



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

Distr.: General
25 May 2018
English
Original: French

Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families

Concluding observations on the second periodic report of Algeria*

1. The Committee considered the second periodic report of Algeria (CMW/C/DZA/2) at its 379th and 380th meetings (CMW/C/SR.379 and 380), held on 10 and 11 April 2018. At its 395th meeting, held on 20 April 2018, it adopted the present concluding observations.

A. Introduction

2. The Committee welcomes the submission of the second periodic report of the State party, its written replies to the list of issues (CMW/C/DZA/Q/2/Add.1) and the additional information provided during the dialogue by the multisectoral delegation headed by Lazhar Soualem, Director of Human Rights, Social Development, and International Cultural Scientific and Technical Affairs of the Ministry of Foreign Affairs, and comprised of representatives from the Ministry of Labour, Employment and Social Security, the Ministry of Foreign Affairs, the Ministry of Justice, the Ministry of the Interior, Local Authorities and Territorial Development, the Directorate-General of National Security and the Permanent Mission of Algeria to the United Nations Office and other international organizations in Geneva. The Committee also appreciated the frank, open and constructive dialogue held with the delegation.

3. The Committee notes that Algeria, as a country of origin of migrant workers, has made progress in protecting the rights of its nationals working abroad. The Committee also notes, however, that, as a country of transit and destination, the State party faces a number of significant challenges in terms of protecting the rights of migrant workers and members of their families in its territory.

4. The Committee notes that some of the countries in which Algerian migrant workers are employed are not yet parties to the Convention, which could prove an obstacle to those migrant workers' enjoyment of their rights under the Convention.

B. Positive aspects

5. The Committee welcomes the State party's efforts to promote and protect the rights of migrant workers and members of their families, particularly in regard to access to education, health care and birth registration.

6. The Committee welcomes the State party's ratification of, or accession to, the following international instruments:

* Adopted by the Committee at its twenty-eighth session (9–20 April 2018).



- (a) The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, in September 2016;
 - (b) The African Charter on Democracy, Elections and Governance, in September 2016;
 - (c) The International Labour Organization (ILO) Maritime Labour Convention, 2006, as amended, in July 2016.
7. The Committee welcomes the adoption of the following legislative measures:
- (a) Act No. 14-01, amending the Criminal Code to introduce new provisions on combating discrimination, in February 2014;
 - (b) Act No. 12-06 on associations providing foreign nationals in an irregular situation with the opportunity to create foreign associations, i.e. associations based in the State party but entirely or partially run by foreign nationals, in January 2012;
 - (c) Executive Decree No. 10-137, amending and supplementing Decree No. 86-61 of 25 March 1986 establishing the conditions for admission, study and support for foreign students and interns, and guaranteeing foreign scholarship students the same rights as Algerian students, in May 2010.
8. The Committee welcomes the following institutional and policy measures:
- (a) The establishment, by Presidential Decree, of the interministerial committee to coordinate activities to prevent and combat trafficking in persons, in September 2016;
 - (b) The establishment, in March 2017, of the National Human Rights Council, following the constitutional amendment of March 2016;
 - (c) The adoption of the 2010–2014 five-year development programme, which promoted the use of qualified foreign workers in various sectors.

C. Principal subjects of concern and recommendations

1. General measures of implementation (arts. 73 and 84)

Legislation and application

9. The Committee notes that, under article 150 of the State party's Constitution, international instruments take precedence over domestic laws. The Committee remains concerned, however, that article 81 of the Constitution, which excludes migrants in an irregular situation from the protection of the law, and national legislation, particularly Act No. 81-10 of 11 July 1981 on the conditions of employment of foreign workers, No. 08-11 of 25 June 2008 on the conditions of entry, residence and movement of foreigners in Algeria, Act No. 90-11 of 21 April 1990 on labour relations, and Act No. 09-01 of 25 February 2009, amending and supplementing Ordinance No. 66-156 of 8 June 1966, establishing the Criminal Code and criminalizing trafficking in persons under the Code, have not yet been brought into compliance with the provisions of the Convention. The Committee is also concerned by the absence of information on the application of the Convention by domestic courts.

10. The Committee recommends that the State party take all necessary steps to bring its Constitution and its domestic legislation into line with the provisions of the Convention. The Committee also invites the State party to provide, in its third periodic report, information regarding the application of the Convention by domestic courts.

Declarations and reservations

11. The Committee is concerned that the State party has entered a reservation on article 92 (1) of the Convention, which could impede migrants' full enjoyment of their rights under the Convention.

