



# 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 Twenty-third session

### Summary record of the 297th meeting

Held at the Palais Wilson, Geneva, on Thursday, 3 September 2015, at 10 a.m.

*Chairperson:* Mr. Carrión-Mena

*later:* Mr. Taghizade (Vice-Chairperson)

*later:* Mr. Carrión-Mena (Chairperson)

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*The meeting was called to order at 10.05 a.m.*

**Consideration of reports submitted by States parties under article 73 of the Convention** (*continued*) (CMW/C/SYC/1; CMW/C/SYC/QPR/1)

*Initial report of Seychelles (continued)*

1. *At the invitation of the Chairperson, the delegation of Seychelles took places at the Committee table.*

2. **The Chairperson** invited the delegation to continue with its replies to the questions posed by Committee members.

3. **Ms. Murugaiyan** (Seychelles) said that the budget of the Ombudsman for 2015 was 1.2 million Seychelles rupees, that of the National Human Rights Commission 700,000 Seychelles rupees. The Office of the Ombudsman had two staff members; the Commission was made up of three members, including the chairperson. The Commission had been established after the Ombudsman. Cases of human rights violations were assigned to either body depending on the circumstances. More information on how those bodies dealt with cases brought to their attention would be provided at a later date.

4. **Ms. Alexander** (Seychelles) said that citizens of Seychelles working abroad were not covered by the national social protection system; in case of need they could seek assistance from one of the 80 honorary Seychelles consuls abroad or one of the 11 embassies. Many Seychelles citizens working abroad went to such countries as Australia, New Zealand, United Kingdom or countries in the Middle East or Africa, although no statistics were available in that regard. Her Government was currently working with the International Organization for Migration (IOM) to develop a diaspora management programme, although that programme was still at the conceptual stage.

5. With regard to family reunification, she said that article 32 of the Constitution underscored the importance of the family as the fundamental element of society and guaranteed the right to form a family. She did not however have any data on family reunification for migrants. She added that article 32 likewise specifically prohibited same sex marriages and marriage between persons within certain family degrees.

6. *Mr. Taghizade, Vice-Chairperson, took the Chair.*

7. **Ms. Morel** (Seychelles) said that the role of private employment agencies was to facilitate recruitment and advise job-seekers; they were usually not privy to the terms of employment contracts. The Ministry of Labour and Human Resource Development had the authority to review contracts and ensured that contract terms had been clearly explained to applicants. Pursuant to the Employment Act 1995 the Ministry also had the right to examine any relevant documents to ensure that there had been no collusion between the agency and the employer; if there had been collusion the agency could lose its licence and other penalties could be imposed. If found guilty of a criminal offence an agency could be prosecuted for negligence by the Attorney-General. Private employment agencies could also be sued in cases involving breach of contract. The Ministry had a designated office, the Special Employment Programme Section, to monitor employment agencies; a forum was to be established to discuss policies for strengthening the relationship between agencies and the Ministry.

8. Seychelles was a party to the International Labour Organization (ILO) Labour Inspection Convention, 1947 (No. 81) and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). Its labour inspection system met ILO standards and ensured compliance in such areas as working conditions, health and

safety and wages. Inspections occurred every day and could be routine and regularly scheduled or random; an order to remedy problems could be issued and follow-up inspections would ensure compliance. Seychelles workers worked an average of twelve hours a day or sixty hours a week; overtime must be paid for extra hours. Labour inspectors inspected payslips, including those of migrants, to ensure that workers were being paid at least the minimum wage and were paid for overtime. Seychelles was up to date in its reports to ILO and was currently reviewing its labour market inspection system with the technical support of ILO.

9. Seychelles was also a party to the ILO Minimum Wage-Fixing Machinery Convention, 1928 (No. 26), and the Minimum Wage-Fixing Machinery (Agriculture) Convention, 1951 (No. 99). It was working to eliminate discrimination in the workplace and also to ensure equal pay for work of equal value and was reviewing the Employment Act in the light of ILO conventions. In the context of its review of the implementation of ILO conventions by Seychelles, ILO had noted the regular increases in the minimum wage to keep pace with the rising cost of living.

10. **Ms. Alexander** (Seychelles) said that remittances received from migrant workers abroad or sent abroad by migrant workers in Seychelles were overseen by the central bank and were subject to international controls designed to combat money-laundering and the financing of terrorism. Information about the Convention was disseminated largely through forums on the rights of workers and migrant workers; a workshop on health-care services for migrant workers had been held in 2014 and leaflets on worker and migrant rights were distributed by labour inspectors. A meeting on human resources management had been held in 2012 at which employment issues had been discussed with representatives of the private and parastatal sectors. Seychelles celebrated the United Nations International Migrants Day on 18 December. Seychelles did not promote the Convention at the international level but she would welcome any guidance the Committee might be able to provide in that regard.

