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**Resolution of the PN No. 23/2003 of November 19<sup>th</sup>**

**RATIFIES THE INTERNATIONAL CONVENTION ON THE PROTECTION OF RIGHTS OF ALL MIGRANT WORKERS AND OF THEIR FAMILY MEMBERS**

The National Parliament decides, under the terms of paragraph f) of No. 3 of article 95 of the Constitution of the Republic, to ratify the International Convention on the Protection of Rights of All Migrant Workers and of their Family Members, whose text in Portuguese is attached as an integral part of the present resolution.

*Approved in September 26, 2003*

*President of the National Parliament  
 Francisco Guterres "Lu-Olo"*

*Signed in October 22, 2003*

*To be Published*

*The President of the Republic  
 Kay Rala Xanana Gusmão*

International Convention on the Protection of Rights of All Migrant Workers and of their Family Members

Preamble

Part I	Scope and definitions
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## PREAMBLE

The Countries part of the present Convention

Taking into consideration the main declarations in the basic instruments of the United Nations regarding human rights, especially the Universal Declaration of Human Rights, the International Pact on Economic, Social and Cultural Rights, The International Pact on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of Children;

Also taking into consideration the norms and principles established in the relevant instruments created in the scope of the International Labor Organization, in particular the Convention relative to Migrant Workers (No. 97), the Convention relative to Migrations under Abusive Conditions and the Promotion of Equal Opportunities and the Treatment of Migrant Workers (No. 143), the Recommendation regarding the Migration for Jobs (No. 86), the Recommendation relative to Migrant Workers (No. 151), the Convention about Forced or Obligatory Labor (No. 29) and the Convention about the Abolition of Forced Labor (No. 105);

Reaffirming the importance of the principles declared in the Convention regarding the Fight against Discrimination in the field of Education, of the United Nations Organization for Education, Science and Culture;

Recalling the Convention against Torture and Other Penalties or Cruel, Inhuman or Degrading Treatment, the Declaration of the Fourth United Nations Congress for the Prevention of Crime and the Treatment of Delinquents, the Code of Conduct for the Employees Responsible for the Application of the Law, and the Conventions about Slavery;

Recalling that one of the objectives of the International Labor Organization, established in its Constitution, is the protection of worker interests employed abroad, and having the skill and experience of this Organization in matters regarding migrant workers and their family members;

Recognizing the importance of the work performed by migrant workers and their family members by various organs of the United Nations, especially the Committee for Human Rights, the Committee for Social Development as well as the United Nations Organization for Feeding and Agriculture, the United Nations Organizations for Education, Science and Culture and the World Health Organization and other international organizations;

Also recognizing the progress made by some Countries on regional or bilateral levels, in the sense of protecting the rights of migrant workers and their family members as well as the importance and usefulness of the bilateral and multilateral agreements celebrated in this domain;

Aware of the importance and extent of the migration phenomenon, which involves thousands of people and affects a large number of Countries in the international community;

Aware of the effect of worker migrations in the Countries and interested population, and wishing to establish norms that can contribute to the harmonization of the conducts of the Countries through the acceptance of the fundamental principles regarding the treatment of migrant workers and their family members;

Considering the situation of vulnerability that the migrant workers and their family members frequently find themselves in due namely to their distancing from the Country of origin and the eventual difficulties resulting in their presence in the Country where they work;

Convinced that the rights of the migrant workers and their family members, has not been sufficiently recognized worldwide, which should, due to this reason, benefit from an adequate international protection.

Taking into consideration the fact that, in many cases, the migrations are the cause of serious problems for the family members of the migrant workers as well as for the workers themselves, especially because of the dispersion of the family;

Considering that the human problems resulting from the migrations are still more serious in the case of irregular and convinced, for this very reason, that the adoption of adequate measures must be encouraged in order to prevent and eliminate the clandestine movements and the trafficking of migrant workers, ensuring at the same time the protection of these workers' fundamental human rights;

Considering that the workers without documentation or in irregular situation are frequently employees under less than favorable working conditions that other workers and certain employers are thus, forced to seek such labor in order to benefit from disloyal competition;

Also considering that the employment of migrant workers in irregular situation will be discouraged if the fundamental human rights of all migrant workers are more broadly recognized and that, besides this, the concession of certain additional rights to migrant workers and their family members in a regular situation will encourage all migrants and employers to respect and apply the laws and the procedures established by the interested Countries;

Convinced, for this reason, of the need to achieve the international protection of the rights of all migrant workers and their family members, reaffirming and establishing basic norms within a broad convention susceptible of being applied universally;

Agree to the following:

## **PART I Scope and definitions**

### **Article 1**

1. Except for a decision in contrary, contained in its own text, the present Convention applied to all migrant workers and their family members without any distinction, namely founded on gender, race, color, language, religion or conviction, political opinion or other, national origin, ethnic or social, nationality, age, economic status, wealth, marital status, birth or any other situation.
2. The present Convention is applied to the entire migratory process of the migrant workers and their family members, which includes the migration preparation, the departure, the transit and total duration of the stay, the remunerated activity in the job Country, as well as the return to the Country of origin or the Country of normal residence.

### **Article 2**

For the effect of the present Convention:

1. The expression, "migrant worker" designates a person who will exercise, exercises or has exercised a remunerated activity in another Country.
2.
  - a) The expression "border worker", designates the migrant worker who maintains his normal residence in a neighboring Country to which he returns to every day or at least once a week;
  - b) The expression "seasonal worker", designates the migrant worker whose activity, by its very nature, depends on seasonal conditions during part of the year;
  - c) The expression "maritime", which includes fishermen, designates the migrant worker employed on a ship registered in a foreign Country;
  - d) The expression "worker in a maritime structure", designates the migrant worker employed on a maritime structure, which is found under the jurisdiction of a foreign Country;
  - e) The expression "itinerant worker", designates the migrant worker who, having his habitual residence in one Country, must travel to other Countries for short periods due to the nature of his occupation;
  - f) The expression "worker linked to a project", designates the migrant worker admitted in a Country of employment for a defined time to work singly in a concrete project led by his employer in this Country;
  - g) The expression "worker with a specific job", designates the migrant worker:
    - ( i ) Who has been sent by his employer for a limited and defined period, to an employment Country in order to perform a specific function; or
    - ( ii ) Who performs, for a limited and defined period, a job that requires professional, commercial, technical competencies or highly specialized of another nature; or
    - ( iii ) Who, at the request of his employer in the employment Country, performs, for a limited and defined period, a job of transitory nature or of short duration, and that must leave the Country of employment as soon as the authorized period of residence expires, or sooner, if he does not perform the task or specific function or initial job;
  - h) The expression "independent worker", designates the migrant worker who performs a remunerated activity not submitted to a labor contract and who makes a living through this activity, working normally alone or with family members, as well as the worker considered independent by the applicable legislation of the Country of employment or by bilateral or multilateral agreements.

