



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

Distr.: General
27 September 2017
English
Original: Spanish

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

Concluding observations on the third periodic report of Mexico*

1. The Committee considered the third periodic report of Mexico (CMW/C/MEX/3) at its 365th and 366th meetings (see CMW/C/SR.365 and 366), held on 6 and 7 September 2017. At its 374th meeting, held on 13 September 2017, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the third periodic report of the State party, which was prepared in response to the list of issues prior to reporting (CMW/C/MEX/QPR/3). The Committee appreciates the open and constructive dialogue held with the diverse delegation representing the Mexican authorities and civil society.

3. The Committee recognizes that, as a country of origin, transit, destination and return of migrant workers and their families, the State party has made progress in protecting the rights of its nationals. However, it also notes that the State party faces many significant challenges in protecting the rights of migrant workers as a country of origin, transit, destination and return.

4. The Committee notes that some of the countries that receive Mexican migrant workers are not parties to the Convention, which hinders the enjoyment by these workers of their rights under the Convention.

B. Positive aspects

5. The Committee welcomes the adoption of the following legislative measures:

(a) The General Act on the Rights of Children and Adolescents, 2014 and its regulations, 2015;

(b) The Victims Act, 2013 and amendments thereto;

(c) The Migration Act, 2011 and its regulations, 2012;

(d) The General Act on the Prevention, Punishment and Eradication of Trafficking in Persons and the Provision of Protection and Assistance to Trafficking Victims, 2012;

(e) The Refugees, Complementary Protection and Political Asylum Act, 2011 and its regulations, 2012.

* Adopted by the Committee at its twenty-seventh session (4-13 September 2017).



6. The Committee also welcomes the following institutional and policy measures:
 - (a) The 2014-2018 Special Migration Programme;
 - (b) The Migration Policy Unit, 2012;
 - (c) The Unit for the Investigation of Crimes against Migrants and the Mexican External Support Mechanism for Search and Investigation, 2015;
 - (d) The agreement with the Forensic Committee, 2013;
 - (e) The Citizens' Council and the Advisory Council on Migration Policy of the National Institute for Migration, 2012;
 - (f) The National System for the Comprehensive Protection of Children and Adolescents, 2015;
 - (g) The Federal Office for the Protection of Children and Adolescents, 2015;
 - (h) The Advisory Council on Migration Policy of the Ministry of the Interior to ensure the equal participation of civil society in human mobility policies;
 - (i) The strengthening of the Mexican consular network in the United States of America, providing legal advice and assistance to Mexicans.
7. The Committee welcomes the following measures in relation to international instruments:
 - (a) The decision to withdraw the reservation to article 22 (4) and the declaration made under article 77 of the Convention;
 - (b) The ratification of the International Labour Organization (ILO) Convention concerning Minimum Age for Admission to Employment, 1973 (No. 138), 2015.
8. The Committee also notes with satisfaction the invitations extended by the State party to the United Nations special procedures, including:
 - (a) The Special Rapporteur on extrajudicial, summary or arbitrary executions, 2014 (A/HRC/26/36/Add.1) and 2016 (A/HRC/32/39/Add.2);
 - (b) The Special Rapporteur on torture, 2014 (A/HRC/28/68/Add.3).

C. Principal subjects of concern and recommendations

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

Legislation and application

9. The Committee is concerned that all of the provisions of the Convention have not yet been fully incorporated into national, state and municipal legislation, particularly the Migration Act and its regulations.

10. **The Committee reiterates its previous recommendation (see CMW/C/MEX/CO/2, para. 16) that measures be taken to ensure that the Migration Act and other legislation is fully compatible with all of the provisions of the Convention and other international human rights instruments, including:**

- (a) **The finalization of the legislative process to amend article 33 of the Constitution;**
- (b) **The harmonization of the Migration Act with the General Act on the Rights of Children and Adolescents;**
- (c) **The adoption and promulgation of the bill on enforced disappearances and disappearances committed by individuals;**
- (d) **The amendment and approval of state and municipal regulations in accordance with the Convention, other treaties and relevant federal and general laws.**

Articles 76 and 77

11. **The Committee urges the State party to make the declaration under article 76 of the Convention.**

