



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

Distr.: General
27 April 2011

Original: English

**Committee on the Protection of the Rights of All
Migrant Workers and Members of Their Families**
Fourteenth session
4-8 April 2011

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

**List of issues to be taken up in connection with the consideration of the
initial periodic report of Chile (CMW/C/CHL/1)**

I. General information

1. Please describe the progress made in the process of harmonizing national legislation on migration with the Convention. In this respect, please indicate the progress made in the preparation of the draft law on migration and whether the provisions of the Convention have been fully incorporated (State report, para. 17).
2. Please provide official estimates of the number of migrant workers, in particular those who are undocumented or in an irregular situation, disaggregated by sex, age and nationality, since the ratification of the Convention.
3. Please indicate whether the State party envisages acceding to International Labour Organization (ILO) Convention (Revised) No. 97 (1949) concerning Migration for Employment and ILO Convention No. 143 (1975) concerning Migrant Workers (Supplementary Provisions).
4. Please provide detailed information on the involvement of non-governmental organizations in the implementation of the Convention and in the preparation of the State party's report (see the Committee's provisional guidelines regarding the form and content of initial reports, para. 3 (d)). Please also indicate whether non-governmental organizations on migrant rights have been consulted in the preparation of the draft law on migration.
5. Please provide information on the mandate of the National Human Rights Institution on issues related to migrant workers.

II. Information relating to each of the articles of the Convention

A. General principles

6. Please indicate whether the Convention has been directly invoked before and/or applied by the courts. Please also provide information on: (a) judicial and/or administrative mechanisms competent to examine and decide on complaints by migrant workers and members of their families, including when they are undocumented or in an irregular situation, in the event of a violation of their rights; (b) the complaints examined by such mechanisms since the date of entry into force of the Convention and their outcome; and (c) any redress provided to victims of such violations.

7. The Committee is aware that migrant workers, particularly Peruvians and persons of African descent, face some integration problems. Please comment on this in the light of the Convention. Please also describe the impact of the Plan of Action against Racism and Discrimination (State report, para. 22) on the situation of migrant workers in Chile, and indicate the measures taken to eliminate discriminatory attitudes towards migrant workers and their families, including within the educational system, and to ensure that they are not stigmatized. Please provide information on the progress made in the adoption of the anti-discrimination draft law and on its content (State report, para. 206).

8. The State party's national migration policy is described in paragraphs 27-29 of the State report. Please indicate whether the State party has established mechanisms to monitor the implementation of the policy and, if so, please indicate which measures have been taken to this end.

B. Part III of the Convention

Article 8

9. Please clarify information provided in the State report according to which migrant workers are prevented from leaving Chile if their residence permits have expired (State report, para. 94).

10. In paragraph 94, the State report refers to the fact that some migrant workers face administrative penalties for immigration irregularities. Please explain which immigration irregularities the report is referring to and indicate which administrative penalties migrant workers may face.

Article 17

11. Please indicate the number of migrant workers who have been deprived of their liberty between 2005 and 2011 and the reasons for their detention.

12. According to paragraph 137 of the State report, there are no provisions specifying that the State party should pay attention to the problems posed for family members of migrant workers deprived of their liberty. Please indicate which measures the State party envisages taking to ensure that the competent authorities pay attention to these problems.

13. The report refers in paragraph 141 to the payment of fines when a foreign national breaches certain migration rules and indicates that such offences are subject to the fines provided for by law. Please specify the kind of offences the report is referring to and indicate, in particular, whether these are administrative or penal offences.

Article 20

14. Please provide details of the provision of the draft law on migration according to which the visa of a migrant worker will not expire in the event of the termination of a work contract that has served as the basis for a visa. Please also provide the expected time frame for the adoption of this draft law.

Article 21

15. The report indicates in paragraph 177 that, in cases where foreign nationals violate migration laws, their identity documents are confiscated and replaced by an Alien Offender Card. Please specify the characteristics of the Alien Offender Card.

Article 22

16. Please provide statistics disaggregated by nationality, sex and age on the migrant workers and their families deported from Chile between 2005 and 2011. Please explain whether due process was guaranteed in their deportation, including whether they were provided with the decision of expulsion in a language they understood and allowed to submit the reason why they should not be expelled.

17. Please indicate the number of migrant workers detained for having violated the migration legislation. Please also indicate the average duration of their detention and whether the current legislation provides for a maximum length of detention. Please also describe the migrant workers' conditions of detention.