### **Article 3**

The present Convention does not apply:

- a) To people sent or employed by international organizations and organisms, nor the people sent or employed by a Country out of his territory in order to perform official functions, whose admission and statute are regulated by general international law or by international agreements or specific international conventions;
- b) To people sent or employed by a Country or by this Country out of his territory that participate in development programs and other cooperation programs, whose admission and statute are regulated by an agreement with the Country of employment and that, under the terms of this agreement, are not considered to be migrant workers;
- c) To people who settle in a Country different from their own Country of origin in the quality of investors;
- d) To the refugees and stateless, except for decision in contrary of the national legislation pertinent to the interested Country party or of international instruments in effect for this Country;
- e) To students and interns;
- f) To the maritime and workers of maritime structures that have not been authorized to reside or perform a remunerated activity in the Country of employment.

### **Article 4**

For the effects of the present Convention, the expression "family members", designates the person married to the migrant worker or that maintains a relationship that, due to the applicable legislation, produces effects equivalent to those of marriage, as well as the children under his charge and other people under his charge, recognized as familial by the applicable legislation or by bilateral or multilateral agreements applicable between interested Countries.

### **Article 5**

For the effects of the present Convention, the migrant workers and their family members:

- a) Are considered to be documented or in a regular situation if they are authorized to enter, stay and perform a remunerated activity in the Country of employment, under the protection of the legislation of this Country and of the international conventions that this Country is a part of;
- b) Are considered to be undocumented or in an irregular situation if they do not fulfill the conditions announced in paragraph a) of the present article.

### **Article 6**

For the effects of the present Convention:

- a) The expression "Country of origin", designates the Country where the interested person is a national;
- b) The expression "Country of employment", designates the Country where the migrant worker will exercise, exercises or has exercised a remunerated activity, according to the case;
- c) The expression "transit Country", designates any Country whose territory, the interested person must transit through in order to arrive to the Country of employment or the from the Country of employment to the Country of origin or normal residency.

## **PART II**

### **Non-discrimination in terms of rights**

### **Article 7**

The party Countries are committed, in accordance with the international instruments relative to human rights, to respect and guarantee the rights foreseen in the present Convention to all the migrant workers and their family members that are within their territory and subject to its jurisdiction, without any distinction, regardless of any consideration of race, color, gender, language, religion or conviction, political

opinion or other, national origin, ethnic or social, nationality, age, economic status, assets, marital status, birth or any other circumstance.

**PART III**  
**Human rights of all migrant workers and their family members**

**Article 8**

1. The migrant workers and their family members can freely leave any Country, including their Country of origin. This right can only be the object of restrictions that, being foreseen in the law, constitute the necessary decisions in order to protect national security, the public order, health or public morals, or the rights and freedoms of others, and are compatible with the other rights recognized in the present part of the Convention.
2. The migrant workers and their family members have the right to return at any moment to their Country of origin and remain there.

**Article 9**

The right to life of the migrant workers and their family members is protected by law.

**Article 10**

No migrant worker or family member can be submitted to torture, or to cruel, inhuman or degrading penalties or treatment.

**Article 11**

1. No migrant worker or family member will be kept in slavery or servitude.
2. No migrant worker or family member can be subjected to perform forced or mandatory work.
3. No. 2 of the present article will not be interpreted in the sense to prohibit, in the Countries where certain crimes may be punished with prison sentences accompanied by forced labor, the fulfillment of a sentence of forced labor imposed by a competent tribunal.
4. For effects of the present article, the expression "forced or mandatory labor" does not include:
  - a) any work or service, not foreseen in no. 3 of the present article, normally required of a person who, due to an ordinary legal decision, is detained or has been placed under probation at a later time;
  - b) any service required in the case of crisis or of calamity that threaten the life or well-being of the community;
  - c) any work or service that form part of the normal civic obligations, as long as also demanded of the citizens of the interested Country.

**Article 12**

1. The migrant workers and their family members have the right to freedom of thought, of awareness and of religion. This right includes the right of professing or adopting a religion or belief of his choice, as well as the freedom of manifesting his religion or belief, individual or collectively, in public and in private, by the service, celebration of rites, practices and teaching.
2. The migrant workers and their family members will not be subjected to coercion that jeopardizes their freedom to profess and adopt a religion or belief of their choice.
3. The freedom to manifest their religion or belief can only be the object of restrictions foreseen in the law and that are necessary for the protection of national security, of public order, of health or public morals, and of the freedoms and fundamental rights of others.
4. The Countries, party of the present Convention, are committed to respect the freedom of the country, when at least one of them is a migrant worker and, if that is the case, of the legal representatives, of ensuring the religious and moral education of their children according to their convictions.

**Article 13**

1. The migrant workers and their family members have the right of expressing their convictions without interference.

2. The migrant workers and their family members have the right to freedom of expression. This right includes the freedom of seeking, receiving and expanding information and ideas of all types, without border considerations, under oral, written, printed or artistic form or by any other means of their choosing.
3. The exercise of the right foreseen in no. 2 of the present article implies in special duties and responsibilities. For this reason, it can be the object of restrictions, as long as they are foreseen in the law and are deemed as necessary:
  - a) Regarding the rights and reputation of others;
  - b) The safeguard of the national security of the interested Countries, of the public order, of health or public morals;
  - c) To prevent the incitement of war;
  - d) To prevent the incitement of national, racial and religious hatred, this constitutes an incitation to discrimination, hostility or violence.

#### **Article 14**

No migrant worker or family member will be subjected to arbitrary or illegal intrusion in his private life, his family's, his home, his correspondence or other communications, or to illegal offenses to his honor and reputation. The migrant workers and their family members have the right to the protection of the law against such intrusions or offenses.

#### **Article 15**

No migrant worker or family member will be arbitrarily deprived of their assets where they are the single owners or that they possess together with others. The total or partial expropriation of a migrant worker's assets or those of his family members can only be done under the terms of the legislation in effect of the Country of employment by means of the payment of a just and adequate restitution.