Ratification of relevant instruments

12. **The Committee recommends that the State party ratify the Convention on the Reduction of Statelessness, 1961, and reiterates its previous recommendation (see CMW/C/MEX/CO/2, para. 14) to the State party that it ratify the ILO Migration for Employment Convention (Revised), 1949 (No. 97) and the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) as soon as possible. It also recommends ratification of the ILO Labour Inspection Convention, 1947 (No. 81), Labour Inspection (Agriculture) Convention, 1969 (No. 129) and Domestic Workers Convention, 2011 (No. 189).**

Coordination

13. The Committee acknowledges the establishment of the Migration Policy Unit, but notes that continuous and effective coordination and evaluation mechanisms have not yet been put in place between federal, state and municipal bodies. It is also concerned by the decisive role played by the National Institute for Migration in responding to migration, particularly irregular migration, since it was made a national security agency in 2005.

14. **The Committee recommends that the State party take measures to:**

(a) **Ensure systematic and effective coordination between the various authorities that are responsible for migration issues at the federal, state and municipal levels, and the availability of budgetary and other resources;**

(b) **Ensure that a human rights-based approach, including a gender perspective and non-discrimination, is at the centre of inter-agency coordination and the implementation of important policies.**

Data collection

15. The Committee takes note of the efforts made to design a migration information and statistics network and create a disaggregated database for trafficking in persons. It is concerned at the lack of disaggregated qualitative and quantitative data to evaluate respect for all the rights of migrants and members of their families provided for under the Convention, other treaties and domestic legislation in force in the State party.

16. **The Committee recommends that, in line with target 17.18 of the Sustainable Development Goals and following an approach based on human rights, gender equality and non-discrimination, the State party:**

(a) **Strengthen the current data-collection system used by all bodies that provide services and assistance to migrants at the federal, state and municipal levels, with the broad participation of civil society organizations, the United Nations and academia;**

(b) **Ensure the coordination, integration and dissemination of these data through the Migration Policy Unit and the technical role of the National Institute of Statistics and Geography, and design indicators to measure progress and the results of policies and programmes;**

(c) **Include the situation of all migrant workers and members of their families for whom Mexico is a country of origin, transit, destination or return and compile data disaggregated, inter alia, by sex, age, nationality, ethnic origin, migratory status, disability and sexual orientation.**

Training on and dissemination of information about the Convention

17. The Committee welcomes the measures taken to disseminate the Convention and its provisions and to train public servants and the media, among others. However, it is

concerned by reports of discriminatory and stigmatizing attitudes among public servants, despite the training received, and the lack of appropriate knowledge of the Convention and the rights of migrant workers and members of their families.

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

(a) **Strengthen training initiatives on the rights under the Convention, other treaties and domestic legislation in this area, with the participation of civil society organizations, and officials of the National Institute for Migration and other institutions at the federal, state and municipal levels, including the judiciary;**

(b) **Implement effective mechanisms to evaluate the impact of training;**

(c) **Implement training in recruitment services for labour migration to North America in order to inform and educate migrant workers and their family members, and particularly to empower women about their rights and encourage them to form social organizations in their countries of destination.**

Participation of civil society

19. The Committee is concerned at the lack of opportunities for the broad and systematic participation of non-governmental organizations and migrant activists in the implementation of the Convention and design and evaluation of public policies, including the Special Migration Programme.

20. **The Committee encourages the State party to:**

(a) **Institutionalize dialogue with civil society organizations, strengthen local advisory councils, hold ongoing discussion forums and provide them with the tools to participate in the follow-up of the recommendations contained in these concluding observations;**

(b) **Expand the participation of organizations of Mexican migrants abroad, especially in the United States, and organizations and committees of family members of migrants from Central America.**

21. The Committee continues to be particularly concerned about the violation of the human rights of migrant activists. It notes that they are subjected to violence and threats by organized crime groups and trafficking networks, sometimes in collusion with the authorities, as well as harassment and efforts to delegitimize their work by migration officials and government and private security forces that handle migration control activities or provide services to monitor transport along migration routes.

