens. Morocco was working closely with the Office of the United Nations High Commissioner for Refugees (UNHCR), including on efforts to combat migrant-trafficking networks. According to UNHCR, approximately 800 persons, mainly from Côte d'Ivoire, the Democratic Republic of the Congo and Iraq, held refugee status, and 971 were asylum seekers. In 2012, 30 refugees had been resettled. Morocco had begun reforming its asylum system, and an ad hoc committee had been established to that end. Its proposals included amending Act No. 02-03 to include a specific section on refugees.

8. **Mr. Soukrati** (Morocco) said that Morocco had ratified the ILO Convention concerning Private Employment Agencies (No. 181), so that private companies could operate as intermediaries on the employment market, a function which had previously fallen within the exclusive remit of a public body, namely the National Agency for the Promotion of Employment and Skills. Private agencies needed prior authorization to operate, and had to provide a financial guarantee to cover non-payment of employees' salaries or social security contributions. The services provided by such agencies had to be free of charge and non-discriminatory, with sanctions for non-compliance extending to a ban on the agency's professional activity. There were now 43 private employment agencies operating in Morocco.

9. A bilateral cooperation agreement on seasonal work had been signed with Spain in 2001. Its provisions included measures to strengthen the enforcement of labour legislation, in order to prevent the exploitation of Moroccans with irregular migrant status. As part of the European Commission's programme relating to the comprehensive management of seasonal migration, a mechanism implemented by the National Agency for the Promotion of Employment and Skills facilitated the hiring and training of workers. A foundation for foreign workers in Huelva had taken over the work of the European programme on the management of circular migration. The programmes had produced very positive results, as they had also increased the number of women hired, with the figure reaching 14,000 in 2009.

10. **Mr. Ouzgane** (Morocco) recalled that legislation on civil status stipulated that all Moroccans were subject to the civil status regime, which also applied to foreigners, regardless of their situation. However, the obligation to register births applied only to Moroccan citizens. Between 2003 and 2013, 20,000 births had been registered by foreign nationals, mostly from sub-Saharan Africa, Iraq and Syria. As a consequence of measures to amend the Family Code, Moroccan women married to foreigners were able to pass Moroccan nationality on to their children from birth.

11. The Constitution provided that foreign migrants in Morocco were able to participate in local elections, on condition of reciprocity. While in Morocco, foreigners could also vote in elections in their country of origin. The Constitution permitted the Moroccan community abroad to participate in the various elections or referendums held in Morocco, at Moroccan consulates in their country of residence or in Morocco, either directly or by proxy.

12. **Mr. Bastaoui** (Morocco) said that foreigners living in Morocco were provided with a registration card based on the biometric identity card held by Moroccan citizens, for which the period of validity depended on reciprocal agreements with the country concerned.
13. **Mr. Souhail** (Morocco) said that the new Constitution allowed Moroccan communities abroad to be represented on human rights bodies in Morocco.
14. **Mr. Soukrati** (Morocco) said that applications for places in Moroccan schools made by foreign nationals were submitted by the Moroccan Agency for International Cooperation to the relevant ministry, which automatically initiated the enrolment process. He said that foreign children had access to education, by authorization of the Ministry of Education. Pupils who had begun their schooling abroad were issued with equivalence certificates.
15. Labour legislation applied to all workers, whether Moroccan or foreign nationals, and they also had access to social security. Morocco had signed bilateral agreements with a number of countries on social security issues, including the transfer of social benefits to the country of residence. The benefits covered were the allowances stipulated in the ILO Convention concerning Minimum Standards of Social Security (No. 102). Approximately 9,000 foreigners were currently registered with the National Social Security Fund.
16. Work visas were issued to migrants with an employment contract approved by a competent government authority, depending on the needs of the national economy and the applicant's profile. Certain categories of workers, such as those born in Morocco or political refugees, were given special treatment. Migrant workers and refugees had the right to join a trade union. In 2012, for the first time, a trade union called "Travailleurs immigrés" (Immigrant Workers) had been formed in Morocco.
17. **Mr. Souhail** (Morocco) said that migrants were a source of wealth, in social, economic and artistic terms, and that many regular and irregular migrant workers were members of a trade union.
18. **Mr. Najim** (Morocco) said that Act No. 02-03 included provisions on the protection of migrants, and that domestic legislation prohibited the expulsion of the spouse of a Moroccan citizen if they had been married for more than one year, the parent of a naturalized child living on Moroccan soil, a minor or a pregnant woman. Human rights education programmes had been implemented as part of the United Nations Decade for Human Rights Education.
19. **Mr. Bellamlih** (Morocco) said that the strategy adopted by the Government to combat violence against women focused on prevention, an institutional approach to combating violence, and measures to protect victims. Moreover, the Ministry for Solidarity, Women, the Family and Social Development had developed a comprehensive child welfare policy, "A Morocco fit for its children", to establish local care structures, in particular child protection units and emergency social services (SAMU), to support child protection associations and to organize awareness-raising campaigns to combat girls' domestic labour.
20. **Mr. Zerouali** (Morocco) said that neither the Moroccan nor foreign authorities knew the exact number of girls below the age of majority working in Morocco and that, in early 2000, Morocco and Spain had set up a joint group to tackle issues relating to unaccompanied minors.
21. **Mr. Belabbia** (Morocco) said that health care could be provided in basic health centres, where such services were free to anyone resident in Morocco, regardless of whether they lived there legally or illegally, or in hospitals, which, under the new regulation that had come into force in 2011, admitted foreign patients or injured persons, regardless of their status. Through cooperation efforts involving Médecins Sans Frontières (Doctors