12. **The Committee recommends that the State party take the necessary steps to withdraw its reservation regarding article 92 (1) of the Convention.**

Articles 76–77

13. The Committee notes that the State party has not yet made the declarations provided for in articles 76 and 77 of the Convention whereby it would recognize the competence of the Committee to receive and consider communications from States parties and individuals concerning violations of the rights enshrined in the Convention.

14. **The Committee encourages the State party to consider making the declarations provided for in articles 76 and 77 of the Convention.**

Ratification of relevant instruments

15. The Committee notes that the State party has ratified almost all the major human rights treaties, as well as a number of ILO conventions. It observes, however, that the State party has not yet ratified the International Convention for the Protection of All Persons from Enforced Disappearance, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, the Optional Protocol to the Convention on the Rights of Persons with Disabilities, the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) and the ILO Domestic Workers Convention, 2011 (No. 189).

16. **The Committee recommends that the State party consider ratifying the above instruments as soon as possible.**

Comprehensive policy and strategy

17. The Committee takes note of the adoption of a number of programmes and projects on migration, as well as the implementation of an action plan to promote employment and combat unemployment. However, it is concerned by the absence of a comprehensive and strategic policy in the field of migration.

18. **The Committee recommends that the State party develop a comprehensive strategy for labour migration, in accordance with the provisions of the Convention, and taking into account the specific needs of each gender, supported by adequate human, technical and financial resources, and a monitoring mechanism to ensure its implementation.**

Coordination

19. The Committee notes the establishment of a mechanism to coordinate and exchange information for greater consistency in the actions of the Employment Directorates in each wilaya (governorate), the National Employment Agency and the wilaya Labour Inspectorate services for managing, monitoring and supervising the employment of foreign labour. However, it regrets that the State party lacks a ministry or other body tasked with ensuring the coordination of implementation of the Convention at the national and local levels.

20. **The Committee recommends that the State party consider establishing an appropriate body with a clear mandate to ensure interministerial coordination of the effective implementation of the Convention and the realization of the rights protected therein at the national and local levels. This body should be allocated adequate human, technical and financial resources, and capacity-building services should be provided to the ministries and agencies that handle migration issues.**

Data collection

21. While noting the ongoing programmes to strengthen the capacities of the National Statistics Office in order to launch surveys on labour migration, the Committee is concerned by the lack of statistical data on migration flows into, out of and through the State party and, in particular, on migrant workers and members of their families in an irregular situation, as well as other migration concerns, such as migrant workers in detention in the State party, migrant workers who are nationals of the State party and who are in detention in their country of employment, and the number of unaccompanied migrant children or children who are in the State party and have become separated from their parents. Such information would have allowed the Committee to assess how and to what extent the rights enshrined in the Convention are being exercised in the State party.

22. The Committee recommends that the State party establish a national information system on migration in order to collect statistical data and qualitative and quantitative information on migrations covering all aspects of the Convention. This centralized database should include detailed information on the status of all migrant workers in the State party, including those in transit, those leaving the country and those in an irregular situation. The Committee encourages the State party to gather information and statistics disaggregated by sex, age, nationality and/or origin, reason for entry to and departure from the country and the type of work performed, in line with target 17.18 of the Sustainable Development Goals, as a tool for guiding the formulation of effective migration policies and facilitating the application of the various provisions of the Convention. The Committee also recommends that the State party cooperate with its diplomatic and consular representations abroad to gather migration data, particularly on the circumstances of migrants in an irregular situation and victims of trafficking. When it is not possible to obtain precise information concerning, for example, migrant workers in an irregular situation, the Committee requests that the State party submit data based on studies or estimates.

Independent monitoring

23. The Committee notes with satisfaction that the National Human Rights Council was established by constitutional means in 2016. It notes, however, that “B” status was awarded to the former National Advisory Commission for the Promotion and Protection of Human Rights in 2010 by the International Coordinating Committee of National Human Rights Institutions, notably owing to the lack of transparency in the process of selecting, nominating and removing Council members, the insufficient measures taken to guarantee their independence and the lack of interaction with civil society.

24. The Committee recommends that the State party request technical assistance from the Office of the United Nations High Commissioner for Human Rights (OHCHR) to ensure that the national institution is in full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles), particularly with regard to the independence of its members. The Committee also recommends that the State party provide the Council with the human, technical and financial resources needed to fulfil its mandate effectively, including to provide protection to migrant workers and address their complaints.