#### **Article 16**

1. The migrant workers and their family members have the right to freedom and safety.
2. The migrant workers and their family members have the right to the effective protection of the Country against violence, physical mistreatment, threats and intimidation by public or private employees, groups or institutions.
3. The verification by the employees responsible for the application of the migrant worker and their family members' identification law must be conducted according to the procedure established in the law.
4. No migrant worker or family member will be subjected, individually or collectively, to arbitrary detainment or incarceration; or will be deprived of his liberty, except for reasons and in conformity with the procedures established by law.
5. The migrant worker or family member who is detained must be informed, at the moment of detainment, if possible in a language understood by him, of the reasons for his detainment and readily notified, in a language understood by him, of the accusations being formulated against him.
6. The migrant worker or family member that is detained or arrested for the practice of an infraction, a judge or other entity authorized by law must be present, without delay, to exercise judicial functions and have the right to be judged within a reasonable period or await for his trial in liberty. The preventive arrest of a person who must be tried must no be a general rule, but his freedom might be subordinated to guarantees that assure his present at the hearing or in any procedural act and, if necessary, for the execution of the sentence.
7. In the case of a migrant worker or his family members being subjected to detention or preventive arrest, or any other form of detention:
  - a) The diplomatic or consular authorities of his Country of origin or of a Country that represents the interests of this Country are informed without delay, if the interested party thus requests, of his detention or arrest and of the basis of this measure;
  - b) The interested person has the right to communicate with the referred authorities. The communications directed by the interested party to the referred authorities must be transmitted without delay, and the interested party also has the right to receive, without delay, the communications sent by the referred authorities;
  - c) The interested person must be informed without of this right, and of the rights emerging from treaties eventually signed on this matter between the interested Countries, of

exchanging correspondence and of meeting with the representatives of the referred authorities and make arrangements towards his legal representation.

8. The migrant workers and their family members who are deprived of their of there freedom by means of detention or arrest have the right to interpose an appeal before a court, so that it can decide without delay about the legality of his detention and order his release in case it is illegal. When they participate in hearings, they must benefit from assistance, gratuitous if necessary, of an interpreter, if they don't understand or fluently speak the language used by the court.
9. The migrant workers and their family members that have been illegally detained or arrested preventively have the right to request an adequate compensation.

#### **Article 17**

1. The migrant workers and their family members who have been deprived of their freedom must be treated humanely and with respect for the dignity inherent to a human being and his cultural identity.
2. The migrant workers and their family members being accused are separated from convicted prisoners, except under exceptional circumstances, and submitted to a distinct regime, adequate to his condition of not convicted person. If they are minors, they are separated from the adults, and the minor's process must be decided as fast as possible.
3. Any migrant worker or family member who is detained in a transit Country or in a Country of employment, through the violation of the dispositions regarding migration must, as well as possible, be separated from people who have been preventively detained or arrested.
4. During the entire period of incarceration during the execution of a sentence proclaimed by a court, the treatment of the migrant worker or his family members will have the purpose, essentially, of his social reinsertion and recuperation. Young delinquents will be separated from adults and submitted to a regime adequate to their age and their legal status.
5. During the detention or incarceration, the migrant workers and their family members enjoy the same visitation rights from their family members that benefit the national citizens.
6. In case of a migrant worker is deprived of his liberty, the competent authorities of the Country that has detained him must take into account the problems that burden his family members, especially the spouses and young children.
7. The migrant workers and their family members subjected to any form of detention or imprisonment, due to the legislation of the Country of employment or the Country of transit, enjoy the same rights as the national citizens of this Country who find themselves in the same situation.
8. If a migrant worker or family member is detained with the intention of verifying if there was an infraction of the decisions regarding migration will not have to bear any incumbency resulting from it.

#### **Article 18**

1. The migrant workers and their family members have the same rights, before the courts, than the nationals of the interested Country. They have the right that their cause be equitable and publicly tried by a competent, independent and impartial court, instituted by law, which will decide the rights and obligations of a civil character or of the reasons of any charge in penal terms formulated against him.
2. The migrant worker or family member suspected or charged with a crime is presumed innocent until his culpability has been legally established.
3. The migrant worker or family member accused of having broken the law, has at least the right to the following guarantees:
  - a) Be immediately informed, in a detailed language that is understood, of the nature and reasons for the charges formulated against him;
  - b) To have time and the necessary means for the preparation of his defense and to communicate with a lawyer of his choice;
  - c) To be tried within a reasonable period of time;
  - d) To be present at the trial and defend himself or through a lawyer of his choice; if he has no judicial sponsor, to be informed of this right; and to ask for the assignment of a legal defender, whenever the interests of justice require the assistance of the defender, free of cost, if he doesn't have the means to pay for it;

- e) Interrogate accusation witnesses and obtain the appearance and the interrogatory of the defense witnesses under equal conditions;
  - f) Benefit from the gratuitous assistance of an interpreter is the language used in court is not understood by him;
  - g) Not to be forced to bear witness or confess as being guilty.
4. In cases with minors, the process will take into account the age and the need to facilitate his/her social reintegration.
  5. The migrant workers and their family members convicted for a crime, have the right of appealing this decision to a higher court, under the terms of the law.
  6. When a definitive penal conviction is subsequently annulled or when a pardon is granted, because a new or recent fact reveals evidence that a legal error was made, the migrant worker or family member that served a sentence due to this conviction will receive compensation, in accordance to the law, unless it is proven that the non-revelation in de facto unknown time is chargeable as a whole or in part.
  7. No migrant worker or family member can be persecuted or punished for an infraction that he has already been absolved or convicted for, in accordance to the law and penal process of the interested Country.

#### **Article 19**

1. No migrant worker or family member can be criminally sentenced for an action or omission that, at the moment it happens, is not considered criminal according to the internal law or international law. The penal law that foresees the imposition of a more favorable sentence for the defendant.
2. In determining the measure of the sentence, the court will meet the considerations of humanitarian nature relative to the migrant worker's status, namely the right of residence or work recognized to the migrant worker or family member.

#### **Article 20**

1. No migrant worker will be detained for the sole reason of not being able to meet a contractual obligation.
2. No migrant worker or family member can be deprived of his authorization for residence or work, or expelled, by the sole reason of not having met an obligation resulting from a work contract, except if the execution of this obligation constitutes a condition of such authorizations.