22. **The Committee reiterates its previous recommendation (see CMW/C/MEX/CO/2, para. 52), and invites the State party to take effective, prompt and comprehensive steps to:**

(a) **Guarantee the life, liberty and integrity of migrant rights defenders, including measures to prevent, investigate and ensure appropriate penalties for attacks and abuses against them;**

(b) **Publicly acknowledge their work and establish a register of cases reported, investigations conducted and cases settled to be included in the next periodic report;**

(c) **Facilitate the exercise of their work, including by ensuring broad access to migration detention centres, shelters and other similar establishments.**

Corruption

23. The Committee is concerned by the lack of information on the types of complaints received and on the penalties for violations of the human rights of migrants beyond the dismissal of public servants. It is also concerned at the high number of complaints of harassment, corruption and abuse of authority by law enforcement officials that have been closed because of lack of evidence. It is also worried by the information received

concerning cases of extortion involving the families of migrant workers detained in migrant holding centres.

24. **The Committee reiterates its previous recommendation (see CMW/C/MEX/CO/2, para. 28) and urges the State party to thoroughly investigate all such cases, including cases of extortion involving the families of detained migrants, and to adopt appropriate preventive and punitive measures. It also recommends the establishment of safe, gender-sensitive spaces or mechanisms to protect complainants from reprisals.**

2. General principles (arts. 7 and 83)

Non-discrimination

25. The Committee takes note of the State party's legal framework to ensure non-discrimination. However, the Committee is concerned at reports of increasing xenophobia in social and institutional contexts, and at the role of the media in creating and perpetuating negative stereotypes of migrants. It is also concerned by the information received regarding migration control and verification procedures that are based on the individual's ethnic profile.

26. **The Committee reiterates its previous recommendation (see CMW/C/MEX/CO/2, para. 24), and also encourages the State party to take steps to prevent and punish the criminalization of migrants in messages from social and political actors. It recommends that the State party conduct education, communication and social information campaigns, and that it identify and eliminate discriminatory practices in public and private institutions, including in migration control and verification procedures.**

27. The Committee is concerned at reports that migrants with leave to remain on humanitarian grounds face difficulties in obtaining the civil registry identity number that serves as proof of identity and is required for access to social rights and benefits.

28. **The Committee recommends that the State party take immediate steps to facilitate access to the civil registry identity number for migrants and asylum seekers with leave to remain on humanitarian grounds, in accordance with articles 25 and 27 of the Convention.**

Women migrant workers

29. The Committee notes that there are still gaps in legislation and in practice that affect the rights of women migrant workers. It is concerned that many migrant women who are taking up traditional roles in the gendered labour market, such as domestic work, do not have legal guarantees protecting their labour rights in a framework of equality and non-discrimination. The Committee also notes that few women migrants have access to decent work in sectors such as agriculture. It notes with concern that the law does not provide for the reparation of harm to male or female workers who lose their jobs as a result of sexual harassment.

30. **The Committee recommends that the State party adopt and implement measures to guarantee the rights of all women migrant workers, including domestic workers, through:**

(a) **Regularization and authorization to work that is not tied to an employer, the husband or family members, and for a reasonable fee;**

(b) **Protection of their labour rights in a framework of equality and non-discrimination; particularly as regards access to social security, pay, work contracts, termination and compensation;**

(c) **Monitoring and oversight of their working conditions, investigation of abuses against them and punishment of those responsible;**

(d) **Gender-sensitive mechanisms for bringing complaints against employers, with guarantees that no detention or deportation will result;**

(e) **Access to justice and effective remedy, including in cases of sexual harassment, and to medical assistance, including in the area of sexual and reproductive health;**

(f) **Gender-sensitive mechanisms for the selection of applicants to the bilateral labour migration programmes;**

(g) **Facilitation of equal participation in trade unions and forums for dialogue with civil society organizations, and formation of associations of domestic workers.**

Right to an effective remedy

31. The Committee remains concerned at the lack of access to justice and reparation for the victims of abuses and violations of the rights recognized under the Convention. It notes with great concern the widespread impunity for crimes reported, the lack of confidence in the public authorities, and the scant budget provision for the proper investigation of such crimes and for appropriate reparation.