Training on and dissemination of the Convention

25. The Committee notes the efforts made by the State party in terms of education, training and raising awareness of human rights. However, the Committee is concerned by the absence of information and training programmes specifically related to the Convention and the rights enshrined therein, and by the inadequate dissemination of such information among stakeholders, including national and local authorities, law enforcement personnel, judges, prosecutors, relevant consular officials and social workers, as well as civil society organizations, universities, the media, the migrant workers themselves and members of their families.

26. **The Committee recommends that the State party develop educational and training programmes regarding the Convention and ensure that such instruction is provided to all public officials and others working in migration-related areas, including at the local level. It also recommends that the State party ensure that migrant workers have access to information about their rights under the Convention and that it work with universities, civil society organizations and the media to disseminate information on the Convention and promote its implementation.**

Participation of civil society

27. The Committee is concerned that:

(a) Civil society in the State party does not feel sufficiently involved in the implementation of the Convention, or consulted in this regard;

(b) Officials from organizations involved in the defence of migrant rights have been subjected to intimidatory measures and arrests, and arbitrary detentions and dismissals.

28. **The Committee recommends that the State party:**

(a) **Consider more deliberate measures to systematically involve civil society and non-governmental organizations in the implementation of the Convention, including in countries where Algerian migrant workers are employed, and in the negotiation and monitoring of bilateral agreements;**

(b) **Refrain from all reprisals against defenders of migrants' rights and ensure that any penalties imposed on persons peacefully exercising their right to freedom of expression and association are immediately lifted and that such persons are compensated and rehabilitated;**

(c) **Publicly and explicitly recognize the crucial role played by civil society and human rights defenders in strengthening democracy and the rule of law in Algeria, as well as the importance of their engagement with public institutions at all levels (national, regional and local), in particular with the Government, ministries, Parliament and the judicial system.**

2. General principles (arts. 7 and 83)

Non-discrimination

29. The Committee notes that the constitutional and legislative framework of the State party includes provisions on combating discrimination in the areas of employment, health and education, among others. The Committee regrets, however, that:

(a) National legislation on employment and working conditions does not cover all the prohibited grounds of discrimination enumerated in the Convention (arts. 1 (1) and 7);

(b) Reports received indicate that migrant workers, particularly those from sub-Saharan countries, frequently suffer discrimination with regard to access to and conditions of work and employment compared to Algerian nationals;

(c) There is insufficient protection for the rights of migrant workers in an irregular situation who are employed in the informal sector or who are in transit and those of Algerian migrant workers working outside the country and members of their families;

(d) Migrant workers of sub-Saharan origin are subjected to racial discrimination and suffer from racist representations in statements made by public officials and in the media, including social media.

30. **The Committee recommends that the State party take all necessary measures, particularly by amending its legislation, to:**

(a) **Ensure that all migrant workers and members of their families on its territory or subject to its jurisdiction, whether documented or not, enjoy the rights**

recognized in the Convention without discrimination, in accordance with articles 1 (1) and 7;

(b) **Prevent racial discrimination against migrant workers, especially those from sub-Saharan countries, in the sphere of employment, including by strengthening inspections of their working conditions and prosecuting employers for economic exploitation;**

(c) **Ensure that all migrant workers in an irregular situation, in the informal sector and in transit, enjoy equality of treatment with nationals;**

(d) **Combat discrimination and racial and social stigmatization of migrant workers, particularly sub-Saharan migrants, and take effective measures to ensure that any statement or act of racially motivated violence or incitement to such acts is recorded and investigated, that the perpetrators are prosecuted and punished and that victims receive compensation;**

(e) **Adopt a law against racism and all racial discrimination and conduct awareness and education campaigns on that subject.**

Right to an effective remedy

31. The Committee notes the State party's assertions that there are several remedies available to migrant workers and members of their families in the event of an abuse of power or violation of their rights. It is, however, concerned that insufficient information has been provided about the number of cases and/or proceedings brought by migrant workers or members of their families, including those in an irregular situation, for violations of their rights under the Convention. It is also concerned by reports that migrant workers and members of their families, especially those in an irregular situation, face many obstacles when attempting to exercise an effective remedy, such as the explicit refusal of the authorities to register their complaint, fear of arrest if they go to a police station, and the impossibility of filing a complaint on account of the expeditious nature of arrest, detention and expulsion procedures.

