



**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

**Summary record of the first part (public)\* of the 139th meeting**

Held at the Palais Wilson, Geneva, on Tuesday, 23 November 2010, at 10 a.m.

*Chairperson:* Mr. El Jamri

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\* No summary record was prepared for the second part (closed) of the meeting.

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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 Albania (continued)*

1. **The Chairperson** invited the Committee to continue its consideration of the initial report of Albania and gave the floor to the members of the Albanian delegation.
2. **Mr. Sulkaj** (Albania) said that all Albanians over the age of 18 had the right to vote and seek election and were automatically registered on voter lists, even if they lived abroad. In such cases, however, they must travel to Albania in order to vote because there was not, for the time being, a system enabling Albanian emigrants to do so from their country of residence. The Government intended to remedy the situation and hoped that political parties would take a stand on the subject at the forthcoming local elections in May 2011. Foreign migrant workers involved in legal proceedings in Albania must cover associated costs since there were no State funds for the purpose. However, the courts were obliged to inform embassies or consulates of any proceedings involving one of their nationals. Similarly, Albanian emigrants who were prosecuted abroad must bear the costs of the proceedings, but they could receive advice and legal aid from Albanian consular services.
3. As part of its programmes for the resettlement of Albanian emigrants returning to the country, the Government had taken into account the recommendations made by non-governmental organizations (NGOs), according to which not enough information was available. Albanians who returned to the country were given a booklet at the border on where to seek information about training, employment, starting a business or, more concretely, about applying for housing at their destination. Owing to changes in the law, they were currently entitled to social assistance, if necessary.
4. **Ms. Ternova** (Albania) said that under Act No. 9668 on the migration of nationals for purposes of employment, Albanian migrants received assistance from many Albanian institutions, such as the Ministry of Labour, Social Affairs and Equal Opportunity, the Ministry of Foreign Affairs and the Ministry of the Interior, which dealt with all matters relating to labour migration, oversaw and evaluated the activities of employment agencies, and protected the rights and interests of Albanian nationals wherever they were located. Consular staff strove to improve their services and develop cooperation programmes with associations of Albanian emigrants. The relevant Albanian authorities collected and distributed information on the laws governing the social protection and employment of migrant workers, and conducted studies on labour market trends in order to assess the outlook for Albanian nationals. They also supported emigrant associations and encouraged them to participate in developing the policies and legal instruments that concerned them. The Government was considering strengthening the links between those bodies and their counterparts in host countries.
5. In order to combat trafficking in persons, the Ministry of the Interior ensured that the situation of migrants was regularized by issuing them the proper documentation. The Ministry of Education and Science collaborated with the authorities of host countries in order to ascertain the availability of educational facilities for the children of Albanian emigrants. The Ministry of Foreign Affairs was also active in those countries through the Diaspora Institute — which assisted all emigrants who had been living abroad for generations, mainly in Turkey, Greece, the United States of America and Italy — and the department for promotion and public diplomacy, which were primarily responsible for promoting Albanian culture and traditions as well as the country's tourism, artists and athletes.

6. **Mr. Sulkaj** (Albania) said that currently contact with Albanians living abroad depended largely on the Internet and the media that relayed targeted television and radio programmes. There was even a television channel which broadcast programmes exclusively for their benefit. One of the country's strategies consisted in promoting tourism — an area where it was well placed among European countries — which included spreading certain values that improved the image of Albania abroad.
7. **Mr. Tall** requested further information on the law regarding the migration of nationals for the purpose of employment and that regarding foreigners. Although the law on the police code of ethics prohibited police officials from committing acts of torture or any other act causing injury to persons or their dignity, he wished to know whether the delegation had nonetheless heard of any suits brought against police officials for such acts committed against migrants. He asked for details of the exclusions referred to in the Act mentioned in paragraph 287 of the report, which apparently circumscribed the rights and obligations of migrant workers and members of their families.
8. **Mr. Alba** suggested to the Albanian authorities that, instead of waiting to see what the political parties would decide regarding the voting rights of Albanians living abroad during the upcoming May 2011 local elections, they should to save time follow the recommendation made by an international organization, namely to establish a system for voting from abroad. In order to find the right system for Albania, the State party could learn from other countries' best practices on the matter.
9. **Mr. El-Borai** requested further information on the right of migrant workers to form trade unions and on what happened to families in the event of the death or divorce of the residency permit holder. He understood that returning Albanians were entitled to receive social assistance since the law had been amended, but wished to know what changes had been made.
10. **Mr. Sulkaj** (Albania) said that the Albanian delegation had no knowledge of any complaints or cases involving acts of torture or discrimination committed by Albanian police officers against migrant workers. With respect to article 287, he said that it afforded the same protection to immigrants and their families as to Albanian nationals.
11. Concerning the right to vote, Albania needed to ensure that its nationals living abroad could exercise their right effectively. However, the State party's lack of development was aggravated by inexperience. The mechanisms that had been suggested were often criticized by political parties, which either sought to manipulate them to their advantage or deemed them inadequate. In addition to the considerable expense of setting up polling stations for Albanians abroad, there were the problems related to managing the stations and providing the necessary human resources, including observers. Emigrants who lived in bordering countries, such as Greece, returned to Albania to vote. With the adoption of the new legislative code, the right to vote of emigrants was not merely a matter of human rights but also a real political issue.
12. Immigrant workers in Albania who wished to join or form a union had to hold a work permit. In the case of divorce or death, the residency permit of the spouse of an immigrant worker, which was usually issued for a period of one year, remained valid until its expiration date but could not be renewed.
13. The law applicable to Albanians returning from abroad under repatriation agreements had changed and currently entitled them to social assistance normally intended for indigent persons, and to allowances from the employment promotion fund. The purpose of these two programmes was to protect former migrants, who often belonged to vulnerable groups such as Roma or women.

