



# **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**  
Thirteenth session  
22 November–3 December 2010

## **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 second periodic report of Ecuador (CMW/C/ECU/2)**

#### **I. General information**

1. Please provide updated information, including disaggregated statistics, on the volume and nature of migratory flows in the State party's territory in the period 2007–2010. In this regard, please provide further information on the efforts made by: (a) the National Secretariat for Migrants (SENAMI) to create an information system; and (b) the Ministry of Justice and Human Rights to develop human rights indicators (State party's report, para. 19).
2. Please provide further information on any progress made in establishing a law or code on human mobility, and on the achievements of the National Human Development Plan for Migrants, 2007–2010, drawn up by SENAMI. Please also clarify whether civil society organizations were involved in the preparation of the plan. In particular, the Committee would like more information on the assistance programme for migrants and their families (report, para. 66).
3. Please inform the Committee about the apparent contradictions between the new Constitution of 2008 and secondary norms still in force, such as article 2, paragraph 3, of the Private Surveillance and Security Act, under which non-citizens are excluded from employment in private security firms, the Migration Act and the Aliens Act, which would lead to institutional practices that violate the principle of non-discrimination (report, para. 54).
4. Please provide further information on the District Migration Plan in the Quito Metropolitan District, the operations of the Migrant House in the municipality of Cuenca, and the achievements of the integrated support and virtual communication centre for the children of emigrants in the municipality of Chunchi (report, paras. 85, 87, 91 and 92).

5. Please describe the role of non-governmental organizations (NGOs) in preparing the State party's report and their involvement in the implementation of the Committee's previous recommendations.
6. Please inform the Committee whether the Government of Ecuador intends to make the declarations provided for in articles 76 and 77 of the Convention.
7. Please indicate whether the Government of Ecuador intends to ratify the 1975 International Labour Organization (ILO) Convention No. 182 concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers.

## **II. Information relating to the articles of the Convention**

### **A. General principles**

8. Please provide information and examples of cases, if any, where the provisions of the Convention have been invoked in court between 2007 and 2010.
9. With regard to the training modules on human rights provided to members of the police force and the military, especially those to combat discrimination and xenophobia, please indicate whether the Convention is an integral part of that training and awareness-raising effort (report, para. 95).
10. Please indicate the number of cases of acts of racial discrimination and xenophobia against migrants reported in the period 2007–2010, as well as the follow-up to those cases and the results of the investigations into them.
11. Please provide further information on the planned establishment of an inter-agency governmental committee to monitor progress in the application of the Convention on an annual basis (report, para. 113). What would be its mandate and responsibilities, and what would be its relationship with SENAMI? Would it include members of civil society?
12. How have the Committee's concluding observations on the State party's initial report (CMW/C/ECU/CO/1) been disseminated, and to whom? Have specific workshops and meetings been held on the implementation of the recommendations with the participation of civil society organizations (report, para. 46)?

### **B. Part III of the Convention**

#### **Article 8**

13. Please explain why the requirement for Colombian citizens to produce a certificate of criminal record was abolished by the Government on 1 June 2008, but was later reintroduced through the Executive Decree dated 17 December 2008 (report, para. 125).
14. Please inform the Committee whether, in application of article 9, paragraph 7, of the Migration Act or any other legal provision relating to migration, migrants workers with HIV/AIDS face discrimination (or difficulties) when attempting to enter the country.

#### **Article 11**

15. Please provide information beyond that given in paragraph 128 et seq. of the second periodic report on the specific issue of the commercial sexual exploitation of child migrants in the Lago Agrio region and on whether additional human and financial resources have been allocated to the Special Police Department for Children and Young Persons (DINAPEN) (CMW/C/ECU/CO/1, para. 32).

**Articles 16 and 23**

16. Please elaborate on the role and achievements of the Protocol for the Protection of Ecuadorians Deprived of Liberty when Abroad (report, para. 143).