32. **The Committee recommends that the State party:**

(a) **Take the necessary steps to remove all obstacles faced by migrant workers and members of their families, including those in an irregular situation, in accessing an effective remedy, and ensure that they have, in law and in practice, the same opportunities as Algerian nationals to access justice, including cross-border justice, and to obtain effective redress in the courts in cases where their rights under the Convention are violated;**

(b) **Take additional measures to inform migrant workers and members of their families, including those in an irregular situation, about the judicial and other remedies available to them in the event of a violation of their rights under the Convention;**

(c) **Put "firewalls" in place between immigration services and public services in order to allow migrant workers, including those in an irregular situation, to access justice, police services, health care, education, social security and housing without fear of being arrested, detained or deported by the authorities.**

3. Human rights of all migrant workers and members of their families (arts. 8–35)

Labour exploitation and other forms of ill-treatment

33. The Committee takes note of the State party's efforts to prevent forced labour. However, it remains concerned that this practice persists, in particular in the case of migrant workers, especially those in an irregular situation, who are often victims of forced labour, abuse and other forms of exploitation, such as inadequate pay or excessive working hours. The Committee notes with concern the situation of migrant women in an irregular situation employed as domestic workers, who are vulnerable to not only economic but also sexual exploitation. The Committee is concerned by the lack of information on action taken

against employers who make use of forced labour or who engage in other forms of exploitation.

34. **The Committee recommends that the State party:**

(a) **Ensure that the Labour Inspectorate monitor the working conditions of migrant workers in both regular and irregular situations more consistently by extending the application of the Convention to the informal sector, including domestic work, and by systematically reporting cases of abuse to the authorities, in accordance with the Sustainable Development Goals (target 8.8);**

(b) **Ensure that all migrant workers, particularly migrant women employed as domestic workers, have access to effective mechanisms for filing complaints against persons who exploit them and violate their rights and that such workers are duly informed of the available procedures for ensuring that perpetrators are punished and that victims obtain redress;**

(c) **Strengthen its efforts to implement its legal framework and impose appropriate penalties on employers who exploit migrant workers, especially women domestic workers, or subject them to forced labour and abuse.**

35. While noting that, in articles 263 bis, 263 ter and 263 quater of its Criminal Code, the State party has made torture a criminal offence, the Committee is extremely concerned by reports that migrant workers in an irregular situation are victims of physical, psychological and sexual abuse and extreme violence that can even lead to death, and of ill-treatment by some of the security services, in particular during arrests and collective expulsions, and by criminal groups in the State party. The Committee notes from these reports that the victims of this violence include unaccompanied minors and pregnant women. The Committee regrets that the State party has not provided any information on measures taken to address this situation and to afford the necessary protection to migrant workers and members of their families.

36. **The Committee recommends that the State party take measures and step up its efforts to urgently address the problems of ill-treatment and other acts of violence committed against migrant workers and members of their families, regardless of who the perpetrators are. In particular, the Committee recommends that the State party take the following measures:**

(a) **Ensure that migrant workers and members of their families have access to independent complaint mechanisms, legal counsel and interpreters, as well as guardians for unaccompanied migrant children;**

(b) **Ensure that inquiries and investigations are conducted into any act of torture or cruel, inhuman or degrading treatment or punishment and any attack on the lives of migrant workers;**

(c) **Ensure that the perpetrators of such acts are brought to justice and that the victims have access to adequate reparations;**

(d) **Organize training for police and border personnel on respect for human rights, the non-use of violence and, more specifically, on the content of the Convention.**

Arbitrary deprivation of property

37. The Committee notes the explanation provided by the delegation of the State party concerning the establishment, in 2003, of joint Algerian-Moroccan commissions to examine cases of expropriation of the legitimate property of Algerian migrant workers expelled from Morocco in 1973 and of Moroccan migrant workers expelled from Algeria in 1975, including their real estate, cash and valuables, salaries, withheld funds in bank accounts and social security contributions. The Committee is nevertheless concerned by the freezing of the bilateral negotiations which would make it possible to identify the persons on both sides whose rights under the Convention have been violated and to make reparation for the material and moral damage suffered.