32. **The Committee reiterates its previous recommendation (see CMW/C/MEX/CO/2, para. 26) and urges the State party to:**

(a) **Ensure that legal assistance is based on non-discrimination and easily accessible and free of charge;**

(b) **Launch an immediate investigation when crimes and rights violations are brought to its attention and provide access to reparation by means of accessible information and effective legal assistance;**

(c) **Provide assistance with legal defence, interpretation services, the right to individual consideration, gender-sensitive interviewing, procedural facilities, the right of appeal, and reparation and/or compensation to the victim and the family;**

(d) **Ensure due process guarantees, access to social assistance and full reparation in accordance with the Victims Act, including through inter-agency plans for the restoration of rights, non-repetition and comprehensive reparation, that provide for the possibility of the regularization of migration status;**

(e) **Ensure that the Unit for the Investigation of Crimes against Migrants, of the Office of the Attorney General of the Republic, and other special prosecutors automatically launch investigations when they are notified of crimes against migrants and alleged violations of their rights.**

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

Protection from violence, physical injury, threats and intimidation

33. The Committee is deeply concerned at the serious irregularities in the investigations carried out to identify the perpetrators and the victims of the massacres in the states of Tamaulipas and Nuevo León between 2010 and 2012, for which no one has yet been punished, the extremely serious impact of enforced disappearance on migrants and Mexican nationals in transit and the high levels of gender-based violence, particularly on the southern border. The Committee is very concerned at the allegations of involvement by public authorities, particularly the federal, state and municipal police, the widespread impunity frequently associated with such crimes and the low numbers of complaints. The Committee is also concerned at the obstacles hindering survivors of such crimes from regularizing their situation on humanitarian grounds.

34. **The Committee reiterates its previous recommendation (see CMW/C/MEX/CO/2, para. 30) and urges the State party to:**

(a) **Ensure that it seriously and diligently investigates those acts, taking into account State officials' links with criminal organizations and crimes such as corruption and impunity, and imposing penalties commensurate with the gravity of the crime committed;**

(b) **Conduct expeditious and exhaustive investigations into the massacres in the states of Tamaulipas and Nuevo León, as serious violations of human rights;**

(c) **Arrange for a broadening of the mandate and funding of the Forensic Committee in order to ensure a gradual cross-referencing of forensic information on disappeared migrants from other cases in addition to the three massacres;**

(d) **Guarantee the implementation of the Mexican External Support Mechanism for Search and Investigation in the various countries of Central America, ensuring that migrants and their families have easy access to state and federal institutions, are kept informed of investigations and are able to participate in the process, including by setting up permanent units in the State party's embassies and consulates;**

(e) **Ensure effective cooperation with expert commissions and multidisciplinary teams in countries of origin and destination, in assisting migrants who are victims of serious crimes, including enforced disappearance, and in tracing, locating and releasing disappeared persons or, in the event of death, in exhuming and identifying their remains and arranging for their dignified return;**

(f) **Ensure that victims are identified and referred to appropriate services that are sensitive to their situation, including medical and psychosocial services, and that, at the request of victims, the cooperation of social organizations is sought;**

(g) **Ensure that survivors of such crimes have access to regularization on humanitarian grounds;**

(h) **Punish those responsible, including any State officials involved, with sentences that are commensurate with the seriousness of the crime.**

Border management and protection of migrants in transit

35. The Committee takes note of the State party's efforts to deal with organized crime and provide comprehensive security for persons in its territory. It notes with concern, however, the significant increase in crimes against migrants and in the risks encountered the entire length of the way through Mexican territory, along alternative routes that are used by migrants and their families in order to avoid the numerous migration control devices deployed by the State.

36. **The Committee recommends that the State party, in dialogue with all the actors concerned, carry out a comprehensive evaluation of the impact of migration control operations in increasing the risk of violation of the right to life and to physical integrity of migrants in transit, and that it take the necessary measures to prevent such risk, protect that population group and, in particular, promote migration policies and practices that focus on human rights and human safety, including the establishment of safe and regular migration channels.**

Deprivation of liberty

37. The Committee is deeply concerned at the high number of custodial measures applied to migrants in the 58 migrant holding centres around the country. It is concerned at the delegation's claims that such detention (called "securing" or "presentation") does not amount to deprivation of liberty, or that it may be described as a protective measure or a benefit. It is also concerned at the presence in holding centres of families, pregnant women, trafficking victims, asylum seekers and other persons in situations of increased vulnerability and in need of special protection. Likewise, it notes with particular concern the detention of children and adolescents, many of them unaccompanied or very young, whose numbers increased by 900 per cent between 2011 and 2016. This measure constitutes without exception a violation of the rights of the child and the child's best interests.