18. Please explain in more detail the rationale for the State party's reservation entered upon ratification with respect to article 22, paragraph 5, of the Convention. Please indicate whether the State party intends to reconsider its position in this regard.

Article 23

19. Please inform the Committee on how effective Chilean consular services are in protecting Chileans abroad, particularly those deprived of their liberty. Please indicate whether legal assistance is provided, including in deportation cases.

20. Please indicate whether migrant workers and members of their families in Chile can have recourse to the protection and assistance of the consular or diplomatic authorities of their State of origin whenever the rights recognized in the Convention are impaired, in particular in cases of arrest, detention and expulsion.

Article 25

21. The Committee is aware that domestic workers in Chile are predominantly women and usually earn low wages. In the light of article 25 of the Convention, please comment on this and provide information about any specific measures taken to protect domestic migrant workers, particularly women, and to ensure equality of rights, including that migrant workers shall enjoy treatment no less favourable than that which applies to Chilean nationals.

Article 28

22. With reference to paragraphs 185, 186 and 187 of the State report, please indicate the efforts undertaken to disseminate and monitor the implementation of official communication No. 3229 of 11 June 2008 issued by the Ministry of Health on: (a) the emergency medical care to be provided to immigrants having an irregular migration status; (b) access to health care for pregnant women with irregular migration status; and (c) the

fact that all foreign children and adolescents under 18 years of age, regardless of their migration status, can seek medical attention at any public health establishment and become eligible for the regularization of their migration status as soon as they have been treated for the first time by the public health-care network.

Article 30

23. With reference to paragraph 194 of the report, please describe the efforts undertaken to disseminate and monitor the implementation of communication No. 07/1008 (1531) of 2005 issued by the Ministry of Education on the enrolment and presence of immigrant children in educational establishments. Please provide more details on what happens when immigrant pupils do not change over to a definitive enrolment status within three months from the date of the provisional enrolment, and when, beyond this time limit, the educational establishment initiates an assessment procedure with a view to regularizing the pupils' situation.

Article 32

24. Please provide information on measures taken by the State party to ensure that, upon termination of their stay in the State party, migrant workers and members of their families have the right to transfer their earnings and savings and, in accordance with the applicable legislation, their personal effects and belongings.

Article 39

25. The report indicates in paragraph 211 that, according to the Regulation on Aliens, when leaving the country, foreign nationals must demonstrate, at the authorized exit point, that they have a valid visa, a permanent residence permit or a certificate showing that they have applied for a residence permit. Please provide more details on the content, implementation and effects of this Regulation.

C. Part IV of the Convention

Article 41

26. Please provide information on the progress made in the ongoing adoption of the draft law permitting Chileans living outside the State party to vote (State report, para. 218).

Article 44

27. Please provide details on the conditions for granting residence permits to members of the families of migrant workers and on the implementation of the immigration laws and regulations on family reunification.

Article 48

28. Please explain in more detail the State party's reservation entered upon ratification with respect to article 48, paragraph 2, of the Convention. Please indicate whether double taxation is in force and whether the State party intends to withdraw its reservation.

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

29. Please indicate whether the State party has undertaken appropriate consultation and cooperation with a view to promoting sound, equitable and humane conditions in connection with international migration of workers and members of their families.

Article 67

30. With reference to paragraph 265 of the report, please provide additional information on measures that the State party envisages taking to facilitate the orderly return of nationals working abroad and members of their families, such as promoting adequate economic conditions for their resettlement and facilitating their long-term and cultural reintegration in Chile.

Article 68

31. Please provide information for the period 2005-2010 on: (a) the number of reported cases of smuggling of migrants; (b) the number of cases of sexual exploitation, labour exploitation and other forms of exploitation of migrant women, children and adolescents; and (c) the investigations and convictions in these cases, including the penalties imposed.

32. With reference to paragraph 278 of the report, please: (a) provide information on the progress made in the adoption of the draft law on human trafficking and indicate the measures taken to ensure the compatibility of this law with the Convention, in particular with regard to measures to impose effective sanctions on persons, groups or entities who use violence, threat or intimidation against migrant workers in irregular situations; (b) indicate whether the State party envisages developing a national public policy addressing the issue of human trafficking; and (c) provide information on the programmes, if any, developed to assist, support and repatriate victims of trafficking and indicate whether the State party has established special shelters for them.