38. **The Committee reiterates its previous recommendation to the State party (CMW/C/DZA/CO/1, para. 25) and, in the spirit of cooperation between the two countries in accordance with the terms of the Convention, encourages the State party to take all necessary measures to relaunch the bilateral negotiations with Morocco so as to ensure that confiscated property is returned to its rightful owners or their heirs, or that fair and adequate compensation is provided, in accordance with article 15 of the Convention.**

Due process, detention and equality before the Courts

39. The Committee notes that Act No. 09-02 of 25 February 2009, amending and supplementing Ordinance No. 71-57 of 5 August 1971 on legal assistance, accords free legal assistance to “all foreign nationals legally residing in the national territory who have insufficient resources to assert their rights in court”. It is, nevertheless, concerned by:

(a) The fact that migrant workers in an irregular situation, including those in transit, are excluded from the scope of application of the above-mentioned Act, other than in exceptional cases subject to an application being made to a court and the right to free legal assistance being granted;

(b) The fact that, under Act No. 08-11 of 25 June 2008 on the conditions of entry, residence and movement of foreign nationals in Algeria, irregular migration is considered as a criminal offence and that, pursuant to Act No. 09-01 of 25 February 2009, any person who leaves the national territory in a clandestine manner is liable to punishment;

(c) The lack of statistical data on cases of placement in administrative custody or judicial detention of migrant workers and members of their families for reasons related to irregular migration;

(d) The inadequate conditions of detention in holding centres for the temporary accommodation of irregular migrants pending their deportation;

(e) Reports that the administrative detention of foreign nationals awaiting deportation can be prolonged indefinitely.

40. **The Committee recommends that the State party:**

(a) **Amend Act No. 09-02 of 25 February 2009 on legal assistance to ensure that this right is guaranteed to all migrant workers, including those in an irregular situation;**

(b) **Amend Act No. 08-11 of 25 June 2008 on the conditions of entry, residence and movement of foreign nationals in Algeria and Act No. 09-01 of 25 February 2009 in order to decriminalize irregular migration, since the Committee considers that, in accordance with its general comment No. 2 (2013) on the rights of migrant workers in an irregular situation and members of their families, the fact of entering, leaving or staying in a country in an unauthorized manner or without proper documentation or overstaying a residence permit should not constitute a criminal offence;**

(c) **Include in its third periodic report detailed information, disaggregated by age, sex, nationality and/or place of origin, on the number of migrant workers currently detained for immigration offences and the place, average duration and conditions of their detention;**

(d) **Detain migrant workers for infringing migration laws only in exceptional circumstances and as a last resort; ensure that they are held in special facilities and, in all cases, held separately from ordinary prisoners, that women are held separately from men and that conditions of detention comply with international standards; prohibit, in law and in practice, the detention of minors for immigration-related reasons, in accordance with general comment No. 3 (2017) on the general principles regarding the human rights of children in the context of international migration, and general comment No. 4 (2017) on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return, jointly adopted by the Committee on the**

Protection of the Rights of All Migrant Workers and Members of Their Families, and the Committee on the Rights of the Child; and ensure that alternatives to detention are used for children and their families and for unaccompanied minors;

(e) Prohibit and consider alternatives to the administrative detention of foreign nationals awaiting deportation from the national territory.

Expulsion

41. The Committee notes that article 31 of Act No. 08-11 of 25 June 2008 on the conditions of entry, residence and movement of foreign nationals in Algeria provides for a right of suspensive appeal in the case of a decision of deportation of a migrant worker in an irregular situation. The Committee, however, notes with concern:

(a) Reports that the State party carries out collective expulsions of migrant workers, in both regular and irregular situations, refugees and asylum seekers from sub-Saharan Africa and members of their families to the Niger and that they are often abandoned in desert areas, where they are likely to become victims of violence, including sexual violence, and exploitation;

(b) The fact that national legislation does not expressly prohibit collective expulsion;

(c) Allegations of violations of existing legal provisions and the procedural safeguards set out in the Convention in cases of expulsion, including the absence of any formal notification of the expulsion decision, free legal aid, the effective right to a suspensive appeal and oversight of the legality of the procedure, and the refusal to allow the persons concerned to receive consular assistance;

(d) The lack of information concerning respect for the right of asylum and the principle of non-refoulement in the context of such expulsions;

(e) The lack of information and statistical data on migrant workers and members of their families expelled from Algeria, the number of administrative appeals lodged by migrants and information concerning the decisions handed down in this regard.