38. **The Committee recommends that, as a matter of priority, the State party:**

(a) **Urgently take all necessary steps to put an immediate end to the deprivation of liberty of children and adolescents and of migrant families,**

guaranteeing in law and in practice adequate alternative measures based solely on the protection of rights under the General Act on the Rights of Children and Adolescents;

(b) Ensure effective and immediate action regarding processes of identification and referral of persons in vulnerable situations and their transfer to alternative accommodation;

(c) Develop an action plan to ensure that deprivation of liberty on migration-related grounds — for adult migrant workers — is applied only as a measure of last resort and for the shortest possible time, based on the principles of exceptionality, proportionality, necessity and reasonableness;

(d) Guarantee, in law and in practice, the provision of alternative non-custodial measures for migrant workers in an irregular situation, to be applied as a first resort and with due regard to the individual's circumstances by the appropriate administrative and/or judicial authorities;

(e) Ensure that migrant workers are informed of procedures and rights in a language they understand.

Procedural guarantees in cases of deprivation of liberty

39. The Committee notes with concern that detention as applied by the National Institute for Migration is an automatic measure and is not properly justified in individual cases based on necessity and reasonableness. It notes that detention without due process guarantees, such as immediate presentation before an independent and impartial judge, or the right to free legal assistance, is considered arbitrary under the Convention and other treaties. It is also concerned at reports that insufficient information is provided to migrants regarding the grounds for their detention or their rights and the available remedies, including the right to seek asylum, complementary protection or leave to remain on humanitarian grounds. It is also concerned at the fact that the exercise of available remedies may result in indefinite detention and at the restrictions on access by lawyers from social organizations to offer legal assistance and representation.

40. **The Committee urges the State party to:**

(a) Ensure due process guarantees, including the right to an interpreter, in migration-related detention procedures;

(b) Do everything possible to guarantee the right to free legal assistance and representation in migration-related detention procedures, including by providing resources and training to the Federal Public Defender Service. Additionally, the Committee recommends the conclusion of agreements with civil society organizations specializing in such assistance;

(c) Ensure that detention of migrants is an exceptional measure of last resort applied for the shortest possible time, that grounds are specified in each case, giving the reasons why alternative measures cannot be implemented, and that the measure is reviewed in under 24 hours by an independent and impartial judicial authority;

(d) Guarantee the right of access to justice, without resulting in the prolonging of detention, in accordance with article 111.V of the Migration Act, to ensure that persons covered by an alternative measure or applying for asylum are not detained for an indefinite period while their application is being considered.

Conditions of detention

41. The Committee is concerned at the conditions of detention of the migrant population in the State party. It notes with great concern that in some cases conditions amount to cruel, inhuman and degrading treatment.

42. **The Committee reiterates its previous recommendation (see CMW/C/MEX/CO/2, para. 34), and urges the State party to guarantee adequate, decent conditions in migrant detention centres; the centres should not resemble a**

prison facility either in appearance or purpose. In particular, the Committee recommends that the State party:

- (a) Provide adequate, gender-sensitive health services, including sexual and reproductive health services, psychological care, water, sanitation and hygiene, food, and leisure and recreational activities;
- (b) Put an immediate stop to the use of punishment cells;
- (c) Put an end to any situation of overpopulation or overcrowding;
- (d) Investigate and punish in an appropriate manner State officials who violate the rights of migrants in these centres;
- (e) Train State officials in places of detention on human rights, gender equality, the best interests of children and adolescents and non-discrimination;
- (f) Implement the recommendations of the National Human Rights Commission and guarantee the full implementation of the national mechanism for the prevention of torture.

Expulsion

43. The Committee is very concerned at the significant increase in expulsions of persons from El Salvador, Guatemala and Honduras. It is deeply concerned that so-called “voluntary assisted return” is applied while those involved are deprived of their liberty, with no legal assistance or adequate information, and no alternatives permitting regularization. It notes with concern the large number of persons who abandon their quest for refugee status, and that measures of “return” may be ordered without proper investigation of the possible risks to the person’s life and physical integrity in the country of origin.

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

- (a) Ensure that persons subject to an administrative order of expulsion or return, or seeking refugee status, can avail themselves of support services and free legal representation, and are aware of and can exercise their right to an effective remedy;
- (b) Develop mechanisms to prevent the expulsion of migrants until each individual situation has been appropriately evaluated, in order, among other things, to uphold the principle of non-refoulement and the prohibition of collective and arbitrary expulsion;
- (c) Strengthen the implementation of policies and mechanisms designed to provide alternatives to expulsion or return, including the right to asylum, complementary protection, leave to remain on humanitarian grounds, and other forms of regularization.

