

INTERNATIONAL LABOUR OFFICE

REPORT FORM
FOR THE
MIGRANT WORKERS
(SUPPLEMENTARY PROVISIONS)
CONVENTION, 1975 (No. 143)

The present report form is for the use of countries which have ratified the Convention. It has been approved by the Governing Body of the International Labour Office, in accordance with article 22 of the ILO Constitution, which reads as follows: "Each of the Members agrees to make an annual report to the International Labour Office on the measures which it has taken to give effect to the provisions of Conventions to which it is a party. These reports shall be made in such form and shall contain such particulars as the Governing Body may request."

The Government may deem it useful to consult the appended text of the Migrant Workers Recommendation, 1975 (No. 151), the provisions of which supplement the present Convention and can contribute to a better understanding of its requirements and facilitate its application.

The matters with which this Convention deals may be beyond the immediate competence of the ministry responsible for labour questions, so that the preparation of a full report on the Convention may necessitate consultation of other interested ministries or government agencies.

PRACTICAL GUIDANCE FOR DRAWING UP REPORTS

First reports

If this is your Government's first report following the entry into force of the Convention in your country, full information should be given on each of the provisions of the Convention and on each of the questions set out in the report form.

Subsequent reports

In subsequent reports, information need normally be given only on the following points:

- (a) any new legislative or other measures affecting the application of the Convention;
- (b) replies to the questions in the report form on the practical application of the Convention (for example, statistics, results of inspections, judicial or administrative decisions) and on the communication of copies of the report to the representative organisations of employers and workers and on any observations received from these organisations;
- (c) **replies to comments by supervisory bodies:** the report must contain replies to any comments regarding the application of the Convention in your country which may have been addressed to your Government by the Committee of Experts or by the Conference Committee on the Application of Conventions and Recommendations.

Article 22 of the Constitution of the ILO

Report for the period to
made by the Government of

on the

MIGRANT WORKERS (SUPPLEMENTARY PROVISIONS) CONVENTION, 1975 (No. 143)

(ratification registered on)

- I. Please give a list of the legislation, administrative regulations, etc., and of any international agreements (bilateral and multilateral) by virtue of which the Convention is applied. Where this has not already been done, please forward copies of the said legislation, etc., to the International Labour Office with this report.**

Please give any available information concerning the extent to which laws and regulations have been enacted or modified or any other measures taken to permit of, or as a result of, ratification.

- II. Please indicate in detail for each of the following Articles of the Convention the provisions of the above-mentioned legislation and administrative regulations, etc., international agreements or other measures under which the Article is applied.**

If in your country ratification of the Convention gives the force of national law to its terms, please indicate by virtue of what constitutional provisions the ratification has this effect. Please also specify what action has been taken to make effective those provisions of the Convention which require a national authority to take certain specific steps for its implementation.

If the Committee of Experts or the Conference Committee on the Application of Conventions and Recommendations has requested additional information or has made an observation on the measures adopted to apply the Convention, please supply the information asked for or indicate the action taken by your Government to settle the points in question.

PART I. MIGRATIONS IN ABUSIVE CONDITIONS

Article 1

Each Member for which this Convention is in force undertakes to respect the basic human rights of all migrant workers.

Please indicate how effect is given to this Article.

Article 2

1. Each Member for which this Convention is in force shall systematically seek to determine whether there are illegally employed migrant workers on its territory and whether there depart from, pass through or arrive in its territory any movements of migrants for employment in which the migrants are subjected during their journey, on arrival or during their period of residence and employment to conditions contravening relevant international multilateral or bilateral instruments or agreements, or national laws or regulations.

2. The representative organisations of employers and workers shall be fully consulted and enabled to furnish any information in their possession on this subject.

Please indicate the measures adopted to determine systematically : (a) whether there are illegally employed migrants on your territory ; and (b) whether there depart from, pass through or arrive in your territory migrants for employment in abusive conditions as defined in paragraph 1 of this Article.

Please give detailed information on the facts found as a result of the above-mentioned measures, specifying in particular the number and nationality of migrants illegally employed or subjected to abusive conditions and the nature of the infringements noted.

Please indicate how employers' and workers' organisations are consulted and enabled to furnish information in their possession.

See also VI below.