42. **The Committee recommends that the State party:**

(a) **Amend its legislation governing expulsion/deportation procedures so as to explicitly prohibit collective expulsion and to ensure that it is consistent with the provisions of the Convention, taking into account the Committee's general comment No. 2 (2013) on the rights of migrant workers in an irregular situation and members of their families, which states, in particular, that persons concerned shall have the right to submit the reasons why they should not be expelled, have their case reviewed by a competent authority and request, pending such review, the suspension of the decision of expulsion;**

(b) **Ensure the effective implementation of the expulsion procedures provided for under Act No. 08-11, as well as compliance with the procedural safeguards set out in the Convention in cases of expulsion;**

(c) **Establish monitoring mechanisms to ensure that deportations of migrant workers take place in full compliance with international standards, and ensure effective coordination with the State of origin or the State receiving the migrant workers who have been expelled;**

(d) **Respect the right to seek and enjoy asylum, and the principle of non-refoulement and, to that end, refrain from turning away migrants at its borders or forcibly returning them when that would expose them to the risk of persecution or torture or other cruel, inhuman or degrading treatment or punishment;**

(e) **Provide up-to-date data, disaggregated by sex, age, nationality and/or origin, on migrant workers and members of their families expelled from Algeria since 2010, the number of administrative appeals lodged by migrants and information concerning the decisions handed down in this regard.**

Consular assistance

43. The Committee notes the measures taken by the State party to ensure that migrant workers and members of their families have access to certain diplomatic or consular services. It is nevertheless concerned by the lack of information on the assistance provided by the State party to Algerian migrant workers and members of their families, including those in an irregular situation, who are frequently subjected to abuse, deprived of their freedom and/or subject to expulsion. The Committee also regrets the lack of information on the visits made by the diplomatic or consular authorities to places of detention in host countries to inform themselves of the condition of Algerian prisoners and on the measures taken to inform diplomatic or consular staff of countries of origin about the situation of migrant workers held in Algeria.

44. **The Committee recommends that the State party:**

(a) **Facilitate access for Algerian migrant workers residing abroad to consular and diplomatic assistance from the State party, particularly in cases of detention or expulsion;**

(b) **Ensure that its diplomatic and consular services effectively carry out their duty to protect and promote the rights of Algerian migrant workers and members of their families and, in particular, provide the necessary assistance to any such persons who are deprived of liberty or subject to an expulsion order;**

(c) **Take the necessary steps to ensure that the consular or diplomatic authorities of countries of origin, or of a country representing the interests of those countries, are systematically notified of the detention in the State party of one of their nationals, in accordance with article 36 (1) (b) of the Vienna Convention on Consular Relations (1963).**

Medical care

45. The Committee notes the progress achieved in the area of access to emergency medical care for migrant workers, including care in the case of infectious diseases and childbirth. It also notes the instructions given by the President of the Republic that all hospitals should provide care for sub-Saharan migrants. The Committee is, however, concerned by reports that most migrant workers, above all those in an irregular situation, face difficulties in accessing emergency care or treatment and that most of them fear arrest by the authorities if they request medical assistance. The Committee is also concerned that migrant workers, especially those in an irregular situation, often live in precarious conditions, without access to basic health services.

46. **The Committee recommends that the State party:**

(a) **Take the necessary measures to ensure that all migrant workers and members of their families, irrespective of their migration status, are able, in law and in practice, to access emergency medical care and the basic health services required for the preservation of their life or the avoidance of irreparable harm to their health, on the basis of equality of treatment with nationals of the State party, in accordance with article 28 of the Convention;**

(b) **Carry out awareness campaigns aimed at health practitioners regarding the rights of migrant workers.**

Education

47. The Committee notes the State party's efforts to ensure the enrolment in public schools of children of migrant workers in an irregular situation. However, the Committee notes with concern that, in practice, the children of migrant workers face difficulties in gaining access to education owing to the conditions imposed, which include presentation of a birth certificate and a residence certificate as a precondition for registration.

48. **The Committee recommends that, in accordance with article 30 of the Convention, the State party adopt concrete and effective measures and specific**

programmes to make it possible, especially for the children of migrant workers in an irregular situation, to enter and remain in the education system.

4. Other rights of migrant workers and members of their families who are documented or in a regular situation (arts. 36–56)

Pre-departure programmes and the right to be informed

49. The Committee notes the steps taken by the State party to inform migrant workers of their rights under the Convention, and the conditions of admission, stay and settlement in Algeria. It also notes the establishment of an advisory council for Algerian nationals abroad. It is, however, concerned that insufficient steps have been taken to provide comparable information to the large number of persons considering emigration, above all to European countries, and to migrant workers in transit and members of their families.

50. The Committee recommends that the State party take appropriate measures to disseminate information on the rights of migrant workers, including those in transit, under the Convention, the laws relating to residence permits in the State party, the terms and conditions of their admission and employment, and their rights and obligations under the laws and according to the practices of States of employment, as well as the dangers of irregular migration. The Committee also recommends that the State party develop targeted pre-departure and awareness-raising programmes in consultation with relevant non-governmental organizations, migrant workers and their families, and recognized, reliable recruitment agencies.