Consular assistance

45. The Committee takes note of the State party’s efforts to provide assistance to Mexican migrant workers and members of their families, including through its 50 consulates in the United States, and the additional services put in place in response to measures taken by the host country. It is concerned at the difficulties faced by those migrant workers in recovering wages and other benefits denied by their employers in that country.

46. **The Committee recommends that the State party continue strengthening the capacity and resources of its consulates and embassies to provide assistance and protection to Mexican migrant workers and members of their families, in collaboration with civil society organizations and the National Human Rights Commission, and maintain the dialogue with the authorities in the country of destination.**

Remuneration and conditions of work

47. The Committee is deeply concerned at the exploitation of undocumented migrant workers in the workplace. According to reports received, wages are low, there are no formal contracts in the majority of cases, they are paid irregularly or not at all, and they do not have access to social security. It is concerned that most such workers do not assert their labour rights owing to a lack of information and for fear of deportation. The Committee takes note of the migrant regularization programmes implemented since 2011, but is concerned at their limitations, particularly the fact that they do not include a work permit and that the cost of obtaining temporary and permanent residence permits is high. It is also concerned at the fact that obtaining the visiting frontier worker card depends on the employer and, in certain cases, is expensive, factors that hamper independent regularization and decent work for migrant women and men in the agriculture sector, in conditions of equality.

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

(a) **Bring its labour and social security legislation into line with the Convention in order to incorporate labour protection for migrants in an irregular situation without discrimination;**

(b) **Ensure regular inspections by trained labour inspectors, with a view to the protection of migrant workers' rights;**

(c) **Facilitate access to migration regularization for migrant workers and remove the obstacles they face in accessing the migration regularization programme and exercising their labour rights, including access to justice for abuse by their employers;**

(d) **Guarantee to all migrant workers the right to become officers of trade unions.**

Health care

49. The Committee takes note that the State party allows anyone to join the people's health insurance scheme without the need to produce papers, but is concerned that this insurance is valid only for 90 days. The Committee is also concerned at the fact that many undocumented migrant workers do not access health services because they fear arrest and deportation.

50. **The Committee recommends that article 42 of the Health Act Regulations, on social health protection, should be amended to ensure unrestricted participation by migrant workers and members of their families in the people's health insurance scheme. The Committee also recommends the adoption of measures to ensure that undocumented migrants have access to medical services and health care without being reported to the immigration authorities.**

Birth and nationality registration

51. The Committee takes note of the sharp increase in the registration as Mexican nationals of children born in the United States. However, the Committee is concerned at the problems faced by undocumented Mexicans in that country when registering their children's births, at the obstacles they face when attempting to have birth certificates recognized in Mexican territory owing to translation and authentication requirements, and at the lack of information available to parents regarding registration of births at Mexican consulates. All these factors pose barriers to obtaining identity documents and nationality, as well as to accessing education and other social services once families return to Mexico.

52. **The Committee recommends that the registration of births with Mexican consulates be encouraged and that mothers be made aware of the importance of the timely registration of dual nationality. Likewise, the Committee recommends that undocumented parents be provided with information and assistance to enable them to register births with the United States authorities. The Committee suggests that a simplified procedure be established for registering children with Mexican parents as**

Mexican nationals in Mexico thereby avoiding inaccessible requirements, such as the translation and notarization of documents in the United States, when the family concerned has already left the country. In any case, the Committee recommends ensuring access to education and other social services for the children of returning Mexicans, irrespective of their documentation or nationality.

Education

53. The Committee takes note of the State party's efforts to eliminate administrative barriers to access to education for child migrants. It also notes that many undocumented migrant children and adolescents do not have access to education services because of discrimination or for fear of arrest and deportation.