Article 3

Each Member shall adopt all necessary and appropriate measures, both within its jurisdiction and in collaboration with other Members—

- (a) to suppress clandestine movements of migrants for employment and illegal employment of migrants, and
- (b) against the organisers of illicit or clandestine movements of migrants for employment departing from, passing through or arriving in its territory, and against those who employ workers who have immigrated in illegal conditions,

in order to prevent and to eliminate the abuses referred to in Article 2 of this Convention.

Please supply detailed information on the measures adopted at the national level and, where applicable, at the international level : (a) to suppress clandestine movements of migrants for employment and illegal employment of migrants ; (b) against the organisers of illicit or clandestine movements of migrants for employment and against those who employ workers who have immigrated in illegal conditions.

Article 4

In particular, Members shall take such measures as are necessary, at the national and the international level, for systematic contact and exchange of information on the subject with other States, in consultation with representative organisations of employers and workers.

Please indicate what measures have been taken at the national and the international level to establish systematic contact and exchange of information with other States.

Article 5

One of the purposes of the measures taken under Articles 3 and 4 of this Convention shall be that the authors of manpower trafficking can be prosecuted whatever the country from which they exercise their activities.

Please indicate the arrangements on the national or international level by which the authors of manpower trafficking can be prosecuted whatever the country from which they exercise their activities.

Article 6

1. Provision shall be made under national laws or regulations for the effective detection of the illegal employment of migrant workers and for the definition and the application of administrative, civil and penal sanctions, which include imprisonment in their range, in respect of the illegal employment of migrant workers, in respect of the organisation of movements of migrants for employment defined as involving the abuses referred to in Article 2 of this Convention, and in respect of knowing assistance to such movements, whether for profit or otherwise.

2. Where an employer is prosecuted by virtue of the provision made in pursuance of this Article, he shall have the right to furnish proof of his good faith.

Please indicate the nature of the administrative, civil and penal sanctions applicable to persons committing acts mentioned in this Article. Please supply information on the number and the nature of the infringements noted and the sanctions imposed.

Article 7

The representative organisations of employers and workers shall be consulted in regard to the laws and regulations and other measures provided for in this Convention and designed to prevent and eliminate the abuses referred to above, and the possibility of their taking initiatives for this purpose shall be recognised.

Please indicate how the consultation of representative organisations of employers and workers which is laid down in this Article and their possibility to take initiatives are ensured.

See also VI below.

Article 8

1. On condition that he has resided legally in the territory for the purpose of employment, the migrant worker shall not be regarded as in an illegal or irregular situation by the mere fact of the loss of his employment, which shall not in itself imply the withdrawal of his authorisation of residence or, as the case may be, work permit.

2. Accordingly, he shall enjoy equality of treatment with nationals in respect in particular of guarantees of security of employment, the provision of alternative employment, relief work and retraining.

Please indicate the effect on the legal situation of a migrant worker who has legally resided in your country of the loss of his employment, stating whether such loss may in itself imply the withdrawal of his authorisation of residence or work permit.

Please indicate how a migrant worker who has lost his employment enjoys treatment equal with nationals in the fields mentioned in paragraph 2 of this Article.

Article 9

1. Without prejudice to measures designed to control movements of migrants for employment by ensuring that migrant workers enter national territory and are admitted to employment in conformity with the relevant laws and regulations, the migrant worker shall, in cases in which these laws and regulations have not been respected and in which his position cannot be regularised, enjoy equality of treatment for himself and his family in respect of rights arising out of past employment as regards remuneration, social security and other benefits.

2. In case of dispute about the rights referred to in the preceding paragraph, the worker shall have the possibility of presenting his case to a competent body, either himself or through a representative.

3. In case of expulsion of the worker or his family, the cost shall not be borne by them.

4. Nothing in this Convention shall prevent Members from giving persons who are illegally residing or working within the country the right to stay and to take up legal employment.

Please indicate how the application of the various provisions of this Article is ensured.

Please indicate the nature of the competent body referred to in paragraph 2.

PART II. EQUALITY OF OPPORTUNITY AND TREATMENT

Article 10

Each Member for which the Convention is in force undertakes to declare and pursue a national policy designed to promote and to guarantee, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, of social security, of trade union and cultural rights and of individual and collective freedoms for persons who as migrant workers or as members of their families are lawfully within its territory.