Right to form trade unions

51. The Committee remains concerned that Act No. 90-14 of 2 June 1990 on the exercise of the right to organize does not comply with article 40 of the Convention as it denies migrant workers the right to form trade unions. It is also concerned that, in practice, there have been no recorded cases of migrant workers participating in trade union activities in Algeria.

52. The Committee reiterates its previous recommendation that the State party (CMW/C/DZA/CO/1, para. 29) amend Act No. 90-14 to ensure the right of migrants in a regular situation to form trade unions, in accordance with article 40 of the Convention and the ILO Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), as ratified by the State party.

Access to housing

53. The Committee remains concerned that Executive Decrees No. 93-84 of 23 March 1993 and No. 89-35 of 21 March 1989 deny migrant workers access to social housing, which is reserved for Algerian nationals.

54. The Committee reiterates its previous recommendation (CMW/C/DZA/CO/1, para. 31) that the State party take the necessary steps to ensure that migrant workers in a regular situation enjoy equality of treatment with Algerian nationals regarding access to housing, including social housing schemes, in accordance with article 43 (1) (d) of the Convention.

Right to transfer earnings and savings

55. The Committee notes the high level of remittances received in the State party from migrant workers living abroad and the fact that they are an important source of assistance to development in the country. It regrets, however, the absence of specific information on partnerships with financial institutions to facilitate the transfer of earnings and savings by Algerian migrant workers abroad and by migrant workers living in the State party.

56. The Committee encourages the State party to:

(a) Provide information on partnerships established with financial institutions to facilitate the transfer of remittances by Algerian migrant workers living

abroad to persons in the State party, and by migrant workers in the State party to persons in their country of origin;

(b) Take the necessary steps to reduce the cost of sending and receiving funds, including by applying preferential rates, in accordance with Sustainable Development Goal 10 (c);

(c) Make savings more accessible to migrant workers and members of their families;

(d) Continue its efforts to help the recipients of remittances to acquire the necessary capacity to invest in sustainable income-generating activities.

5. Promotion of sound, equitable, humane and lawful conditions in connection with the international migration of workers and members of their families (arts. 64–71)

Sound, equitable and humane conditions in connection with international migration

57. The Committee notes the existence of cooperation agreements on migration with France and Tunisia, as well as readmission agreements with the Niger, Mali, Mauritania and a number of European countries. It finds it regrettable, however, that the State party has not signed any bilateral or multilateral agreements with other States of employment where a large number of Algerian migrant workers live, including European countries and the Gulf, in order to guarantee Algerian migrant workers and members of their families sound, equitable and humane migration conditions, and respond to their social, economic and cultural needs.

58. **The Committee recommends that the State party intensify its efforts to sign bilateral and multilateral agreements that will promote regular migration, guarantee sound, equitable and humane conditions for Algerian migrant workers living abroad, provide them with procedural guarantees and ensure that Algerian migrant workers who have been expelled are not subjected to ill-treatment. The Committee also recommends that the State party ensure that its bilateral agreements with countries hosting Algerian migrant workers include provisions that are in accordance with articles 22 and 67 of the Convention, and that its nationals in host countries are able to seek protection and assistance from the consular authorities, including legal assistance if needed, so that their rights may be respected.**

Trafficking in persons

59. The Committee welcomes the efforts made by the State party to combat trafficking in persons, particularly the adoption of Act No. 09-01 of 25 February 2009, which criminalizes trafficking in persons under the Criminal Code and establishes the Interministerial Committee to Combat Trafficking in Persons. However, the Committee is concerned by:

(a) The absence of studies, analyses and disaggregated data that would be of use in evaluating the scale of trafficking to, through and from the State party;

(b) Information received concerning, in particular, Algerian nationals who have been victims of trafficking and forced labour in agriculture, construction and domestic work in countries in the region, and victims of domestic servitude in European countries, the United States of America and the Middle East;

(c) Information received indicating, in particular, the presence in the State party of sub-Saharan migrants, including women and children, who have been victims of sexual exploitation, forced labour and begging, and domestic servitude;

(d) The insufficient human, technical and financial resources allocated to preventing and eradicating trafficking in persons;

(e) The insufficient efforts to identify the victims of trafficking and exploitation;

(f) The inadequate application of the provisions of the Criminal Code on trafficking in persons and similar practices, and the insufficient training given to officials responsible for their implementation;

(g) The fact that victims of trafficking, including children, continue to be considered migrants in an irregular situation and risk being jailed for illegal activities, such as prostitution, that they engage in because they are victims of trafficking;

(h) Information that some traffickers benefit from complicity within the Algerian police force;

(i) The absence of shelters for victims of trafficking and the ban on them being opened by civil society under pain of criminal sanctions for housing migrants in an irregular situation;

(j) The inadequate medical and psychological assistance provided to migrant children with a view to their recovery and social reintegration.