54. **The Committee urges the State party to take legislative and practical measures to ensure that the new rules are adopted and implemented effectively at the state and local levels, and that measures are included to ensure that undocumented child migrants are not discriminated against or reported to the immigration authorities.**

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

Children and adolescents in the context of international migration

55. The Committee notes with great concern that many challenges remain regarding the full implementation of the General Act on the Rights of Children and Adolescents. In addition to the detention of tens of thousands of children and adolescents in migrant holding centres, the Committee is particularly concerned by the following:

(a) The failure to implement the procedures for determining the best interests of the child provided for in the Migration Act and the General Act on the Rights of Children and Adolescents;

(b) The failure to establish enough local protection offices for children and adolescents and competent authorities or to bring them into line with the General Act on the Rights of Children and Adolescents;

(c) The absence of mechanisms guaranteeing legal assistance for children and adolescents in migration proceedings, as well as the absence of a guardian for unaccompanied children;

(d) The absence of mechanisms ensuring the effective participation and the right to be heard of children and adolescents in all proceedings affecting them, and for their views to be duly taken into account;

(e) The serious impact of violence and persecution on children and adolescents from El Salvador, Guatemala and Honduras, the abuses they suffer while in transit through Mexican territory and the situations of labour exploitation of children and adolescents in the south of the country;

(f) The return of children and adolescents to their countries of origin without prior assessment and determination of their best interests that would make it possible to apply other immediate and sustainable protection measures;

(g) The low proportion of children and adolescents applying for refugee status and the high number of cases in which such applications are abandoned.

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

(a) **Implement, as soon as possible, an inter-agency procedure for determining the best interests of the child, coordinated by the Federal Office for the Protection of Children and Adolescents within the framework of the System for the Comprehensive Protection of Children and Adolescents and the General Act on the Rights of Children and Adolescents, ensuring due process guarantees, including the right to information and free legal assistance from professionals specialized in the rights of children and adolescents and, in the case of unaccompanied children, the**

right to a guardian, who must uphold the best interests of children and adolescents throughout the process;

(b) **Ensure that the systems and institutions for the protection of children and adolescents function independently of the National Institute for Migration and have the necessary capacity to apply the principle of the best interests of children and adolescents, and that those decisions take priority over other considerations relating to migration status;**

(c) **Redouble efforts to prevent violence against and abuse and exploitation of child and adolescent migrants, protect them against those crimes and investigate, prosecute and punish the perpetrators, including State officials;**

(d) **Ensure that children and adolescents have immediate access to procedures relating to regularization and international protection, and that migration policies respect the rights of children and adolescents in accordance with the international instruments, including the principle of non-refoulement;**

(e) **Continue to develop and finalize the disaggregated data system on the protection of child and adolescent migrants, refugees and asylum seekers;**

(f) **Ensure their access to education and health;**

(g) **Adopt comprehensive protection measures to deal with child and adolescent migrants in street situations, as well as in situations of labour exploitation on coffee plantations, exploitation by criminal organizations and sexual exploitation, among other things;**

(h) **Implement the recommendations of the National Human Rights Commission.**

International cooperation with transit and destination countries

57. The Committee is concerned at reports it has received of violations of the labour rights of migrant workers taking part in the Seasonal Agricultural Workers Programme in Canada.

58. **The Committee recommends that the State party, in cooperation with Canada, adopt measures to safeguard, based on equality, the labour rights of Mexican migrant workers covered by the Mexico-Canada Seasonal Agricultural Workers Programme.**

59. The Committee takes note of the existing regional processes in the field of migration, in particular the Regional Conference on Migration. However, the Committee has a number of concerns regarding current challenges in the region relating to the causes of migration (violence and poverty, among other things) and the protection of the rights of migrants and their families.

60. **The Committee urges the State party to promote regional agreements and action plans that focus on rights and that are designed to address the structural causes of migration (violence and poverty, among other things) and to guarantee the rights of all migrants and their families, irrespective of their migration status.**

5. Follow-up and dissemination

Follow-up

61. **The Committee requests the State party to include in its fourth periodic report detailed information on the measures adopted to comply with the recommendations made in these concluding observations by, inter alia, transmitting them to the members of the Government, Congress and the judiciary, as well as to local authorities.**

62. **The Committee suggests that the State party set up a platform to monitor and follow up on the implementation of the human rights committees' recommendations, in particular those of the Committee on Migrant Workers, coordinated by the Ministry of Foreign Affairs and the Ministry of the Interior, that would allow for a**

periodic assessment of their implementation with the participation of civil society, United Nations agencies, public human rights bodies and state and local governments.

Follow-up report

63. The Committee requests the State party to submit, no later than 1 October 2019, written information on its implementation of the recommendations under paragraphs 10, 34, 38, 40, 42 and 56 above.

Next periodic report

64. The Committee requests the State party to submit its next periodic report by 1 October 2022 at the latest and to include information on the implementation of these concluding observations and the results obtained.
