



# 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 Thirty-sixth session

### Summary record of the 515th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 28 March 2023, at 10 a.m.

*Chair:* Mr. Corzo Sosa

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*The meeting was called to order at 10 a.m.*

### **Consideration of reports submitted by States parties under article 73 of the Convention**

*Second periodic report of Morocco (CMW/C/MAR/2; CMW/C/MAR/QPR/2)*

1. *At the invitation of the Chair, the delegation of Morocco joined the meeting.*
2. **Mr. Sekkouri** (Morocco), introducing his country's second periodic report (CMW/C/MAR/2), said that the text had been prepared in consultation with relevant national institutions, parliamentary committees and civil society organizations. During the period under review, Morocco had engaged in interactive dialogues with several other treaty bodies, received visits from a number of special procedures of the Human Rights Council and ratified key international human and labour rights instruments. In addition, it had contributed to, and had provided the venue for, the adoption of the Global Compact for Safe, Orderly and Regular Migration in December 2018.
3. On 31 January 2017, in recognition of his efforts in the field of migration in Africa, King Mohammed VI had been appointed as leader of the African Union on the issue of migration by his fellow Heads of State and Government. In 2018, the Government had signed an agreement with the African Union to establish the African Migration Observatory, which had been officially opened in Rabat on International Migrants Day in 2020.
4. The country's regional and international efforts to promote sound migration governance and protect migrants' rights were based on a strong national will that had been translated into the national policy on migration and asylum of 2013. The policy focused on developing the legal framework related to migration, asylum and human trafficking, regularizing the legal status of migrants, processing asylum requests and formulating a national migration and asylum strategy. That strategy had been adopted in 2014, with a focus on ensuring the integration of migrants and refugees, protecting their rights and facilitating their access to public services, without discrimination, through programmes on education, employment, health, legal and social assistance, border management and international cooperation, among other matters.
5. In 2014 and 2017, an exceptional process had been carried out to regularize the situation of nearly 50,000 migrants, while in 2016, the national legal framework had been strengthened through the adoption of Act No. 27.14 to combat human trafficking. The Office for Refugees and Stateless Persons had been opened, and thanks to the work of an interministerial committee established in 2013 to process asylum applications, the situation of 1,192 asylum-seekers had been regularized and 259 minors had obtained refugee status.
6. The national migration and asylum strategy set out several preventive measures, including the provision of accommodation to migrants in an irregular situation in cities to protect them from organizations involved in migrant smuggling and human trafficking and, in some cases, to enable their voluntary return in coordination with relevant international organizations. In 2022, a total of 4,305 migrants in an irregular situation had benefited from the voluntary return programme, and the authorities had dismantled 290 migrant smuggling and human trafficking networks.
7. Morocco was committed to managing migration in harmony with its international obligations and with national laws that provided for equality and non-discrimination between citizens and foreign nationals in the enjoyment of rights. Pursuant to article 30 of the Constitution, foreign nationals were entitled to the same fundamental freedoms as Moroccan citizens.
8. Act No. 02.03 concerning the entry and residence of foreigners in Morocco and unlawful migration included provisions to protect all migrants from violations of their rights during the implementation of procedures related to their entry and residence. As part of the country's transition from a country of origin to a country of transit and settlement for migrants, the authorities had sought to adopt a human rights-based approach to the Act's implementation that gave appropriate weight to the protection of migrants from offences such as exploitation, smuggling and human trafficking.

9. The 2023–2030 national plan to combat and prevent human trafficking served as a road map for an effective national response to that phenomenon, based on strategic priority-setting and full respect for the rule of law and universal human rights. Morocco was keen to pursue bilateral and multilateral cooperation as a mechanism for improving migration management and protecting migrants' rights.