#### **Article 21**

No one, except public employees properly authorized by law for this effect, has the right to apprehend, destroy or try to destroy identification documents, entry, permanence, residence or establishment in the national territory authorization documents, or document relative to work permits. If the apprehension and loss of these documents is authorized, an itemized receipt will be issued. In no case is it permitted to destroy the passport or equivalent document of a migrant worker or his family member.

#### **Article 22**

1. The migrant workers and their family members cannot be the object of measures of collective expulsion. Each expulsion case will be examined and decided individually.
2. The migrant workers and their family members can only be expelled from the territory of a Party Country in the fulfillment of a decision made by a competent authority in conformity with the law.
3. The decision must be communicated to those interested, in a language they understand. At their request, if not mandatory, the decision will be communicated in writing and, except under exceptional circumstances, properly justified. The interested parties will be informed of this right before the decision is made or, at the latest, at the moment the decision is made.
4. Except for the cases where a definitive decision is made by a legal authority, the interested party has the right use the reasons against his expulsion and of appealing the decision before a competent authority, except for imperatives of national security. While his appeal is being analyzed, he has the right to obtain the suspension of the referred decision.
5. If an executed expulsion decision is subsequently annulled, the interested party has the right to receive compensation according to the law, where the previous decision cannot be invoked in order to keep him from returning to the aforementioned Country.



6. In case of expulsion, the interested party must have the reasonable possibility, before or after departure, of obtaining the payment of all the salaries that are due to him, and to meet eventual obligations that haven't been fulfilled.
7. Without jeopardy to the execution of a decision of expulsion, the migrant worker or family member, object of this decision, can request admission in a Country other than his Country of origin.
8. In case of expulsion, the expenses caused by such a measure, will not be sustained by the migrant worker or his family members. The interested party might be forced to pay for travel expenses.
9. The expulsion from the Country of employment, in itself, does not jeopardize the rights acquired, in accordance to the law of this Country, by the migrant worker or family members, namely the right to receive salaries and other payments that are owed to him.

#### **Article 23**

The migrant workers and their family members have the right to seek the protection and assistance of diplomatic and consular authorities from his Country of origin or from a Country that represents the interest of the aforementioned Country in case of violation of rights recognized in the present Convention. Especially in the case of expulsion, the interested party will be informed of this right, without delay, where the authorities of the Country that proceeds with the expulsion must facilitate their exercise.

#### **Article 24**

The migrant workers and their family members have the right to the recognition of their legal person, in all places.

#### **Article 25**

1. The migrant workers must benefit from a not less favorable treatment than the one given to the nationals of the Country of employment in terms of retribution and:
  - a) Other working conditions, such as supplementary work, working hours, weekly rest, paid vacations, security, health, cessation of the working relationship and any other working conditions that, according to the national law and practices, are included in the regulation of the working conditions;
  - b) Other working conditions such as, minimal age for employment, the restrictions of domestic work and other matters that, according to the national law and practices, are considered to be employment conditions.
2. No derogation is admitted to the principle of equality of treatment referred to in No. 1 of the present article in the private work contracts.
3. The party Countries adopts all the adequate measures in order to guarantee that the migrant workers are not deprived of the rights derived from the application of this principle, because of the irregularity of his situation in terms of permanence or employment. In a particular way, the employees are not exempt from the fulfillment of legal or contractual obligations, nor will their obligations be limited by force of such an irregularity.

#### **Article 26**

1. The party Countries recognize that all the migrant workers and their family members have the right:
  - a) To participate in meetings and activities of unions and other associations established in accordance to the law in order to protect their economic, social, cultural and other interests, being only subjected to the rules of the interested organization.
  - b) To freely register in the referred unions or associations, being only subjected to the rules of the interested organization.
  - c) To seek help and assistance from the referred unions and associations.
2. The exercise of such rights can only be the object of restrictions foreseen in the law and that become necessary, in a democratic society, in the interest of national security, of the public order, or to protect the rights and freedoms of others.

### **Article 27**

1. In terms of social security, the migrant workers and their family members benefit, in the Country of employment, of a treatment equal to what is granted to any national of this Country, without jeopardy of the conditions imposed by the national legislation and by the applicable bilateral and multilateral treaties. The competent authorities of the Country of origin and of the Country of employment can, at any moment, make the necessary decisions in order to determine the modalities of application of this norm.
2. If the applicable legislation deprives the migrant workers and their family members of payment, the Country of employment must ponder the possibility of reimbursing the amount of contributions made by the interested parties relative to this payment, based on the treatment granted to the nationals that find themselves under identical circumstances.

### **Article 28**

The migrant workers and their family members have the right to receive emergency medical care, necessary to preserving their life or to avoid irreparable to their health, in equal conditions as any national of the Country in question. Such emergency medical care cannot be refused for reasons of irregularities in terms of permanence or employment.

### **Article 29**

A migrant worker's children have the right to a name, a birth certificate and a nationality.

### **Article 30**

A migrant worker's children have the fundamental right of access to education under equal conditions of treatment as the nationals of the interested Country. The access to public pre-school or teaching establishments cannot be denied or limited because of an irregular situation of permanence or employment of one of the parents or based on the irregular permanence of the child in the Country of employment.

### **Article 31**

1. The party Countries ensures the cultural identity of the migrant workers and their family members and cannot keep them from maintaining cultural ties with their Country of origin.
2. The party countries can adopt the adequate measures in order to support and encourage efforts in this domain.

### **Article 32**

With the end of their permanence in the country of employment, the migrant workers and their family members have the right to transfer their gains and their savings and, under the terms of the applicable legislation of the interested countries, their belongings and assets.

### **Article 33**

1. The migrant workers and their family members have the right to be informed by their country of origin, country of employment or country of transit, according to the case, relatively:
  - a) To the rights that are recognized by the present Convention;
  - b) To the conditions of admission, rights and obligations due to the law and the practice of the interested country and other matters that allow them to fulfill the administrative formalities or those of another nature required by this country.
2. The party countries adopt all the measure they consider adequate to divulge the referred information or guarantee that it is provided by the employers, unions or other appropriate organisms or institutions. To this effect, they cooperate with other interested countries, is necessary.
3. The adequate information will be granted gratuitously to the migrant worker and his family members who request it, if possible in a language they can understand.

#### **Article 34**

None of the decisions in Part III of the present Convention exempts the migrant workers and their family members from the duty of following the laws and regulations of the transit countries and the country of employment and respect the cultural identity of the inhabitants of these countries.