Without Borders – MSF) and local associations, the use of those care networks had improved.

22. **Mr. El-Bouazzaoui** (Morocco) said that relevant departments had informed Moroccan nationals expelled from Algeria in 1975 of their rights under the Convention as soon as Algeria had ratified that instrument; Morocco did not recognize the expropriation of property belonging to the 45,000 Moroccan families concerned. Bilateral discussions were currently under way, although little progress had been made to date.

23. **Mr. Soukrati** (Morocco) said that, although measures had been taken to combat violations of the rights of domestic workers, domestic labour was often organized on an informal basis, which prevented labour inspectors from gaining access to a household, unless the prosecutor or the residents themselves provided the necessary authorization. A hotline had been set up to report rights violations and the exploitation of domestic workers, and any violations brought to the attention of the authorities automatically resulted in legal proceedings being brought against the alleged offender.

24. **Ms. Jamal** (Morocco) said that data on the number of persons returning to Morocco mainly appeared in the reports of NGOs, or in surveys carried out by Moroccan research centres. In July 2013, the Ministry for Moroccans Living Abroad, and the International Organization for Migration (IOM) had introduced a mechanism to support the social and occupational reintegration of low and medium-skilled migrants returning to Morocco. Over the previous four years, the Ministry had urged Moroccans abroad to invest in the country and encouraged highly skilled Moroccans to return home.

25. A number of measures had been implemented to establish a permanent framework for the transfer of funds, in order to maximize the impact on the local economy and reduce costs. Framework Act No. 18-95, establishing an investment charter, treated Moroccans as foreign investors. Moreover, the Ministry for Moroccans Living Abroad had set up a unit specifically designed to support investments by Moroccan expatriates. MDM Invest, a fund established to promote such investments, had helped 21 persons, and was expected to support 50 projects by the end of 2013.

26. **Mr. Zerouali** (Morocco) said that the number of people returning to Morocco voluntarily was expected to reach approximately 14,000 in 2013, compared with 3,400 in 2006. Since 2004, a major information campaign had been run to raise young people's awareness of abusive practices used by recruiters and the activities of human traffickers. Discussions were under way on providing assistance to repatriated persons.

27. **Mr. El-Bouazzaoui** (Morocco) said that there were no plans to make declarations under articles 76 and 77 of the Convention. Stressing that most Moroccan migrants lived in countries that had not ratified the Convention, he said that migrant workers were informed of their rights and obligations by the Moroccan authorities either before their departure, in cases where migration took place under the aegis of a government agency, such as the National Agency for the Promotion of Employment and Skills (ANAPEC), or in the country of destination, in cases where migrants sought consular protection. Moreover, the Moroccan consulates website contained a page devoted to services provided to foreigners.

28. Since the Convention had entered into force, various training programmes for consular staff had been launched, and officials from various ministries regularly attended courses on States' competences and responsibilities, human trafficking, the rights of migrant workers, international humanitarian law, migration and State security, as well as international and regional cooperation. In addition, the issue of migration had been incorporated into the curricula of a number of Moroccan universities.