10. The enforcement by the courts of Act No. 02.03 was based on the Convention. Decisions of the social affairs division of the Court of Cassation in labour cases were a testament to the judiciary's commitment to applying the Convention and to correcting practices that might infringe on the rights of migrant workers. The decisions related to various aspects of the principle of non-discrimination, including protection from arbitrary dismissal and equality with Moroccan workers. Article 9 of the Labour Code prohibited any discrimination between workers, particularly in relation to employment, labour management, vocational training, wages, promotion, social benefits, disciplinary measures and termination of employment. In that regard, steps had been taken to strengthen monitoring and inspection mechanisms, develop professional relations and institutionalize social dialogue as a means of addressing various labour issues. On 30 April 2022, the Government had signed a national charter for the institutionalization of social dialogue to enshrine the principle of tripartism in multilevel dialogue. The results achieved through social dialogue included strengthening labour legislation, promoting collective bargaining and encouraging the conclusion of labour agreements.

11. Under the King's guidance, Morocco had begun to prepare a programme of practical measures to improve the conditions of Moroccans residing abroad, protect their rights, strengthen their ties to their homeland and facilitate their economic, political and social participation. The situation of Moroccan migrant workers and their families was treated as a priority, and support was provided to them by the competent institutions. An integrated strategy had been put in place to digitize access to consular services, support vulnerable groups of Moroccan migrants and take action during crises. For example, during the coronavirus disease (COVID-19) pandemic, more than 77,000 Moroccan citizens abroad had been helped to return to their countries of residence.

12. The authorities sought to protect the rights of Moroccan workers abroad, whether by supervising international recruitment agencies in accordance with the Labour Code and the International Labour Organization (ILO) Private Employment Agencies Convention, 1997 (No. 181) or by intensifying bilateral cooperation, especially with labour-importing countries. Within the framework of bilateral agreements, the Government had developed standardized employment contracts that addressed matters including wages, health coverage and the right to family reunification.

13. Rapid economic, political and social developments around the world contributed significantly to changing migration flows, which required continuous monitoring and support by countries and greater international cooperation. Often, people migrated for economic or security reasons and were exposed to human trafficking, smuggling and exploitation by criminal networks. As a country of transit for migrants to Europe, Morocco was seeking to deepen cooperation with its neighbours and other partners by adopting new approaches aimed at preventing tragedies in the Mediterranean Sea, which had laid bare the limitations of purely security-based approaches.

14. **Mr. Babacar** (Country Rapporteur) said that he would be interested to know whether the State party intended to ratify the ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). Welcoming the initiatives taken to introduce social dialogue as a governance method, he suggested that that method could be made more effective if the Government invited contributions from trade union representatives. As such, he recommended that the State party should ratify the ILO Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144). He would also be interested to know whether the State, as a champion country for the Global Compact for Migration, foresaw the ratification of the ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) and of the 2014 Protocol to the ILO Forced Labour Convention, 1930 (No. 29).

15. According to information received by the Committee, the State party had 40 communities of seasonal workers in countries bordering Morocco, who were, for the most part, women, and whose rights were protected under a protocol dating from 2020. However, as work was not guaranteed from one season to the next, those workers' employment conditions appeared to be precarious. He wondered whether the State party had plans to revise the 2020 protocol in order to strengthen the protection of the rights of that category of migrant worker.

16. **Ms. Poussi** (Country Rapporteur) said that she wished to know how the comprehensive anti-discrimination provisions in national legislation were implemented in practice. She hoped to hear details on how many complaints of discrimination had been submitted, how many prosecutions had been initiated, how many convictions handed down and what penalties had been imposed. She would be particularly interested to learn about cases concerning migrants from sub-Saharan African in transit towards Europe and those involving employers who discriminated against migrant workers on grounds of race. The delegation might also provide information on whether there was a body of cases where migrants had been successful. If so, raising awareness about such cases could counteract the belief that "foreigners were always wrong before the law".

17. The Committee had seen online comments to the effect that violence, racial discrimination and overcrowding were part of everyday life for sub-Saharan migrants living in inhumane conditions in a makeshift camp in Ouled Ziane. Could the delegation respond to those comments and to reports that numerous sub-Saharan migrants had been exposed to widespread criminal and institutional violence? She wished to know how long, on average, a sub-Saharan migrant in transit would spend in Morocco and whether any measures had been taken to limit that period as, generally speaking, the longer the stay, the greater the migrant's vulnerability. She would also be interested to know how many of the 50,000 recently regularized migrants were from sub-Saharan Africa and how many continued to enjoy a regular situation, particularly in the light of reports indicating that some of those migrants had fallen back into an irregular situation. If that were the case, she wondered whether the State party was taking any special measures to address their particular situation.

