



**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
Informal Meeting
Geneva, 11 to 15 October 2004

DRAFT REPORTING GUIDELINES

Note by the Secretariat

1. As indicated in paragraph 20 of the Annual Report of the Committee on Migrant Workers to the General Assembly (A/59/48), the Committee on Migrant Workers, while encouraging States parties to comply with their reporting obligation under article 73 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, committed itself to the development of reporting guidelines within the context of the ongoing treaty reporting reform process.
2. In this connection, and in order to facilitate the Committee's task, draft guidelines for the preparation of States parties' initial reports have been prepared by the Secretariat for the Committee's consideration at its informal meeting from 11 to 15 October 2004 (see Annex).

ANNEX

Draft Guidelines regarding the form and contents of initial reports to be submitted by States parties under article 73 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families

A. PART I. INFORMATION OF A GENERAL NATURE

1. This part should:
 - a) Describe briefly the actual situation as regards the practical implementation of the Convention in the reporting State and indicate any factors and difficulties affecting the degree of fulfillment of the obligations of the reporting State under the Convention;
 - b) Include information on the characteristics of migration flows in which the State party concerned is involved.

B. PART II. INFORMATION IN RELATION TO EACH OF THE ARTICLES OF THE CONVENTION

2. This part should provide specific information relating to the implementation by the reporting State of the Convention, in accordance with the sequences of the articles and their respective provisions. In order to facilitate the reporting procedure for the States parties, the information may be provided per clusters of articles as follows:

- a) GENERAL PRINCIPLES:
 - Articles 1(1), 7: non discrimination;
 - Article 83: right to an effective remedy;
 - Article 84: duty to implement the Convention.

- b) PART III OF THE CONVENTION: Human rights of all migrant workers and members of their families:
 - Article 8:
Right to leave any country including own and to return.
 - Articles 9, 10:
Right to life; prohibition of torture; prohibition of inhuman or degrading treatment.
 - Article 11:
Prohibition of slavery and forced labour.
 - Articles 12, 13 & 26:

Freedom of opinion and expression; freedom of thought conscience and religion; right to join a trade union.

- Articles 14, 15:
Prohibition of arbitrary or unlawful interference with privacy, home, correspondence and other communications; prohibition of arbitrary deprivation of property.
- Article 16 (§1-4), 17 & 24:
Right to liberty and security of persons; safeguards against arbitrary arrest and detention; recognition as a person before the law.
- Articles 16 (§5-9), 18, 19:
Right to procedural guarantees.
- Article 20:
Prohibition of imprisonment, deprivation of authorization of residence and/or work permit and expulsion merely on the ground of failure to fulfill a contractual obligation.
- Articles 21, 22, 23:
Protection from confiscation and/or destruction of ID and other documents; protection against collective expulsion; right to recourse to consular or diplomatic protection.
- Articles 25, 27, 28:
Principle of equality of treatment in respect of: remuneration and other conditions of work and terms of employment; social security; and right to receive urgent medical care.
- Articles 29, 30, 31:
Right of a child of a migrant worker to a name, registration of birth and nationality; access to education on the basis of equality of treatment; respect for the cultural identity of migrant workers and members of their families.
- Articles 32, 33:
Right to transfer in the state of origin their earnings, savings and personal belongings; right to be informed on the rights arising from the Convention and dissemination of information.

c) PART IV OF THE CONVENTION: other rights of migrant workers and their families who are documented or in a regular situation:

- Article 37:
Right to be informed before departure of the conditions of admission to the State of employment and of their remunerated activity.
- Articles 38, 39:
Right to be temporarily absent without effect upon authorization to stay or work; right to liberty of movement and to choose the residence in the territory of the State of employment.
- Articles 40, 41, 42:

Right to form associations and trade unions; right to participate in public affairs of their State of origin and to vote and be elected at election of that State; procedure and institutions taking care of the needs of migrant workers and possible enjoyment of political rights in the State of employment.

- Articles 43, 54, 55:
Principle of equality of treatment with nationals of the State of employment in relation to the issues indicated; equality of treatment as to protection against dismissal, unemployment benefits and access to public work schemes and alternative employment; equality of treatment in the exercise of a remunerated activity.
- Article 44 & 50:
Protection of the unity of the families of migrant workers and reunification of migrant workers; consequences of death or dissolution of marriage.
- Article 45 & 53:
Enjoyment of equality of treatment for members of the families of migrant workers in the indicated aspects and measures taken to guarantee integration of children of migrant workers in the local school system; right to freely choose a remunerated activity for members of a migrant worker's family.
- Articles 46, 47, 48:
Exemption from import and export duties and taxes in respect of particular belongings; right to transfer earnings and savings from the State of employment to the State of origin or any other State; imposition of taxes and avoidance of double taxation principle.
- Articles 51, 52:
Right to seek alternative employment in case of termination of the remunerated activity for migrant workers not authorized to freely choose their remunerated activity; conditions and restrictions for migrant workers who can freely choose their remunerated activity.
- Articles 49 & 56:
Authorization of residence and authorization to engage in a remunerated activity; general prohibition and conditions of expulsion.

d) PART V OF THE CONVENTION: Provisions applicable to particular categories of migrant workers and members of their families

The State party should only indicate the provisions or measures adopted for the particular categories of migrants indicated in articles 57 to 63 of the Convention, if any.

e) PART VI OF THE CONVENTION: Promotion of sound, equitable, humane and lawful conditions in connection with international migration of workers and members of their families

The State party should indicate the measures taken to ensure promotion of sound, equitable, humane and lawful conditions in connection with international migration of workers and members of their families. In particular:

- Article 65:
Establishment of appropriate services to deal with questions concerning international migration of workers and members of their families.
- Article 66:
Authorized operations and bodies for the recruitment of workers for employment in another State.
- Article 67:
Measures regarding the orderly return of migrant workers and members of their families to the State of origin, their resettlement and cultural reintegration.
- Article 68:
Measures aimed at the prevention and elimination of illegal or clandestine movements and employment of migrant workers in an irregular situation.
- Article 69:
Measures taken to ensure that migrant workers in an irregular situation do not persist in this condition within the territory of a State party and circumstances to take into account in case of regularization procedures.
- Article 70:
Measures taken to ensure that living conditions of migrant workers and members of their families in a regular situation are in keeping with the standards of fitness, safety, health and principles of human dignity.
- Article 71:
Repatriation of the bodies of deceased migrant workers or members of their families and compensation matters relating to the death.

3. The report should be accompanied by sufficient copies (if possible in English, French or Spanish) of the principal legislative and other texts referred to in the report. These will be made available to members of the Committee. It should be noted, however, that they will not be reproduced for general distribution with the report. It is desirable therefore that, when a text is not actually quoted in or annexed to the report itself, the report should contain sufficient information to be understood without reference to it.

4. States parties may wish to present their initial report under article 73 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families in conjunction with the Common Core Document referred to in document HRI/MC/2004/3 which contains draft guidelines for its preparation. This option has been encouraged by the third inter-committee meeting held in Geneva on 21-

22 June 2004 (see document A/59/254, Report of the Sixteenth Meeting of the Chairpersons of the Human Rights Treaty Bodies).

5. Initial reports under article 73 of the Convention should be submitted in electronic form (on diskette, CD-rom or by electronic mail), accompanied by a printed paper copy. The report should not exceed 120 pages (A4-size paper, with 1.5 line spacing; and text of 12 points in the font Times New Roman).