29. **Mr. Ouzgane** (Morocco) explained that all training courses for law enforcement officers covered human rights and migration issues, and that awareness-raising activities

were implemented in partnership with the National Human Rights Council and civil society. Moreover, the decisions of disciplinary councils relating to human rights were published.

30. **Ms. El Ouardi** (Morocco) said that the training curriculum for judges included a module on international conventions, and that magistrates received ongoing training on human rights and migrants, including courses provided in cooperation with UNHCR and IOM. Although that measure had yet to be evaluated, it appeared that an increasing number of decrees and judgements referred to international agreements in general, and the Convention in particular.

31. **Mr. El Bouazzaoui** (Morocco) said that, with regard to the repatriation of Moroccan nationals living in areas of conflict, those concerned were the Moroccan communities in Côte d'Ivoire, Egypt, Yemen, Bahrain and the Syrian Arab Republic. He noted that the diplomatic and consular services and all national agencies had been mobilized to support them and they had received help in recovering their property when the situation in the country allowed them to do so.

32. With regard to the Netherlands, he said that the Moroccan and Dutch authorities had signed an agreement on the hiring and placement of Moroccan workers in 1969, and an agreement on social security in 1972. He noted that Moroccans had successfully integrated into Dutch society, and that a strong, close-knit network of nearly 150 cultural associations ensured cooperation between the authorities in both countries, in order to protect the interests of Moroccans abroad and teach the language and culture of their country of origin. He explained that the Moroccan State was taking steps to strengthen the capacity of those organizations. With the rise of the extreme right, the Dutch authorities had taken steps such as restricting benefits based on the principle of residence, and cutting family allowances by 40 per cent. Morocco denounced those measures, which it regarded as completely incompatible with the spirit and substance of the Convention. Diplomatic action was being taken with the Dutch authorities in that regard, a monitoring committee had been established, and appeals had been filed with the courts. As to the question of statistics, it was problematic to obtain statistics on irregular migrants because the consular services had no information on those migrants.

33. **Mr. Zerouali** (Morocco) said that the national migration strategy addressed more than the security issue. The 2000s had witnessed a profound change in the migration landscape in Morocco, owing to the emergence of migrant-trafficking networks, of which around 2,400 had been dismantled since 2004. Human trafficking had been flourishing for a number of years.

34. With regard to alleged violence against migrants, he pointed out that, in general, the crime rate in Morocco was very low. Assaults accounted for less than 3 out of every 1,000 cases. Out of 100,000 cases dealt with since January 2013, fewer than 40 had involved migrants. There was thus no problem of institutionalized, systemic violence and the perception that there was could be explained by the way particular incidents were given extensive media coverage.

35. With regard to roundups and mass deportations, he said that no targeted action was taken in respect of legal migrants in Morocco, but that the response from law enforcement officials was justified by the violent attacks by migrants in Ceuta and Melilla. During the most recent intervention, around 20 officials had been injured. As for the confiscation of identity papers and travel documents, he explained that the security services had no interest in confiscating and destroying migrants' documents. Indeed, even without those documents, migrants in detention were released if a credible NGO intervened on their behalf.

36. Voluntary return of the victims remained the best way to combat human trafficking, and funds should be allocated to financing repatriation. Moreover, it was necessary to reach

out to young people in Morocco and elsewhere. Since 2003, the number of Moroccan illegal immigrants had fallen by 27 per cent, thanks to initiatives to raise awareness among vulnerable population groups.

37. **The Chairperson** thanked the State party for its responses, but said that it had failed to provide enough concrete information. In particular, he wished to know how many Moroccan nationals living abroad had been able to exercise their right to vote during the past year, and how they had done so. He also asked how many migrants had received social benefits and health care. Of the 20,000 children of migrant workers registered over the last 10 years, how many had been born during that period and how many were enrolled in school? He also asked whether all children with migrant parents were registered.

38. **Ms. Dicko** said that Act No. 02-03 on the entry and residence of foreigners in Morocco and illegal emigration and immigration had two main components, security and punishment. She asked whether Morocco intended to establish a monitoring mechanism to ensure that the Act was implemented in accordance with the provisions of the Convention. She noted that article 39 of Act No. 02-03 restricted the right to leave Morocco, and that such restrictions were contrary to article 8 of the Convention.