14. **Mr. Taghizade** asked whether the Government of the State party had requested the technical assistance of experts, international organizations or others in order to review the country's legal and institutional framework and, where necessary, bring legislation into line with the Convention. The Committee would probably be willing to provide support, for example in legal matters, if the State party were unable to ensure the protection of its emigrant population. Should the rights of an Albanian immigrant worker in another State party to the Convention be violated, the Albanian Government could bring the case before the Committee and ask it to find a solution in cooperation with the State concerned, the general objective being to protect the rights of migrant workers and to promote the Convention.

15. **Mr. Carrion Mena** wished to know whether the Albanian Government encouraged the establishment of bilateral agreements aimed at protecting the interests of its nationals working abroad, which could provide an additional means of protection given that developed host countries were often reluctant to sign the Convention.

16. **Mr. Sulkaj** (Albania) said that Albania received the technical assistance of a number of international organizations, including for drafting legislation for the purposes of the conventions it had ratified, in particular in the field of human rights. For example, it received assistance from the International Labour Organization in matters relating to labour and workplace health and safety regulations or to the Labour Code, as well as from the International Organization for Migration.

17. When the rights of Albanian nationals working abroad were violated, Albania intervened through its embassies and consulates and tried to help the families concerned and sometimes, as had happened during a recent case in Italy, to express views in the media.

18. Albania was keen to sign bilateral agreements, especially with Italy and Greece, in the area of social insurance — at the request of Albanian nationals — but also in other areas where their rights needed defending. However, the current political climate in Greece was not conducive to initiatives of that kind. Albania was in the process of completing an agreement with the Government of France, which should be finalized by the end of the year. Negotiations were also being conducted with Italian regional authorities regarding seasonal workers.

19. **Mr. Sevim** welcomed the constructive and fruitful nature of the discussion and noted that the situation of migrant workers in Albania was improving, like that of returning Albanian workers, who would be covered before long by a number of resettlement schemes. Nevertheless, the question of how repatriation agreements would be implemented in practice remained a matter of some concern. Such agreements entailed many risks and required safeguards, perhaps in the form of amendments or additional protocols. Regarding the role of NGOs in the implementation of the Convention, he said that in the following report the Committee would like NGOs to be invited to express their views on the Convention and its implementation.

20. The integration of foreign workers was also a key aspect of the Convention. However, in the light of the right to work and trade union rights of foreigners in Albania, it appeared that illegal migrants had difficulty joining unions. The right to vote was another point of concern. Although that right depended partly on the situation in host countries, which had to provide adequate security guarantees, some States had found solutions which deserved to be considered. Moreover, the question of how to uphold the rights of migrant workers and their families in case of death or divorce, as enshrined in the Convention, had not been addressed. The situation of unaccompanied minors, who, whether they were Roma or not, were nonetheless Albanians, was also a matter of serious concern, although it seemed that a slight improvement in that situation had occurred. The Committee had also

considered the question of legal aid, which State parties were obliged to provide to their nationals abroad, and, with a view to reducing the workload on Albanian embassies and consulates, suggested that it might be possible to take advantage of the assistance that host States could provide under their legislations.

21. **Mr. Sulkaj** (Albania) thanked the Committee for the constructive dialogue and said that the Albanian Government would ensure that all its recommendations were implemented.

22. **The Chairperson** thanked the Albanian delegation for its cooperation, which had facilitated a successful review of the State party's initial report and of the satisfactory measures taken by the Albanian Government to implement the Convention. He acknowledged that protecting the rights of Albanian migrant workers depended not only on Albania but also on host countries, so that a dialogue needed to be established with, and the Convention promoted in, States that hosted Albanian migrants. He called on Albania to make the declarations provided for in articles 76 and 77 of the Convention, under which it would recognize the competence of the Committee to receive communications from individuals or States parties. He said that any additional information that the delegation considered useful could be communicated, in writing, to the Committee by the beginning of the second week of the session.

*The meeting was suspended at 11.20 a.m. and resumed at 11.40 a.m.*

#### **Organizational and other matters** (*continued*)

23. **The Chairperson** invited members of the Committee to report briefly on the activities in which they had participated since the previous session.