11. **Ms. Murugaiyan** (Seychelles) said that post-secondary education was free for Seychelles citizens but children of migrant workers had to pay 10,000 Seychelles rupees, or approximately \$715, for post-secondary tuition, an amount that had not changed since 2004 and was much less than the real cost of their studies. In some cases the migrant worker's employer would agree to pay for tuition.

12. **Ms. Alexander** (Seychelles) said that the situation of workers in the Seychelles International Trade Zone were the responsibility of the Financial Services Authority. With regard to the issue of pregnant workers being forced to quit their jobs and leave, she said that no complaints in that regard had been received. She said that the Authority investigated complaints and could require employers to modify work schedules and tasks for a pregnant employee. It was up to the employee to decide whether she wished to give birth in Seychelles or return to her home country.

13. **Ms. Bresson** (Seychelles) said that the working conditions and regulations in the Seychelles International Trade Zone were the same for both citizens and migrant workers, in accordance with the International Trade Zone (Employment) Regulation, which incorporated most of the provisions of the Employment Act. Provisions not included in the Regulation were often inserted instead in the employment contract. A person legally employed in the Zone was issued a work permit by the Financial Services Authority and was entitled to request that their family join them for the duration of their contract; the family's names were included on the work permit. The Regulation was to be amended to provide for paternity leave. She stressed that the Regulation did not take precedence over the Employment Act.

14. With regard to occupational health and safety in Seychelles, she said that regular inspections were undertaken by the Ministry of Labour and Human Resource

Development, often in conjunction with the Ministry of Health; if problems were identified the employer would be ordered to remedy the situation. In 2012, 2013 and 2014 there had been 98, 99 and 89 workplace accidents respectively; as of March 2015 there had been 21 accidents. Construction accidents represented around 14 per cent of the 2012 total, 8 per cent of the 2013 total and 13 to 14 per cent of the 2014 total. In 2015, up to March there had been no construction accidents.

15. **Ms. Telemaque** (Seychelles) said that lack of resources made it difficult to counter irregular migration. Article 28 of the Immigration Decree (1981) stated that any person staying on in Seychelles after the expiry of a work or visitor's permit was subject to deportation. According to article 21 of the Decree an individual under notice of deportation had seven days to file an appeal. A worker whose permit had expired but who had applied for an extension would not be deported if the employer paid the necessary fees and in fact extended the contract. Some employees stayed on after their contract expired, however, and simply looked for another job. Persons in an irregular situation were deported to their home country. Persons awaiting deportation could be housed in government guest houses or the accommodation provided by their employer. No disaggregated data on the number of migrant workers deported was available.

16. **Ms. Alexander** (Seychelles) said that Seychelles had bilateral agreements with some countries but not with Qatar or the United Arab Emirates, although such agreements might be negotiated if necessary.

17. **Mr. Thachett** (Seychelles) said that all births in Seychelles must be registered, including births to migrant parents; in order for a baby to obtain citizenship, however, one of the parents must be a citizen of Seychelles. All aspects of the entry and stay of aliens in Seychelles were governed by the Constitution and the Citizenship Act. Citizenship could be obtained through adoption or naturalization, by virtue of studies or work in Seychelles or distinguished service to the nation, or in other special circumstances.

18. **Ms. Murugaiyan** (Seychelles) said that non-governmental and civil society organizations, the Ombudsman and the National Human Rights Commission had been invited to participate in the committee charged with preparing the report to the Committee. Seychelles had received significant assistance from the European Development Fund in such areas as economic reform, capacity-building for governance, climate change and the environment. In 2015-2020 the Fund was expected to provide some €2.2 million for projects in such areas as the energy sector and the blue economy. Seychelles likewise had a good relationship with the United Nations Development Fund (UNDP), which for example provided support for the preparation of reports on the achievement of the Millennium Development Goals.

19. **Ms. Alexander** (Seychelles) noted that the right to life was guaranteed in article 15 of the Constitution but there was no reference to the unborn child in that article or in any other provision of domestic law.

20. **Mr. Kariyawasam** (Country Rapporteur) welcomed the fact that Seychelles, a country of origin and destination for significant numbers of migrant workers, was a party to the Convention, unlike many other countries that received large numbers of migrant workers, and many developed countries. With regard to international dissemination of the Convention, he encouraged the delegation to suggest to the Ministry of Foreign Affairs that, at international meetings such as the universal periodic review of the Human Rights Council, Seychelles should call on other States to become parties to the Convention.

21. He wondered whether there were any mechanisms to ensure that Seychelles citizens working abroad were able to vote in national elections, for example at their embassies, even if their relatively small numbers meant they were not likely to

influence the outcome of an election. He underscored that the State party had an obligation under the Convention to ensure that its citizens working abroad had the opportunity to exercise their democratic right to vote.