18. She would welcome details about any documented cases of discrimination against Moroccan migrants abroad, including instances where migrants had taken legal action against perpetrators, and the involvement of consular officials in the resolution of such cases. The Committee had received reports about a sharp increase in the number of sub-Saharan migrants being sentenced and imprisoned for their involvement in human trafficking or illegal immigration. In most cases, apparently, the linguistic and financial difficulties experienced by the defendant had meant that the conditions for a fair trial had not been respected. She invited the delegation to respond to such assertions and to indicate whether the State party had taken measures to enable migrants in such situations to communicate with their families and also with the consular authorities of their country of origin.

19. A recent study by the National Human Rights Council and the Office of the United Nations High Commissioner for Refugees had recommended promoting the right to justice for foreign nationals. She hoped that the delegation could indicate what measures the State party envisaged or had already taken to address challenges in that regard, including access to counsel; receipt of legal aid, particularly by those living in poverty; exercise of the right to appeal; and protection against violence, including sexual and gender-based violence.

20. Although national legislation envisaged the right to a defence for foreign nationals, reports indicated that procedures for accessing legal aid were complex and could, in practice, hamper migrants' access to justice. She wished to invite the delegation to comment on that issue, specifying whether migrants were given counsel in court cases, outlining any difficulties that migrants might face in exercising their right to a defence and also the measures that the State party might be taking to overcome those difficulties. Mindful of the fact that access to justice included the right to interpretation where a defendant did not understand the language used by the court, she would welcome information from the delegation on measures taken or good practices employed to ensure that court cases were not unduly lengthy owing to the absence of an interpreter. She would also welcome information regarding any fees for legal and interpreting services provided to migrants. The Committee was concerned by reports about the problems faced by migrants who had been transferred to

isolated cities in central Morocco, such as Ouarzazate, and whose telephones had been confiscated.

21. She wished to know whether the contractual obligations envisaged under Act No. 19.12 concerning the conditions of work and employment of domestic workers were adhered to in practice. In the light of the fact that 66 per cent of the country's domestic workforce was made up women, she wondered what proportion of those women were migrants and what proportion had a written contract as provided for under Act No. 19.12. She would also be interested to learn more about the situation of women and girls in Morocco who were victims of trafficking in persons and those, both Moroccans and foreigners, who had been returned to Morocco as a result of a readmission agreement.

22. She hoped the delegation could comment on troubling reports that a human rights defender had been deported from Morocco in reprisal for her work to defend the rights of migrants. The Committee would welcome information on how the State party handled migrants who were unaccompanied minors. Could the delegation confirm reports indicating that migrant children whose parents were in a regular situation could exercise their right to education whereas those whose parents were in an irregular situation struggled to do so? What objective difficulties did such children experience and what measures were being taken by the State party to ensure that all children were able to exercise their right to education?

23. **Mr. Oumaria** (Country Rapporteur) said that he wished to encourage the Government to act swiftly to adopt its draft laws on migration and asylum. In the past five years, a total of 215 boats had disappeared and more than 9,900 persons had died in the waters off Morocco, often following delays in search and rescue missions due to ongoing negotiations between different countries. Had any inquiries been conducted into those losses and what lessons had been learned? He wished to know whether the bilateral agreements between Spain and Morocco were fully in line with international human rights instruments, including the Convention. Moreover, given that many migrants who were returned to Morocco by Spain were not of Moroccan nationality, he wondered whether they received support to return to their countries of origin. Were the families of returned or deceased migrants informed of the fate of their loved ones?

24. Morocco needed to strengthen its cooperation with other countries and advocate within the African Union for stronger migration policy, bilateral agreements between States and information-sharing on migration across the continent. Greater cooperation was also needed with the Network of African National Human Rights Institutions, of which the Moroccan National Human Rights Council was currently chair. The Network had an important role to play in disseminating and promoting the Convention, the Committee's general comments, especially draft general comment No. 6, and the Marrakesh Agreement Establishing the World Trade Organization. It could also serve as a monitoring body for the protection of the rights of migrant workers and help to establish a system for training and information-sharing across Africa.

