



**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

**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 report of El Salvador (CMW/C/SLV/1)**

**I. GENERAL INFORMATION**

1. Please specify progress in the process of harmonizing national legislation on migration with the Convention. In this respect, please inform the Committee:
  - (a) Whether and how the document “Implementation of the International Convention on the Protection of the Rights of All Migrant Workers and their families in El Salvador” (mentioned in paragraph 83 of the State party’s report) has been taken into account in the harmonization of national legislation and policies with the Convention.
  - (b) At what stage is the draft migration and aliens act and how does it incorporate the provisions of the Convention.
2. Please describe the role, if any, of non-governmental organizations, in the implementation of the Convention and in the preparation of the State party’s report.
3. Please provide updated information including statistical disaggregated data, on the number and nature of migrants residing or transiting in the State party’s territory for the period 2003 – 2007. If no exact data are available, please provide estimates. Please also inform the Committee on:

- (a) Any available results related to migration of the 2007 National population and housing census.
  - (b) The impact on migratory flows of the Declaration of Panama which introduced free transit through the CA-4 countries from 1 June 2006.
4. Please clarify the mandate of the Directorate-General of Migration, and the role of the National Civil Police with regard to migration, and which other authorities, if any, are authorized to deal with migration issues.
5. Please explain whether the national legislation provides for the application of the Convention to refugees and stateless persons (art. 3 (d) of the Convention).
6. Please provide further information on measures taken for the dissemination and promotion of the Convention. Please also indicate whether specific training programmes on the Convention are implemented for relevant public officials, such as border police officers and social workers, but also judges, prosecutors and relevant government officials.

## **II. INFORMATION RELATING TO EACH OF THE ARTICLES OF THE CONVENTION**

### **A. General principles**

7. According to paragraph 108 of the State party's report, the Special Unit on gender and prevention of discrimination in employment of the Ministry of Labour and Social Insurance, has not received any reports of discrimination against migrant workers. In this respect, please inform the Committee how migrant workers, regardless of their status, can in practice have access to this Special Unit and submit a complaint. Please also inform the Committee if any measures have been taken by the State party to combat discriminatory attitudes towards migrant workers and members of their families.
8. Please explain how undocumented migrant workers and members of their families can in practice exercise their right to an effective remedy in accordance with article 83 of the Convention and specify which judicial, administrative, legislative or other authorities are competent to receive complaints of alleged violations of migrant workers' rights.

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

9. According to reports irregular migrant workers, especially women and children originating from Guatemala, Honduras and Nicaragua frequently fall victim to labour exploitation. Please provide information on measures taken by the State party to address this situation.
10. With respect to migration control checks in order to "locate" irregular migrants please:
- (a) Clarify whether or not irregular entry into the country is considered as a criminal offence.

- (b) Explain the standards followed by the authorities to verify the migratory status of a person.
- (c) Provide more detailed information on the detention conditions of “located” migrants held at the installations of the National Civil Police Frontiers Division.
- (d) Inform on any efforts to establish more suitable facilities for holding irregular migrants.

11. According to paragraph 211 of the State party’s report, the expulsion procedure applied by the Directorate-General on Migration is an administrative procedure not subject to judicial control. Please explain the possibility migrants have to apply for review of expulsion orders, including the possibility of review by the Administrative Litigation Division of the Supreme Court of Justice and whether such applications have suspensive effect.

12. Please indicate the number of migrants currently held in administrative or judicial custody for violations of provisions relating to migration, as well as the length of their detention. In this context, please also provide further information on any cases where migrants who have been subjected to arrest, have had access to *habeas corpus* procedure. How does the State party guarantee the access to this procedure to migrants?

13. Please provide detailed information on:

- (a) The procedure to repatriate migrant children in irregular situation;
- (b) The type of assistance given to migrant children under 12 years of age who have committed an offence and who have been sent to the National Institute for the Comprehensive Development of Children (ISNA);
- (c) Any cases of migrant children between 12 and 18 years of age who have been subjected to the Juvenile Offenders Act.

14. With reference to article 23 of the Convention, please provide further information on the actions taken by the State party to assist Salvadorans abroad, especially with regard to the assistance provided by the “protection consulates”.

15. With reference to article 25 of the Convention, please indicate how in practice the State party guarantees and monitors the equality of treatment of migrant workers in agricultural and domestic employment.