#### **Article 35**

None of the decision in Part III of the present Convention must be interpreted as implying in the regulation of the situation of the migrant workers or their family members who find themselves without documentation or in an irregular situation, or any right to normalize their situation, nor affecting the measures intended to ensure satisfactory and equal conditions for the international migration, foreseen in Part IV of the present Convention.

### **PART IV**

#### **Other rights of the migrant workers and their family members who are documented or in a regular situation**

#### **Article 36**

The migrant workers and their family members who find themselves documented or in a regular situation in the country of employment enjoy the rights declared in this part of the present Convention, beyond the rights foreseen in Part III.

#### **Article 37**

Before departing, or at the latest, at the moment of their admittance in the country of employment, the migrant workers and their family members have the right of being fully informed by the country of origin or by the country of employment, depending on the case, of all the conditions required for their admittance, especially those regarding their permanence and paid activities that can be performed, as well as the requirements that must satisfy the country of employment and the authorities that must be directed to requesting the change of these conditions.

#### **Article 38**

1. The countries of employment must follow a course of action in the sense of authorizing the migrant workers and their family members to be temporarily absent, without their permanence or employment authorization being affected, according to the case. By doing so, the country of employment must take into consideration the obligations and special needs of the migrant workers and their family members, namely at their country of origin.
2. The migrant workers and their family members have the right to be fully informed of the conditions where such temporary absences are authorized.

#### **Article 39**

1. The migrant workers and their family members have the right to circulate freely in the territory of the country of employment and then freely choose their residence.
2. The rights referred to in No. 1 of the present article cannot be subjected to restrictions, with the exceptions of those foreseen in the law and that are necessary in order to protect the national security, the public order, health or public morals, or the rights and freedoms of others and that are compatible with the other rights recognized in the present Convention.

#### **Article 40**

1. The migrant workers and their family members have the right to constitute associations and unions in the country of employment for the promotion and protection of their economic, social, cultural and other interests.

2. The exercise of this right can only be the object of restrictions foreseen in the law and that are deemed necessary, in a democratic society, in the interest of national security, of the public order, or to protect the rights and freedoms of others.

#### **Article 41**

1. The migrant workers and their family members have the right to participate in public matters of their country of origin, of voting and running for office in elections organized by this country, according to the legislation in effect.
2. The interested country must facilitate, if necessary and in conformity with its legislation, the exercise of these rights.

#### **Article 42**

1. The party countries ponder the possibility of establishing procedures or institutions that permit to take into account, in the country of origin as well as in the country of employment, the specific needs, aspirations and obligations of the migrant workers and their family members and, being this the case, the possibility that the migrant workers and their family members have their representatives freely chosen in these institutions.
2. The countries of employment facilitate, in harmony with their national legislation, the consultation or participation of migrant workers and their family members in the decisions relative to life and the administration of local communities.
3. The migrant workers can enjoy political rights in the countries of employment if these countries, in the exercise of its sovereignty, attribute them these rights.

#### **Article 43**

1. The migrant workers benefit from an equal treatment granted to the nationals of the country of employment in terms of:
  - a) Access to educational institutions and services, without jeopardy of the conditions of admission and other decisions foreseen by the referred institutions and services;
  - b) Access to the services of professional orientation and placement;
  - c) Access to the facilities and institutions of professional training and specialization;
  - d) Access to inhabitation, including the programs of social housing, and protection against the exploitation in terms of leasing;
  - e) Access to social and health services, as long as the requirements of the right to benefit from the several programs are verified;
  - f) Access to coops and self-management companies, without implicating in a modification of its statute for migrants and without jeopardy to the rules and regulations of the interested entities;
  - g) Access and participation in their cultural life.
2. The party countries make an effort to create the necessary conditions to guarantee the effective equality of treatment of the migrant workers in a way that allows them to enjoy the rights foreseen in No. 1 of this article, whenever the conditions fixated by the country of employment relative to the authorization of permanence satisfy the pertinent decisions.
3. The countries of employment must not prevent those employers of migrant workers make housing or cultural or social services available. Without jeopardy of the decision in article 70 of the present Convention, a country of employment can subject the establishment of the referred services to the conditions usually applied in its territory in this domain.

#### **Article 44**

1. Recognizing that the family, the natural and fundamental element of society, must receive the protection of society and the State, the party countries adopt the adequate measures to ensure the protection of the family of migrant workers.
2. The party countries adopt all the measures that they deem adequate and in the respective spheres of competence in order to facilitate the reunification of the migrant workers with their spouses, or with the people whose relationship with the migrant worker produces effect equal to marriage, according to the applicable legislation, as well as with the minor dependent unmarried children.

3. The countries of employment, for reasons of humanitarian nature, ponder the possibility of granting equal treatment, under the conditions foreseen in No. 2 of the present article, to the rest of the migrant workers' family members.

#### **Article 45**

1. The migrant workers' family members equally benefit, in the country of employment, as the nationals of aforementioned country of:
  - a) Access to the educational institutions and services, without jeopardy to the conditions of admission and other norms fixated by the aforementioned institutions and services;
  - b) Access to orientation and professional training institutions and services, as long as the participation requirements are verified;
  - c) Access to social and health services, as long as the conditions foreseen for the benefit of the several programs are fulfilled;
  - d) Access and participation of the cultural life.
2. The countries of employment must proceed with a policy, if this is the case, in collaboration with the countries of origin, which intends to facilitate the integration of the migrant workers' children into the local schooling system, namely in terms of teaching the local language.
3. The countries of employment must make an effort to facilitate the teaching of the native language to the children of migrant workers and the access to their culture of origin and, in this domain, the countries of origin must collaborate whenever it is deemed necessary.
4. The countries of employment can ensure special systems for the teaching of the migrant workers' native language to their children, if necessary in collaboration with the countries of origin.

#### **Article 46**

The migrant workers and their family members benefit, in harmony with the applicable legislation of the interested countries, from the pertinent international agreements of the referred countries resulting of its participation in customs unions, of exemption of rights and import and export taxes as to the goods for personal or domestic use, as well as the equipment necessary for the exercise of the paid activity that justifies the admission in the country of employment:

- a) At the moment of departure from the country of origin or country of residence;
- b) At the moment of initial admission in the country of employment;
- c) At the moment of definitive departure from the country of employment;
- d) At the moment of definitive return to the country of origin or the country of residence.