25. **Ms. Diallo** said that she wished to know what measures had been taken to protect the rights of the thousands of Moroccan migrant workers who had been expelled from Algeria in 1975, including steps taken to facilitate the return of the property they had lost. She would also welcome information on the mechanisms in place to ensure that migrant workers could exercise their right to justice when facing refoulement or detention. She wondered whether any independent investigation had been conducted into the events at the border with Melilla and, if so, whether it had taken account of possible racial motivations and whether a report of its findings was available to the public or could be shared with the Committee. Lastly, she wished to know how many authorizations had been granted to migrant workers under article 516 of the Labour Code. Given that the same article provided for authorization to be withdrawn at any point, information on the criteria, motivation and number of such withdrawals would also be welcome.

26. **Mr. Ceriani Cernadas** said that he would appreciate clarification on the status of the draft laws on the entry of foreigners into Morocco and on asylum, and whether they provided for the decriminalization of irregular migration, in line with the Committee's previous concluding observations.

27. Had any investigations been carried out into the deaths, injuries and reported disappearances associated with the events of 24 June 2022 at the border with Melilla, particularly concerning the provision of emergency services and the possible excessive use of force by law enforcement officials? In particular, he wished to know whether victims' families had been contacted and whether any children had been injured or detained. The Committee would be interested to hear about operations undertaken by security forces in settlements of sub-Saharan migrants in transit, what the purpose of such operations was and whether there was a protocol for the use of force in such cases. Were persons in those settlements returned to another country or moved to another location inside Morocco? Did the social protection authorities have any role in the matter? In cases of forced internal displacement of migrants, he wished to know what criteria were used to determine that a person should be displaced, what resources were available to them and what information they received about decisions affecting them.

28. He would be interested to know what measures were in place to provide legal advice to Moroccan nationals in Spain and how Moroccan consulates there acted to assist unaccompanied minors who required Moroccan documents. In the case of the human rights defender Helena Maleno, who had been returned to Spain from Morocco, he wondered what consideration had been given to the best interests of her daughter, who had been left behind and separated from her mother. He wished to know if there was a protocol for searching for persons who disappeared when their boats sank in Moroccan waters and for identifying persons who died in such situations. Lastly, he would welcome details about the process to apply for asylum under bilateral agreements with Spain.

29. **Ms. Dzumhur** said that she would like to know whether the National Human Rights Council carried out visits to migrant accommodation facilities as a preventive measure against trafficking in persons. She would also welcome information on any obstacles to the practical implementation of laws related to torture, ill-treatment and discrimination against migrants, such as a lack of competent institutions. Statistical data on the number of reported cases of torture and ill-treatment of migrants in transit would also be helpful, including the number of cases monitored by the National Human Rights Council and, where cases had been reported to the authorities, any disciplinary measures taken against those responsible. Lastly, she wished to know whether bilateral agreements with Spain guaranteed the right to non-refoulement.

30. **Mr. Taghi-Zada** said that he would welcome information on the bilateral and multilateral agreements signed with destination countries for Moroccan migrant workers, including the countries concerned, the type of agreement and how they were implemented.

*The meeting was suspended at 11.45 a.m. and resumed at 12.15 p.m.*

31. **A representative of Morocco** said that Morocco had ratified 65 different international instruments pertaining to labour and work, including 8 of the fundamental ILO conventions and 4 conventions on governance. The ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) and the Protocol of 2014 to the Forced Labour Convention, 1930 had been approved by both chambers of Parliament and were now in force. The Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) had been ratified in 2013; as part of that process, a committee of ILO experts had been consulted on the implementation and domestication of international labour standards.