16. According to paragraph 228 of the State party’s report, a network of health units and public hospitals provides health services in El Salvador and constitute a health-care option for irregular migrant workers. In this respect, please provide further information on any measure taken by the State party to ensure the right of irregular migrant workers to receive urgent medical care.

17. Please clarify whether children born to irregular migrant workers are considered Salvadorans by birth and how their birth registration is being facilitated in practice. Please also inform the Committee whether and how access to school is guaranteed to children of irregular migrant workers.

18. Please indicate which bodies are responsible for providing to migrant workers the information required by article 33 of the Convention, and how this information is in practice accessible for both Salvadoran nationals preparing for labour migration and foreign migrant workers and members of their families in El Salvador.

#### **A. Part IV of the Convention**

19. Please clarify whether documented migrant workers have the right to form associations and trade unions. Please comment on the requirement of possession of Salvadoran nationality for membership of a trade union's board of management, in light of article 40 of the Convention.

20. Please provide further information on the outcome of the studies that have been conducted with a view to ensuring to Salvadorans living abroad their right to vote.

21. With respect to paragraph 328 of the State party's report, please clarify the grounds for requiring a migrant worker in a regular situation to leave the national territory, and comment on their compatibility with the provisions of the Convention, in particular articles 40, 42 and 51.

22. According to paragraph 306 of the State party's report, remittances sent to El Salvador are exempt from taxes. In this regard, please provide further information on any measures taken to facilitate such transfers, including any agreement to reduce the cost of such transactions for migrant workers.

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

23. Please clarify the procedure to obtain a seasonal worker work permit. Please provide updated data on the numbers of seasonal workers in El Salvador. Please also indicate how the State party ensures to these workers, mainly Nicaraguans and Hondurans, the enjoyment of the right to the same treatment as nationals, especially in respect of working conditions.

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

24. According to paragraph 42 of the State party's report, a vast flow of Guatemalans, Hondurans and Nicaraguans are working irregularly in El Salvador, mainly in the agriculture and construction sectors. Please inform the Committee whether the CA-4 members are discussing the possibility of a labour agreement under the CA-4 framework, or any other regional arrangement envisaged in this regard.

25. Please clarify whether a programme or policy exists for regularizing irregular migrant workers in the State party. In light of paragraphs 348 and 366 of the State party's report, please indicate how the Directorate-General on Migration differentiates between monitoring

compliance with migration law and encouraging the regularization of irregular migrant workers when conducting inspections of enterprises and establishments and other places.

26. Please inform the Committee on the results and the implementation of the temporary migration arrangements for the protection and regularization of irregular migrants signed in August 2004 between the State party and Nicaragua and in August 2005 between the State party and Guatemala.

27. Please provide updates and further describe the measures taken by the State party to provide support and facilities for its returning migrant workers, as well as for the implementation of bilateral or regional agreements on the return of migrant workers. Please also provide further information on the implementation of the project "Repatriation of Salvadorans who have suffered physical incapacity".

28. Please provide further information on the implementation of the Memorandum of Understanding on protection of victims of trafficking in persons and smuggling of migrants between El Salvador and Guatemala, and between El Salvador and Mexico. Please also provide the Committee with further information, including data on prosecutions, convictions and sanctions imposed for the years 2004-2007, on:

- (a) The extent of the phenomenon of trafficking in persons in, through and from the State party's territory and measures to address it. In this respect, please update the information related to the trafficking in persons cases mentioned in paragraph 55 of the State party's report.
- (b) The impact and results, if any, of the work of the National Committee against Trafficking in Persons in combating the phenomenon of trafficking in persons.
- (c) The status of the 74 recorded cases on trafficking in persons mentioned in paragraph 133 of the State party's report, including the results of prosecutions, if any.
- (d) The status of the cases opened by the Unit to Combat Illicit Transportation of Persons, including the results of prosecutions, if any. Please provide updated information for 2006-2007.

29. Please inform the Committee whether the campaigns aimed to combat the smuggling of migrant children and adolescents and trafficking in persons and to publicize the consequences and risks of travelling without documents, mentioned in paragraph 89 of the State party report, have been launched, and specify the activities undertaken and their impact.

30. Please provide information on any measures taken by the State party to prevent irregular migration by Salvadorans, including unaccompanied children.

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