#### **Article 47**

1. The migrant workers have the right to transfer their gains and savings, especially the amounts necessary for the support of their families, from the country of employment to their country of origin or any other country. The transfer will be made according to the procedures established by the applicable legislation of the interested country and in harmony with the applicable international agreements.
2. The interested countries adopt the adequate measures in order to facilitate such transfers.

#### **Article 48**

1. In terms of gains derived from the work in the country of employment, and without jeopardy to the applicable agreements about double taxing, the migrant workers and their family members:
  - a) Are not subjected to taxes, contributions or tariffs of any nature, more elevated or onerous than those required from nationals who are in an identical situation;
  - b) Benefit from reduction or exemption of taxes of any nature, as well as fiscal relief, including deductions by family tariffs.
2. The party countries seek to adopt adequate measures in order to avoid double taxing of gains and the savings of migrant workers and their family members.

#### **Article 49**

1. When the national legislation requires distinct authorizations for residence and work, the country of employment issues, in benefit of the migrant workers, a residence authorization with a duration at least equal to the working authorization.
2. The migrant workers who, in the country of employment, are authorized to freely choose their paid activity are not considered to be in an irregular situation and don't lose their residence authorization by the mere fact that their paid activity ended before the end of the working authorization or any other authorization.
3. In order to allow that the migrant workers mentioned in No. 2 of the present article have enough time to find another paid activity, the residence authorization must not be revoked, at least during the period that they have the right to unemployment subsidies.

#### **Article 50**

1. In case of death of a migrant worker or divorce, the country of employment favorably considers the possibility of granting to the family members of this worker, who reside in this country under the shelter of the principle of family regrouping, an authorization to remain in its territory, taking into consideration their period of residence in this country.
2. The members of the family who were not granted such an authorization must have, before their departure, of a reasonable period that will allow them to resolve their problems in the country of employment.
3. None of the decisions in No. 1 and 2 of the present article must be interpreted as jeopardy to the permanence and working rights that, in another way, are attributed to the referred members of the family by the legislation of the country of employment or by the bilateral or multilateral treaties applicable to this country.

#### **Article 51**

The migrant workers who, in the country of employment, are not authorized to freely choose their paid activity are not considered to be in an irregular situation, nor lose their residence authorization, by the simple fact that his paid activity has ended before the end of his work authorization, except in the cases where the residence authorization depends expressly on the specific paid activity for the exercise for which they were admitted in the country of employment. The migrant workers have the right to seek other employment, of participating in programs of public interest and of taking training courses during the remaining period of his working authorization, without jeopardy of the conditions and restrictions contained in this authorization.

#### **Article 52**

1. The migrant workers have, in the country of employment, the right to freely choose their paid activity, subjected to the restrictions or condition specified as follows.
2. In relation to any migrant worker, the country of employment can:
  - a) Restrict the access to limited categories of jobs, functions, services or activities, when required by the interest of the country and is foreseen the national legislation;
  - b) Restrict free choice of the pain activity in conformity with the legislation relative to the recognition of the professional qualifications acquired out of their territory. However, the interested party countries must maneuver in the sense of ensuring the recognition of such qualifications.
3. In case the migrant workers who hold working authorizations for a limited period of time, the country of employment can equally:
  - a) Subordinate the exercise of the right to freely choose the paid activity to the condition of the migrant worker having legally resided in the territory of this country in order to exercise a paid activity during the period foreseen in the national legislation and that must not be superior to two years;
  - b) Limit the access of the migrant worker to a paid activity, in application of a policy of priority concession to its nationals or to the people equated for this effect due to national legislation or bilateral or multilateral agreements. Such a limitation can no longer be applicable to a migrant worker who has legally resided in the country of employment in

order to exercise an activity during the period foreseen in the national legislation and that must not be superior to five years.

4. The countries of employment determine the conditions where the migrant workers, admitted in its territory in order to take a job, can be authorized to exercise an activity on their own. The period during which the workers remained legally in the country of employment must be taken into consideration.

#### **Article 53**

1. The family members of a migrant worker who benefit from an authorization of residence or of admission for unlimited time or automatically renewable are authorized to freely choose a paid activity under the applicable conditions to the referred migrant worker, under the terms of the decision in article 52 of the present Convention.
2. In case the family members of a migrant worker who are not authorized to freely choose a paid activity, the party countries ponder the possibility of granting them the authorization to exercise a paid activity, with a priority regarding the other workers who request admission in the country of employment, without jeopardy to the applicable bilateral and multilateral agreements.

#### **Article 54**

1. Without jeopardy of the established conditions in their residence or work authorization and of the rights foreseen in articles 25 and 27 of the present Convention, the migrant workers benefit from equal treatment in relation to the nationals of the country of employment, which respects the:
  - a) Protection against employment termination;
  - b) Unemployment payments;
  - c) Access to programs of public interest intended to fight unemployment;
  - d) Access to alternative work in the case of loss of employment or the cessation of another remunerated activity, without jeopardy to the decision in article 52 of the present Convention.
2. In case a migrant worker invokes the violation of the conditions of his working contract by his employer, he will have the right to submit his case to the competent authorities of the country of employment, under the terms of the decision in No. 1 of article 18 of the present Convention.

#### **Article 55**

The migrant workers to whom the authorization to exercise a remunerated activity has been granted, subject to the conditions foreseen in this authorization, benefit of an equality of treatment with the nationals of the country of employment in the exercise of that remunerated activity.

#### **Article 56**

1. The migrant workers and their family members to which this part of the present Convention refers to cannot be expelled from a country of employment, except for reasons defined in the national legislation of such a country, and without jeopardy to the guarantees foreseen in part III.
2. The expulsion will not be used with the objective of depriving migrant workers or their family members of the rights emerging from the residence and working authorizations.
3. In the consideration about expelling a migrant worker or a member of his family, reasons of a humanitarian nature and the time of residence of the interested party, up to that moment, in the country of employment, must be taken into consideration.

### **PART V**

#### **Decisions applicable to special categories of migrant workers and their family members**

#### **Article 57**

The special categories of migrant workers indicated in this part of the present Convention and their family members, who are documented and in a regular situation, enjoy the rights declared in part III and, without jeopardy of the modifications indicated next, of the rights declared in part IV.

#### **Article 58**

1. The borderline workers, defined as such in paragraph a) of article 2 of the present Convention, benefit from the rights foreseen in part IV, which are applicable by the force of their presence and of their work in the territory of the country of employment, considering that they don't have their normal residence in this country.
2. The countries of employment favorably considered the possibility of attributing the right to freely choose a remunerated activity to the borderline workers after a determined period of time. The concession of this right does not affect their status of borderline workers.