Please indicate how the national policy designed to promote and to guarantee equality of opportunity and treatment for migrant workers and their families in the fields mentioned in this Article has been declared in your country. Please supply copies of the documents containing the declaration of this policy.

Please describe the general methods (legal procedures, educational activities and other forms of practical measures, etc.) by which this policy is being implemented.

Please supply available information on the actual situation of migrants in the various fields mentioned in this Article (see also V below).

Article 11

1. For the purpose of this Part of this Convention, the term "migrant worker" means a person who migrates or who has migrated from one country to another with a view to being employed otherwise than on his own account and includes any person regularly admitted as a migrant worker.

2. This Part of this Convention does not apply to—

- (a) frontier workers ;
- (b) artistes and members of the liberal professions who have entered the country on a short-term basis ;
- (c) seamen ;
- (d) persons coming specifically for purposes of training or education ;
- (e) employees of organisations or undertakings operating within the territory of a country who have been admitted temporarily to that country at the request of their employer to undertake specific duties or assignments, for a limited and defined period of time, and who are required to leave that country on the completion of their duties or assignments.

Please specify what persons are regarded to be "frontier workers" and indicate the maximum periods laid down for the purposes of subparagraphs (b) and (e) of paragraph 2 of this Article.

Article 12

Each Member shall, by methods appropriate to national conditions and practice—

- (a) seek the co-operation of employers' and workers' organisations and other appropriate bodies in promoting the acceptance and observance of the policy provided for in Article 10 of this Convention ;
- (b) enact such legislation and promote such educational programmes as may be calculated to secure the acceptance and observance of the policy ;
- (c) take measures, encourage educational programmes and develop other activities aimed at acquainting migrant workers as fully as possible with the policy, with their rights and obligations and with activities designed to give effective assistance to migrant workers in the exercise of their rights and for their protection ;
- (d) repeal any statutory provisions and modify any administrative instructions or practices which are inconsistent with the policy ;
- (e) in consultation with representative organisations of employers and workers, formulate and apply a social policy appropriate to national conditions and practice which enables migrant workers and their families to share in advantages enjoyed by its nationals while taking account, without adversely affecting the principle of equality of opportunity and treatment, of such special needs as they may have until they are adapted to the society of the country of employment ;
- (f) take all steps to assist and encourage the efforts of migrant workers and their families to preserve their national and ethnic identity and their cultural ties with their country of origin, including the possibility for children to be given some knowledge of their mother tongue ;
- (g) guarantee equality of treatment, with regard to working conditions, for all migrant workers who perform the same activity whatever might be the particular conditions of their employment.

Subparagraph (a) : Please indicate the measures taken to obtain the co-operation of employers' and workers' organisations and other appropriate bodies and describe the form taken by any such co-operation.

Subparagraph (b) : Please indicate all legislative and other provisions designed to secure the acceptance and observance of the national policy, and describe the means by which they are applied and any relevant procedures to which the persons concerned may have recourse. Please describe the manner in which public education and information relating to this policy are provided or promoted.

Subparagraph (c) : Please describe the measures which have been taken to enable migrant workers to be acquainted as fully as possible with the policy, with their rights and duties, and with activities designed to give effective assistance to migrant workers in the exercise of their rights and for their protection (including the provision of information in a language with which they are familiar). Please also indicate the manner in which educational programmes and other activities having these aims are encouraged and developed.

Subparagraph (d) : Please indicate whether any measures have been taken or are contemplated to eliminate any statutory or other provisions or administrative practices which are inconsistent with the national policy.

Subparagraph (e) : Please indicate the means by which, in consultation with representative organisations of employers and workers, a social policy has been formulated and applied to enable migrant workers and their families to share in advantages enjoyed by nationals. Please supply information on any special measure taken to take into account the particular needs of migrant workers and their families in this regard.

Subparagraph (f) : Please indicate the steps taken to assist and encourage the efforts of migrant workers and their families to preserve their national and ethnic identity as well as their cultural ties with their country of origin. Please indicate the measures taken to provide the children of migrant workers with an opportunity to be given some knowledge of their mother tongue.