32. **A representative of Morocco** said that the Constitution guaranteed the right to trade union association. The provisions of the ILO Migration for Employment Convention (Revised), 1949 (No. 97), which envisaged the right of migrants to join trade unions, had also been domesticated into the Labour Code. The Code allowed for multiple trade unions to exist, to be led by anyone and to freely and independently represent as many workers as wished to join them; it also prohibited any actions which might undermine the freedom of trade union association. An agreement signed in April 2022 had promoted the rights of workers, including migrant workers, through such measures as an increase in the minimum wage and greater protection for workers and their families.

33. **Mr. Sekkouri** (Morocco) said that rising prices and the after-effects of the COVID-19 pandemic had created a precarious situation for vulnerable groups, including women, young people and migrants. In response, the Government had entered into tripartite

discussions with employers and trade unions and had reached an unprecedented agreement to boost the minimum wage and reduce the contributions that workers were required to make in order to benefit from a retirement pension. Tripartite discussions had also been held at the regional level, with the involvement of local authorities, to address certain problems that vulnerable groups faced. The Government had agreed to establish a national observatory of social dialogue in order to monitor the social climate and better understand the situation of marginalized individuals.

34. **A representative of Morocco** said that Morocco had ratified the International Convention on the Elimination of All Forms of Racial Discrimination, and its domestic laws defined and proscribed discrimination. The Labour Code prohibited any distinction between Moroccan and foreign workers in respect of pay or dismissal. Act No. 88.13 on journalism and publishing envisaged penalties for incitement to racial discrimination.

35. The right to education was guaranteed for all children. During the reporting period, more than 3,000 migrant and refugee children had enrolled in public education every year. Children of migrants and refugees had also been provided with informal education, including programmes to combat illiteracy.

36. Migrant workers had access to justice on an equal footing with Moroccan nationals. Migrants and refugees were entitled to legal assistance and to receive the support of social workers and welfare units for female and child victims of violence. They also had access to certified interpreters to facilitate the lodging of complaints with the Public Prosecution Service. Of the 641 complaints submitted by non-nationals to the Service in 2020, 32 had been discontinued, while prosecutions had been initiated in 57 per cent of the remaining cases. Migrants could lodge complaints with the Public Prosecution Service via an online portal and a hotline.

37. Migrants who were party to legal proceedings could receive the pro bono assistance of a legal representative appointed by an association or international organization. In criminal cases, the courts appointed pro bono legal counsel. Legal aid centres provided services in different languages and had received more than 5,000 requests for assistance since 2022.

38. **A representative of Morocco** said that the Public Prosecution Service treated Moroccan and foreign nationals equally. Its electronic complaints portal, launched during the pandemic, allowed it to record and follow up on complaints and maintain regular contact with plaintiffs. Special services, including legal assistance and interpretation, were provided to foreign nationals who turned to the courts, and had benefited many migrant women and children, including child victims and children in conflict with the law. The authorities had conferred a special legal status upon unaccompanied children. A decree had been adopted whereby the State covered the cost of interpretation and legal assistance in court proceedings at all levels.

39. **A representative of Morocco** said that the loss of human life that had occurred at Melilla was a tragedy. The migration policy of Morocco was underpinned by the principle of protecting the physical integrity of migrants. However, the country was facing intense migratory pressures owing to its geographical location, the growing instability of the Sahel-Saharan subregion and socioeconomic and structural factors in countries of origin.

40. In recent years, the Moroccan authorities had dealt with some 350 attempted illegal border crossings involving thousands of migrants. The attempt of 24 June 2022 had been unprecedented in its scale, strategy and the fact that it had occurred during daylight. Some 2,000 migrants armed with knives, stones and sharp objects had engaged in frontal attacks on law enforcement officers who had been carrying out their regular border control duties. The reaction by the Moroccan security forces had been proportionate and professional; they had acted in accordance with the rules of engagement for such situations, and had not resorted to lethal force.

41. Law enforcement officers assigned to border crossings received specialized training in dealing with migrants, based on respect for their dignity and physical integrity. Initial and in-service training courses had been provided with the support of international partners. For example, in 2021 and 2022, the Office of the United Nations High Commissioner for Human

Rights had provided four training sessions on human rights at international borders to 200 officers.