39. Migrants in Morocco often lived in squalid, unsafe conditions, with no access to drinking water or sanitation. She asked for further details on the measures planned to provide migrants with adequate housing. Lastly, she wished to know how many migrants had been placed in administrative custody or judicial detention.

40. **Mr. Tall** said that article 4 of the Labour Code provided for the adoption of a special law on working conditions for domestic employees. He pointed out that, in spite of that, the State party had still not adopted such a law, and asked whether it really planned to do so. Moreover, it was important to underscore the urgent need to train members of the security forces in order to prevent abuse and violence against migrants. He also drew attention to articles 50 ff. of Act No. 02-03, which criminalized illegal migration, and asked what measures the State party intended to take to bring the Act into conformity with the provisions of the Convention.

41. **Mr. Carrión Mena** requested further information on the bilateral and multilateral agreements signed by the State party, particularly with neighbouring countries and European host countries. He wished to know the extent to which such agreements were observed and effective. Moreover, he asked what steps were being taken by the Government to ensure that the Convention was implemented by private companies, which frequently employed irregular migrants. Lastly, he wished to know how the provisions of the Convention were implemented in the south of Morocco.

42. **Mr. Sevim** wished to know whether migrant workers had the right to form or join trade unions. He also asked whether the Government guaranteed free mother-tongue instruction for the children of migrant workers in public primary schools, in accordance with article 45 of the Convention.

43. **Mr. Ibarra Gonzalez** wished to know whether, in practice, any person could receive health care, irrespective of their migration status. He requested accurate statistics, disaggregated by sex, on the number of persons who had received such care. With regard to reports that hundreds of migrants had been subject to collective expulsion to Algeria and Mauritania, he asked whether the State party planned to amend its legislation to explicitly prohibit such expulsions.

*The meeting was suspended at 12.40 p.m. and resumed at 12.50 p.m.*

44. **Mr. Ouzgane** (Morocco) said that the right to vote was a constitutional right, but not an obligation. A total of 266,000 people had taken part in the most recent constitutional

referendum in 2011. That was a high figure, considering that the referendum had taken place during the return to Morocco of part of its community that had been living abroad.

45. **Mr. Zerouali** (Morocco), responding to the question on the expulsion of migrants to Tangier, said that the expulsions had been legal. In the case of Mauritania, the expulsion had only involved seven migrants, not several hundred. The residence permits of those concerned had expired, and the Government of Morocco had borne the cost of transporting them to Mauritania.

46. **Mr. Hilale** (Morocco) said that, as the Sahara was part of Morocco, the Convention was implemented in the south of the country.

47. **Mr. Belhaj** (Morocco) said that bilateral agreements had been signed with several European countries, including Spain, Portugal, Romania, the Netherlands, Italy, Germany, Belgium and France. The agreements addressed various issues, including regulation of the irregular migration of unaccompanied minors, cooperation with regard to border control, hiring and placement of migrant workers, and social security. He mentioned the Mobility Partnership, which had been signed along with nine member States of the European Union.

48. **Mr. Souhail** (Morocco) said that foreign nationals had the right to join, but not hold office, in trade unions. There was even a section reserved for them in 1 of the 30 trade unions in Morocco. The law on trade unions would be brought into conformity with the provisions of the Convention. He explained that, because of the number of languages spoken by foreign nationals in Morocco, the Government was not able to guarantee mother-tongue instruction for migrants' children.

49. **Mr. Haiba** (Morocco) said that the process of harmonization of national legislation, in particular Act No. 02-03, with international law, especially the Convention, had been ongoing for the past 10 years. The issue of asylum and refugees was also under review, and steps were being taken to ensure universal access to the individual complaint system.

50. **Mr. Souhail** (Morocco) said that Morocco undertook to prepare and submit its next periodic report over the following year; pursue its dialogue with the Committee through the follow-up to recommendations, and submit the relevant progress reports; promote the Convention through the development of continuing education programmes and awareness-raising among the media and NGOs; and, lastly, expedite the reform of pertinent legislation, particularly that related to combating trafficking and to asylum and refugees. He also pointed out that a bill on domestic workers had been presented to parliament.

*The meeting rose at 1.10 p.m.*