60. In accordance with the OHCHR Principles and Guidelines on Human Rights and Human Trafficking, the Committee recommends that the State party intensify its efforts to combat trafficking in persons, and in particular:

(a) **Systematically compile data, disaggregated by sex, age and origin, with a view to combating the human trafficking and smuggling more effectively;**

(b) **Adopt a strategy and a national action plan to combat trafficking in persons;**

(c) **Scale up its campaigns for the prevention of the trafficking and smuggling of migrant workers and adopt appropriate measures to counter the dissemination of misleading information regarding emigration and immigration;**

(d) **Improve the training of police officers and other law enforcement officials, border guards, judges, prosecutors, labour inspectors, teachers, health-care providers and the State party's embassy and consular personnel regarding means of combating human trafficking and smuggling;**

(e) **Conduct prompt, efficient and impartial investigations into all acts of trafficking in persons, people smuggling and other related offences, prosecute and punish the perpetrators of such acts and their accomplices, including public officials, and promptly process all complaints made against traffickers and smugglers;**

(f) **Allocate sufficient human, technical and financial resources to the Interministerial Committee to Combat Trafficking in Persons for the effective implementation of laws and strategies to prevent and eradicate trafficking in persons;**

(g) **Intensify efforts to identify victims of trafficking and provide protection and assistance to all victims of trafficking, particularly by providing them with accommodation, medical care and psychosocial support, and by taking other steps to facilitate their social reintegration, and ensure that they are not punished for offences they may have committed as a direct result of being trafficked;**

(h) **Increase international, regional and bilateral cooperation to prevent and combat trafficking in persons and ensure that the corresponding cooperation agreements include safeguards to uphold the rights in the Convention.**

6. Dissemination and follow-up

Follow-up to concluding observations

Dissemination

61. The Committee requests the State party to disseminate the Convention and the present concluding observations widely to, inter alia, public agencies, the judiciary, non-governmental organizations and other members of civil society so as to increase

awareness of the Convention among the judicial, legislative and administrative authorities, civil society and the public in general.

62. The Committee also requests the State party to include detailed information in its third periodic report on the steps taken pursuant to the recommendations made in these concluding observations. It recommends that the State party adopt all appropriate measures to ensure that these recommendations are acted upon by, *inter alia*, submitting them to members of the Government and of the legislature, as well as to local authorities, for consideration and follow-up.

63. The Committee encourages the State party to involve civil society organizations in the implementation of the recommendations made in these concluding observations.

7. Technical assistance

64. The Committee recommends that the State party seek international assistance, including technical assistance, to develop a comprehensive programme for the implementation of the above recommendations and the Convention as a whole. The Committee also calls upon the State party to continue its cooperation with specialized agencies and programmes of the United Nations system and to request technical and capacity-building support from OHCHR with regard to the preparation of reports.

8. Next periodic report

65. The Committee requests the State party to submit its third periodic report by 1 May 2023 and to include therein information on the implementation of the present concluding observations. The State party may wish to follow the simplified reporting procedure whereby the Committee draws up a list of issues that is transmitted to the State party prior to the submission of its next report. The replies of the State party to that list of issues would then constitute its report under article 73 of the Convention.

66. The Committee draws the State party's attention to its guidelines for the preparation of periodic reports to be submitted by States parties under article 73 of the Convention (CMW/C/2008/1) and reminds it that periodic reports should be in compliance with the provisions of General Assembly resolution 68/268 and should not exceed 21,200 words. In the event that a report exceeding the established word limit is submitted, the State party will be asked to shorten the report in accordance with the above-mentioned guidelines. If the State party is not in a position to review and resubmit the report, translation of the report for purposes of examination by the treaty body cannot be guaranteed.

67. The Committee requests the State party to ensure the extensive participation of all ministries and public bodies in the preparation of its third periodic report (or replies to the list of issues, in the case of the simplified reporting procedure) and to consult broadly with all relevant stakeholders, including civil society, migrant workers' associations and human rights organizations.