42. The Government had adopted a set of procedures for the humane treatment of persons apprehended at land borders or rescued at sea. Those procedures had been followed during and after the incident of 24 June 2022. In particular, emergency measures had been taken to evacuate the injured, including 140 law enforcement officers and 77 migrants, and hospitals and health-care facilities in Nador and the surrounding region had activated an emergency plan, mobilizing health personnel, deploying ambulances and making hospital beds available. All injured persons had received health care.

43. The Moroccan authorities had taken a transparent approach in their response to the incident. The Public Prosecution Service had conducted a preliminary investigation, in the course of which forensic experts had performed DNA tests to identify the victims and autopsies to determine the cause of their deaths. The individuals who had been prosecuted had been afforded all procedural guarantees. Furthermore, the National Human Rights Council had deployed a fact-finding mission, which had drawn up an comprehensive report on the incident. The Ministry of Foreign Affairs had informed African ambassadors of what had occurred, and had facilitated the travel of Sudanese diplomats to the area so that they could assess the situation of Sudanese nationals.

44. The investigation had revealed that the persons involved in the incident did not match the typical migrant profile but in fact had militia backgrounds, and that the 23 deaths had been caused by suffocation during the stampede at the narrow Barrio Chino border checkpoint. The incident had thrown a spotlight on the difficulty and complexity of migration governance, the threat posed by trafficking networks and the need for bilateral, regional and international cooperation.

45. **Mr. Zniber** (Morocco) said that Morocco was a staunch supporter of multilateral migration governance and was fully committed to the implementation of the Global Compact for Safe, Orderly and Regular Migration, adopted in 2018 at Marrakech. To manage migration flows at its border, Morocco had prioritized regional and international cooperation with African, Arab and European partners in the framework of initiatives such as the Global Forum on Migration and Development, and the Western Mediterranean Forum. While dialogue with partners had yielded some significant results, more cooperation and responsibility-sharing was necessary.

46. Morocco maintained a continuous dialogue on migration-related issues with relevant international actors, including the Committee and the Human Rights Council. Following the incident at Melilla, the Permanent Mission of Morocco had immediately informed the Committee, special procedure mandate holders – including the Special Rapporteur on the human rights of migrants – and several international organizations of what had occurred. The Government had not shied away from discussing the incident in the Human Rights Council and with fellow members of the Group of African States, all of which had recognized the commitment of Morocco to protecting migrants.

47. **A representative of Morocco** said that the Government had developed a model contract for the employment of foreign domestic workers, which employers and employees were required to sign. The model contract established a number of safeguards, such as preventing child labour, and included provisions for the payment of the minimum wage, rest days, medical care and social protection. Since the entry into force in 2019 of Act No. 19.12 on the conditions of work and employment of domestic workers, some 800 foreign nationals had signed such contracts, accounting for 12 per cent of all contracts signed by domestic workers in Morocco. Employers and employees alike could submit complaints of alleged breach of contract to the labour inspectorate. In such cases, the labour inspectorate would convene a meeting with both parties with a view to their reconciliation and would draft a record of the meeting. The Government had developed guidance to ensure that the actions of the Public Prosecution Service and the labour inspectorate were complementary, and had produced handbooks for employers and employees to promote best practices in the fulfilment of contractual obligations. Labour inspectors had been provided with training to ensure that domestic workers had access to information and remedies. Awareness-raising events and



social media campaigns had been organized to increase civil society's understanding of domestic workers' rights.

48. **A representative of Morocco** said that children of migrant workers enjoyed access to schooling irrespective of their migration status. Act No. 51.17 on the system of education, formation and scientific research provided that education was compulsory for all children aged 4 to 16 years, without reference to nationality or to administrative or legal status. The Government took all necessary measures and mobilized all possible resources to ensure the educational inclusion of vulnerable children, including children of migrants, without discrimination. Since 2016, about 23,000 children of migrants had enrolled at various levels of the formal school system, while about 2,000 had received informal schooling. Children of migrants also benefited from social support programmes and were provided with meals, textbooks and school bags. The Government had produced a handbook on the integration of children of migrants, which had been distributed to educational institutions. Children of non-Muslim migrants were not required to attend religious or Islamic education classes.

*The meeting rose at 1 p.m.*