**Article 17**

17. Please indicate the number of migrants in administrative detention for immigration violations and the duration of their detention for the period 2007–2010. Are they separated from those detainees convicted or accused of ordinary crimes? Are there adequate holding facilities for migrant workers in an irregular situation?

**Article 22**

18. Regarding paragraph 151 of the State party's report, please provide statistics disaggregated by nationality, sex and age on migrant workers and their families deported from Ecuadorian territory in the period 2007–2010. How is due process guaranteed in the deportation of migrant workers and their families?

**Article 23**

19. Please inform the Committee on the effectiveness of the Ecuadorian consular services in protecting Ecuadorian migrant workers abroad, particularly those deprived of their liberty. Are periodic visits made to prisoners? Is any attempt made to provide legal assistance, including in deportation cases?

**Article 25**

20. Regarding paragraph 38 of the Committee's concluding observations on the State party's initial periodic report (CMW/C/ECU/CO/1), please provide more detailed and precise information on the efforts made to improve the situation of undocumented migrant women workers, particularly those who work in domestic service.

21. Concerning paragraph 80 of the State party's report and the 10-Year National Comprehensive Child and Youth Protection Plan, please indicate whether there is any plan or project to compile and record data on the number of unaccompanied or separated children present on Ecuadorian territory.

**Article 29**

22. Please provide more information regarding the concerns expressed by the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW/C/ECU/CO/1, para. 35) and more recently also by the Committee on the Rights of the Child (CRC/C/ECU/CO/4, paras. 43 and 64) on failures to legally register births among the migrant population and on the difficulties faced by the children of irregular migrant workers in gaining access to education and obtaining their diplomas.

23. Please provide further information on support measures and programmes for children left unprotected and in vulnerable situations as a result of the migration of one or both of their parents (CRC/C/ECU/CO/4, para. 48).

**C. Part IV of the Convention****Article 38**

24. With regard to article 38 of the Convention, please explain the logic behind article 36 of the regulations governing the Aliens Act, which states that no legally registered immigrant may remain abroad for more than 90 days each year in the first two years or

more than 18 consecutive months at any time without losing his or her migration status and having his or her documents cancelled (report, para. 169).

#### **Article 40**

25. Please describe the progress made regarding the Committee's previous recommendation that the State party should guarantee to migrant workers and members of their families the right to form part of the executive bodies of associations and trade unions (CMW/C/ECU/CO/1, para. 42).

### **D. Part VI of the Convention**

#### **Article 68**

26. Please provide further information on the national plan to combat human trafficking, the smuggling of migrants, sexual exploitation, labour exploitation and other forms of exploitation, and prostitution of women, children and adolescents, child pornography and corruption of minors, adopted in October 2006 (report, paras. 73 to 75). What has been achieved by the plan with regard to the rights of migrants? What measures has the State party taken to promote legal emigration and to prevent, detect and eliminate clandestine movements of migrant workers and members of their families? Are there any communication strategies or campaigns to alert people to the risks of travelling illegally?

27. Concerning human trafficking, does the State party currently have any protocols to support and repatriate victims? Have special shelters been established, both for girls, adolescents and young people and for women victims of trafficking? Please provide information on the number of trafficking cases registered in the period 2007–2010 and on the investigations and convictions in these cases, including the penalties imposed. Please explain the implementation of the articles of the Criminal Code on the transportation and surrender of persons for sexual exploitation and on trafficking for other types of exploitation, in the light of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. Please comment on the information before the Committee that the proportion of trafficking complaints brought to trial is very low, and that the conviction rate is even lower. How does the victim and witness protection programme work with regard to foreign victims of human trafficking?

28. Please provide information for the period 2007–2010 on: (a) the number of 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.

#### **Article 69**

29. Please provide further information on the contents of the memorandum of understanding on cooperation in consular and migration matters between Ecuador and Belgium which provides for the regularization of Ecuadorians in Belgium in an irregular situation (report, para. 193).

30. Are there any plans to regularize foreign workers in an irregular situation on Ecuadorian territory?