24. **Ms. Cubias Medina** said that she had attended a seminar on the relationship between transnational corporations and human rights, which had been organized by the International Commission of Jurists and the Office of the United Nations High Commissioner for Human Rights in Brazil. At the seminar, all the representatives of United Nations human rights bodies had spoken about the potential impact of transnational corporations on human rights, particularly the rights of migrant workers. She had said that the Committee would consider the matter and would require States henceforth to provide information on how their transnational corporations intended to safeguard the rights of migrant workers. Referring to the general observations and recommendations on child labour and the treatment of children that the Committee on the Rights of the Child and the Committee on Economic, Social and Cultural Rights had drawn up for multinationals, as well as to the very clear link that the Committee on Economic, Social and Cultural Rights had identified between multinationals and the right to work, she expressed the view that the Committee should request States parties to detail the steps they had taken to conduct work inspections at multinationals that employed migrant workers among their staff.

25. She had also taken part in the activities of the Working Group on the effective implementation of the Durban Declaration and Programme of Action. On the subject of the link between structural discrimination and migrant workers' rights, she had made the point that the matter was covered by the Durban Declaration, even though it was not specifically mentioned there, and that it could result in the expulsion of migrant workers. In collaboration with the International Labour Organization, a study had been carried out on the relationship between cross-border migrations and child labour in Central America, insofar as, under the legislation of host countries, the children of seasonal workers were sometimes made to work, which could affect their rights to education and health. The Committee should take up that issue and question States in that regard, in order to ensure that children's rights were properly protected, including the rights of adolescents, since they were permitted to work in many countries.

26. **Mr. El-Borai** said that he had represented the Committee at the Inter-Committee Meeting that had been held in Geneva, and had attended part of the meeting organized by the International Labour Office on the draft convention on domestic workers. He asked whether the report that he had written in French in that regard could be translated for the members of the Committee before they discussed the matter. He had also participated in a meeting entitled “Expert consultation on effective practices in policing and minority communities in the Middle East and North Africa”, which had been organized in Beirut by the Office of the United Nations High Commissioner for Human Rights. In the course of the consultation, representatives of the Interior Ministries of the Arab host countries attending the meeting had commented that migrant workers were not minorities and could not, therefore, claim those rights afforded to minorities. After the event, he had issued a research paper in Arabic on the body of law on migration in the Arab world, in which he explained the relevant provisions of the Convention.

27. **Mr. Alba**, in his personal capacity and not representing the Committee, had participated in the second Ibero-American Forum for Migration and Development, which had been held in El Salvador in July 2010; discussions had focused on the economic crisis and migration, including the impact of the crisis on human rights. That event had afforded an opportunity to promote the Convention and to encourage countries to become States parties thereto.

28. **Mr. Carrion Mena** said that, within the framework of a world social forum that had been held in Ecuador, he had participated in a round-table discussion on migration, which had been held to commemorate the anniversary of the Convention and review progress made. While welcoming the Convention, participants had expressed their regret that it had not been ratified by any developed State. It was, moreover, apparent that certain States parties were not complying with their obligation to submit reports. As Ambassador and Permanent Representative of Ecuador to the United Nations, he would make every effort to encourage developed countries to ratify the Convention.

29. **Mr. Tall** said that, in his capacity as a member of the Committee, he had been invited to participate in an event to commemorate the anniversary of the Convention, which would be held at the Regional Office of the High Commissioner for Human Rights in Dakar on 17 December 2010.

30. **The Chairperson** outlined the main events in which he had participated as a member of the Committee. Those had included: the Inter-Committee Meeting, which had produced a report that it would not be possible to translate for the Committee; the Meeting of Chairpersons, which had been held in Brussels in the form of a seminar, where discussions had taken place with experts from other organizations, including the European Union, and speeches had been made on the Millennium Development Goals and their impact on human rights; the World Social Forum on Migration, where he had discussed the protection of migrant workers’ rights and highlighted the difficulties that States faced when implementing the Convention; the United Nations General Assembly in New York, where he had presented an overview of the work of the Committee, followed for the first time by a press conference, at which journalists had had the opportunity to ask questions about the Convention and the situation regarding migrants’ rights in general; and the Global Forum on Migration and Development. During the Forum, the Steering Committee on the Promotion of the Convention had held a meeting, at which, together with the High Commissioner and representatives of the International Labour Organization and civil society, he had had the opportunity to promote the Convention.

31. In his personal capacity, he had also organized a seminar in Madrid on the impact of the economic crisis on migrant workers in Spain. The domestic unemployment rate in Spain was 19 per cent. Of the unemployed in that country, 16 per cent were native Spaniards, approximately 34 per cent were general migrants, and 47 per cent were Moroccan migrants.

Of the 720,000 Moroccan migrants who were living in Spain, 400,000 were of working age, and almost 200,000 were unemployed. However, of those only 83,000 were receiving benefits, while the remaining 117,000 lived off the shadow economy. Mutatis mutandis, the situation for Ecuadorians was very similar.

*The public part of the meeting rose at 12.10 p.m. to allow the members of the Committee to meet in closed session.*