#### **Article 59**

1. The seasonal workers, as defined in paragraph b) of No. 2 of article 2 of the present Convention, benefit from the rights foreseen in part IV that are applicable by the force of their presence and of their work in the territory of the country of employment and that are compatible with their status of seasonal workers, considering that they are only present in this country during a part of the year.
2. The country of employment must ponder, without jeopardy to the decision in No. 1 of the present article, the possibility of granting, to the migrant workers that have been employed in its territory for a significant period, the opportunity of performing other remunerated activities and give them priority in relation to other workers who intend to be admitted in this country, without jeopardy to the applicable bilateral and multilateral agreements.

#### **Article 60**

The itinerant workers, defined in paragraph e) of No. 2 of article 2 of the present Convention, benefit from the rights foreseen in part IV that might be granted to them by force of their presence and their work in the territory of the country of employment and that are compatible with their status as itinerant workers in this country.

#### **Article 61**

1. The workers linked to a project, such as defined in paragraph f) of No. 2 of article 2 of the present Convention, and their family members benefit from the rights foreseen in part IV, with the exception of the decisions in article 43, No. 1, paragraphs b) and c), of article 43, No. 1, paragraph d), as to the programs of social housing, of article 45, No. 1 paragraph b), and articles 52 to 55.
2. If a worker linked to a project invokes the violation of the terms of his working contract by his employer, he will have the right to submit his case to the competent authorities of the country whose jurisdiction is subjected to this employer, under the terms foreseen in No. 1 of article 18 of the present Convention.
3. Without jeopardy to the applicable bilateral and multilateral agreements, the interested party countries maneuver in the sense of guaranteeing that the workers linked to projects are properly protected by regimes of social security in the countries of origin or residence during the entire time they participate in the project. The interested party countries adopt the necessary measures to avoid the denial of rights or the duplication of contributions in this domain.
4. Without jeopardy to the decision in article 47 of the present Convention and of the pertinent bilateral and multilateral agreements, the interested party countries authorize the payment of the remunerations of the workers linked to a project in their country of origin or normal residence.

#### **Article 62**

1. The workers with a specific job, as defined in paragraph g) of No. 2 of article 2 of the present Convention, benefit from all the rights foreseen in part IV, with the exception of the decision in article 43, No. 1, paragraphs b) and c), in article 43, No. 1, paragraph d), as to social housing programs, in article 52, and in article 54, No. 1, paragraph d).
2. The family members of the workers with a specific job benefit from the rights relative to the family members of migrant workers declared in part IV of the present Convention, with the exception of the decision in article 53.

#### **Article 63**



1. The independent workers, as defined in paragraph h) of No. 2, of article 2 in the present Convention, benefit from all the rights foreseen in part IV, with exception of the rights exclusively applicable to remunerated workers.
2. Without jeopardy to articles 52 and 79 of the present Convention, the cessation of the economic activity of independent workers does not imply, on itself, the revoking of the authorization that is granted to them, as well as the members of their families, so that they can stay and exercise a remunerated activity in the country of employment, except if the residence authorization depends expressly on the remunerated activity specific for the exercise they have been hired to do.

**PART VI**  
**Promotion of healthy, equal, dignified and fair conditions**  
**in terms of international migration of migrant workers and**  
**their family members**

**Article 64**

1. Without jeopardy to the decision in article 79 of the present Convention, the interested party countries consult and cooperate with each other, if necessary, in order to promote equal healthy, equal and dignified conditions as to international migration of workers and their family members.
2. In this respect, not only the active needs and resources must be properly taken into consideration, but also the needs of a social, economic, cultural and other need of a social nature of the migrant workers and their family members as well as the consequences of migrations for the communities involved.

**Article 65**

1. The party countries maintain appropriate services to deal with the matters relative to international migration of workers and their family members. The following are of their competence?
  - a) Formulate and execute policy relative to these migrations;
  - b) Ensure the exchange of information, proceed with consultations and cooperate with the competent authorities of other countries involved with such migrations;
  - c) Provide adequate information, especially to the employers, the workers and to the respective organizations about the policies, legislation and regulations relative to migrations and employment, about the agreements in the domain of the migrations signed with other countries and other pertinent matters;
  - d) Provide information and give adequate assistance to the migrant workers and their family members regarding authorizations, formalities and necessary arrangements for their departure, travel, arrival, stay, remunerated activities, departure and return, as well as to working and living conditions in the country of employment and also, legal and regulation decisions in effect in terms of customs, money exchange, fiscal and others.
2. The party countries facilitate, according to the necessity, the availability of adequate consular services necessary to satisfy the needs of a social and cultural nature of the migrant workers and their family members.

**Article 66**

1. Without jeopardy to the decision in No. 2 of the present article, only the following are authorized to effect recruiting operations of workers to occupy a job in another country:
  - a) The official services or organisms of the country where such operations are executed;
  - b) The official services or organisms of the country of employment based on an agreement between the interested countries;
  - c) The organisms instituted within the scope of a bilateral or multilateral agreement.

2. Under the reservation of the authorization, approval and supervision by the official party countries, instituted in harmony with the legislation and the practice of the referred countries can equally be authorized to execute such operations, potential employers or persons acting under its name.

#### **Article 67**

1. The interested party countries cooperate, if necessary, with the intent of adopting measures relative to the good organization of the return to the country of origin of the migrant workers and their family members, whenever they decide to return, whenever their residence or work authorization expires or whenever they find themselves in an irregular situation in the country of employment.
2. Relative to the migrant workers and their family members in a regular situation, the interested party countries cooperate, if necessary, according to the modalities agreed by them, with the intent to promote the adequate economic conditions to their resettling and facilitate their social and cultural reintegration in the country of origin.

#### **Article 68**

1. The party countries, including the transit countries, cooperate in order to prevent and eliminate the movements and illegal or clandestine labor of migrant workers in an irregular situation. In pursuing this objective, the interested countries make, within the limits of their competence, the following indicated arrangements:
  - a) Appropriate measures against the diffusion of deceiving information regarding emigration and immigration;
  - b) Measures intended to detect and eliminate the illegal or clandestine movement of migrant workers and their family members and impose efficient sanctions against the people, groups or entities that organize, execute or participate in the organization or direction of such movements;
  - c) Measures intended to impose efficient sanctions against the people, groups or entities that resort to violence, threats or intimidation against migrant workers or their family members who are in an irregular situation.
2. The countries of employment adopt all the adequate and efficient measures in order to eliminate the employment, within their territory, of migrant workers in an irregular situation, namely imposing, if necessary, sanctions against their employers. Such measures do not jeopardize the rights of the migrant workers regarding their employer that might emerge from their employment situation.