22. **The Chairperson**, speaking as a member of the Committee, noted that it would be useful to receive statistics on the minimum wage in US dollars, asked whether employees had to work a certain number of hours a week or month in order to qualify for the minimum wage. He invited the delegation to provide information on living standards, the consumer price index and purchasing power parity. The delegation should also indicate whether any restrictions were imposed on migrant workers with disabilities and what guarantees were in place for workers with disabilities or those who suffered workplace injuries.

23. **Mr. Tall** said that he had not heard a reply to his question on specific legislation governing entry to, and stay in, Seychelles. He wished to know whether irregular migration was a problem in the country and, if so, how it manifested itself. He enquired about the numbers of undocumented migrants and of expulsions, including mass expulsions.

24. He would welcome information on the cost to foreign nationals of sending remittances. The delegation should also state whether migrant workers had the right to freedom of assembly and association, and whether they could hold official positions in trade unions. Lastly, he wished to know what specific measures had been taken to enable citizens of Seychelles living abroad to vote and be elected.

*The meeting was suspended at 10.55 a.m. and resumed at 11.35 a.m.*

25. *Mr. Carrión-Mena resumed the Chair.*

26. **Mr. Thachett** (Seychelles) said that entry to, and stay in, Seychelles were regulated by the Immigration Decree and the acquisition of citizenship by different categories of persons was governed by the Citizenship Act. Both texts could be consulted on the website of the Seychelles Legal Information Institute and hard copies would be sent to the Committee in due course.

27. Article 113 of the Constitution provided that all citizens aged 18 or over who were registered as voters in a constituency were entitled to vote, while under articles 51 and 80 persons qualified to vote could run for election to the office of President and or to the National Assembly. Under the Elections Act, citizens of Seychelles living overseas could be registered as voters so long as they had been issued with a national identity card and had been resident in a constituency for at least three months immediately prior to registration.

28. **Ms. Morel** (Seychelles) said that the Employment Act contained a formula for calculating the minimum wage, which stood at \$306 per 35-hour week and \$524 per 60-hour week. The National Bureau of Statistics updated the consumer price index monthly. The figures from July 2015 had indicated a 2.4 per cent increase in the cost of food items compared to July 2014. For non-food items, including rent, fuel and education, prices had risen by 5 per cent over the same period.

29. **Ms. Telemaque** (Seychelles) said that an effective system was in place at immigration checkpoints at air and sea ports. Persons with expired permits or fraudulent documents were refused entry into the country.

30. Between January and June 2015, 162 foreigners had been served with a notice to leave Seychelles. Persons who did not leave on expiry of their residence permit had to be found and returned to their country of origin, often at the Government's expense. The permits of migrant workers were flagged three months prior to expiry and employers were notified of the need to renew them.

31. **Ms. Bresson** (Seychelles) said that there were no mass expulsions of migrant workers from Seychelles. Deportation orders could be challenged by filing a grievance under the Employment Act or with the Supreme Court, which, under article 125 of the Constitution, had the power to issue injunctions in order to secure justice.

32. **Ms. Murugaiyan** (Seychelles) said that the Employment Act prohibited employers from discriminating against workers on grounds such as disability. Migrant workers with disabilities were not entitled to the same disability benefits as citizens, but those who suffered a workplace accident could be covered by their employer's liability insurance.

33. **Ms. Bresson** (Seychelles) said that, in accordance with article 23 of the Constitution, migrant workers had the right to freedom of assembly and association. Any restrictions of that right were for reasons of national security, public health or morals, or the maintenance of law and order.

34. **Ms. Alexander** (Seychelles) said that there were costs associated with sending remittances through money transfer companies. As an example, anyone wishing to transfer 10,000 Seychelles rupees would be required to pay around \$5. It was important to note, in that regard, that many migrant workers in Seychelles were from India and that transfers made through the Bank of Baroda were not subject to charges. According to the Central Bank of Seychelles, remittance outflows in 2016 and 2017 would be roughly three times greater than inflows, as a percentage of gross domestic product.

35. **Mr. Kariyawasam** (Country Rapporteur) thanked the delegation for its participation in the dialogue, which was all the more commendable given that Seychelles was a small island nation with human resource constraints. The composition of the delegation was indicative of the Government's desire to implement the Convention and uphold the rights of migrant workers. In the next periodic report, however, the Committee would appreciate more detailed information on citizens of Seychelles who were employed abroad. He hoped that the State party would continue to make progress and eventually serve as a model country in terms of the protection of migrants' rights.

36. **Ms. Alexander** (Seychelles) said that migrant workers contributed significantly to the economic and cultural development of Seychelles, and that the Government was determined to ensure that they were treated with the respect and dignity that they deserved. Despite the progress made, the Government was aware of the challenges that remained and looked forward to continuing its cooperation with the Committee.

*The meeting rose at 12.05 p.m.*