Subparagraph (g) : Please indicate the measures taken to guarantee equality of treatment, with regard to working conditions, for all migrant workers who perform the same activity whatever might be the particular conditions of their employment.

Article 13

1. A Member may take all necessary measures which fall within its competence and collaborate with other Members to facilitate the reunification of the families of all migrant workers legally residing in its territory.

2. The members of the family of the migrant worker to which this Article applies are the spouse and dependent children, father and mother.

Please indicate any measures taken on the national or international level to facilitate the reunification of the families of migrant workers. Please specify which members of the family may benefit from these measures.

Article 14

A Member may—

- (a) make the free choice of employment, while assuring migrant workers the right to geographical mobility, subject to the conditions that the migrant worker has resided lawfully in its territory for the purpose of employment for a prescribed period not exceeding two years or, if its laws or regulations provide for contracts for a fixed term of less than two years, that the worker has completed his first work contract ;
- (b) after appropriate consultation with the representative organisations of employers and workers, make regulations concerning recognition of occupational qualifications acquired outside its territory, including certificates and diplomas ;
- (c) restrict access to limited categories of employment or functions where this is necessary in the interests of the State.

Subparagraph (a) : If use has been made of this provision of the Convention, please indicate the maximum period during which the free choice of employment is not fully enjoyed by migrant workers and the restrictions imposed on them during this period. Please also indicate whether migrant workers are subject to any restrictions in regard to geographical mobility.

Subparagraph (b) : Please supply information on any measures taken to regulate the recognition of occupational qualifications acquired outside your territory. Please indicate how the representative organisations of employers and workers have been consulted in this regard.

Subparagraph (c) : Please indicate the categories of employment or functions to which access is restricted for migrant workers.

PART III. FINAL PROVISIONS

Article 15

This Convention does not prevent Members from concluding multilateral or bilateral agreements with a view to resolving problems arising from its application.

See I above.

Article 16

1. Any Member which ratifies this Convention may, by a declaration appended to its ratification, exclude either Part I or Part II from its acceptance of the Convention.

2. Any Member which has made such a declaration may at any time cancel that declaration by a subsequent declaration.

3. Every Member for which a declaration made under paragraph 1 of this Article is in force shall indicate in its reports upon the application of this Convention the position of its law and practice in regard to the provisions of the Part excluded from its acceptance, the extent to which effect has been given, or is proposed to be given, to the said provision and the reasons for which it has not yet included them in its acceptance of the Convention.

If recourse has been had to paragraph 1 of this Article, please supply the information called for by paragraph 3.

III. Please state to what authority or authorities the application of the above-mentioned legislation and administrative regulations, etc., is entrusted, and by what methods application is enforced.

IV. Please indicate, in so far as the information has not been provided in answer to earlier questions, whether courts of law or other tribunals have given decisions involving questions of principle relating to the application of the Convention. If so, please supply the text of these decisions.

V. Please add a general appreciation of the manner in which the Convention is applied, including, for example, in so far as such information has not been provided in answer to earlier questions, extracts from reports, studies and surveys, details of the number and the nature of violations noted, as well as information on any practical difficulties in the application of the Convention.

VI. Please indicate the representative organisations of employers and workers to which copies of the present report have been communicated in accordance with article 23, paragraph 2, of the Constitution of the International Labour Organisation.¹ If copies of the report have not been

¹ Article 23, paragraph 2, of the Constitution reads as follows: "Each Member shall communicate to the representative organisations recognised for the purpose of article 3 copies of the information and reports communicated to the Director-General in pursuance of articles 19 and 22."

communicated to representative organisations of employers and/or workers, or if they have been communicated to bodies other than such organisations, please supply information on any particular circumstances existing in your country which explain the procedure followed.

Please indicate whether you have received from the organisations of employers or workers concerned any observations, either of a general kind or in connection with the present or the previous report, regarding the practical application of the provisions of the Convention or the application of the legislation or other measures implementing the Convention. If so, please communicate a copy of the observations received, together with any comments that you consider useful.

ANNEX

The text of the

**MIGRANT WORKERS RECOMMENDATION, 1975
(NO. 151)**

is not reproduced here.

Please consult ILOLEX or other publications containing the text of ILO
Recommendations.