#### **Article 69**

1. The party countries, where migrant workers and their family members in an irregular situation are found, take the adequate measures to avoid that this situation is prolonged.
2. Whenever the interested party countries consider the possibility of regulating the situation of these people, in harmony with the national legislation and the applicable bilateral or multilateral agreements, they must take into consideration the circumstances of their entry, the duration of their stay in the country of employment, as well as other relevant considerations, especially those regarding their family situation.

#### **Article 70**

The party countries adopt measures not less favorable than those applied to their nationals in order to guarantee that the living and working conditions of the migrant workers and their family members in regular situation are according to health, security and hygiene codes and to the principles inherent to human dignity.

#### **Article 71**

1. The party countries facilitate, if necessary, the repatriation to the country of origin of the remains of deceased migrant workers or their family members.
2. As to the compensation for a migrant worker's death or the death of one of his family members, the party countries provide assistance, if such is convenient, to the interested parties with the

intent of ensuring the immediate resolution of this matter. Such a resolution will be based on the applicable national legislation in accordance with the decisions of the present Convention and with the relevant bilateral or multilateral agreements in this domain.

## **PART VII** **Application of the Convention**

### **Article 72**

1.
  - a) With the purpose of examining the application of the present Convention, a Committee is instituted for the Protection of the Rights of All Migrant Workers and their Family Members (from now on simply called "the Committee");
  - b) The Committee is composed of ten experts at the moment the present Convention goes into effect and, after it goes into effect from this t the forty-first party country, of fourteen experts with high moral authority, impartiality and renowned competence in the domain included by the present Convention.
2.
  - a) The members of the Committee are elected by secret vote by the party countries, from a list of candidates designated by the party countries, taking into consideration the need to ensure an equal geographic division as to the countries of origin or the countries of employment, and one representative of the main judicial systems. Each party country can designate an expert among their nationals;
  - b) The members of the Committee are elected and perform their duties at a personal level.
3. The first election takes place six months after the present Convention goes into effect and, after that, every two years. At least four months before each election, the Secretary General of the United Nations invited, in writing, the party countries to present their candidates within a period of two months. The Secretary-General then prepares an alphabetical list of the candidates, indicated the countries that indicated them and informs the party countries in the present Convention, at least on e month before each election, accompanied by the curriculum vitae of those who are interested.
4. The elections of the Committee members occur during the meeting of the party countries convened by the Secretary-General at the headquarters of the United Nations. In these meetings, where the quorum is constituted of two thirds of the party countries, the candidates with the most votes and the absolute majority of the votes from the representatives from the party countries present and voting are elected for the Committee.
5.
  - a) The members of the Committee are elected for a term of four years. The term of five of the elected members in the first election ends at the end of two years. The president of the meeting draws the names of these five individuals immediately after the first election.
  - b) The election of the four supplementary members of the Committee will occur in harmony with the decision in Nos. 2, 3 and 4 of the present article, after the Convention goes into effect for the forty-first party country. The term of two of the supplementary members elected during this occasion ends after two years. The president of the meeting of the party countries draws the names of these two individuals.
  - c) The members of the Committee can be reelected in case they run again.
6. In the case of death or dismissal of a Committee member or if, by any other reason, a member declares that he cannot continue to perform his functions within the Committee, the party country that had proposed his candidacy indicates another expert, among their nationals, in order to fill in the position until the end of the term, subject to the approval of the Committee.
7. The Secretary-General of the United Nations makes the necessary personnel and facilities available for the performance of their functions.
8. The Committee members receive emoluments from the United Nations' financial resources, according to the conditions and modalities fixated by the General Assembly.
9. The Committee members enjoy the facilities, privileges and immunities that benefit the experts on mission with the United Nations, foreseen in the pertinent sections of the Convention about Privileges and Immunities of the United Nations.

### **Article 73**

1. The party countries commit to present to the Committee, through the Secretary-General of the United Nations, reports about the legislative, judicial, administrative reports and those of other nature that have been adopted in order to apply to the decisions of the present Convention:
  - a) On the subsequent year that the present Convention goes into effect for the interested party country;
  - b) Next, every five year and whenever the Committee requests it.
2. The reports presented in application of the present article must also indicate the factors and the difficulties, if applicable, that affects the effective application of the decisions of the present Conventions and contains information about the characteristics of the migratory movements in respect to the interested countries.
3. The Committee establishes the guidelines applicable to the content of the reports.
4. The party countries ensure a broad diffusion of their reports in their own countries.

### **Article 74**

1. The Committee examines the reports presented by each party country and transmits the comments that it deems appropriate to the interested party country. This party country can submit to the Committee, observations about any comment made by the Committee under the decision of the present article. The Committee can request complementary information from the party countries.
2. Before the opening of each ordinary session of the Committee, the Secretary-General of the United Nations transmits, within a defined period of time, to the Director-General of the International Labor Secretariat of the United Nations, a copy of the reports presented by the interested party countries and useful information for the evaluation of these reports, in a way to enable the Secretariat to provide assistance to the Committee, through the availability of specialized knowledge in the matters dealt with in the present Convention that are recorded in the term of the International Labor Organization. The Committee must take into account, during their deliberations, all the comments and documents that the Secretariat can grant.
3. The Secretary-General of the United Nations can, in an equal manner, after hearing the Committee, transmit to other specialized agencies, as well as the inter-governmental organizations, a copy of parts of these reports that are recorded within the scope of the respective terms.
4. The Committee can invite specialized agencies and other United Nations' organs, as well as inter-governmental organizations and other interested organisms, to submit in writing, for the evaluation of the Committee, information about the application of the present Convention in the areas regarding its domains of activity.
5. The International Labor Secretariat is invited by the Committee to designate their representatives in order to participate, as consultants, in the Committee's meetings.
6. The Committee can invite other specialized agencies and organs of the United Nations, as well as inter-governmental organizations, to be represented in their meetings whenever the application of the decisions of the present Convention is being appreciated that are recorded in their term.
7. The Committee submits an annual report to the General Assembly of the United Nations about the application of decisions of the present Convention, containing their observations and recommendations, founded namely, on the evaluation of the reports and in the observations presented by the countries.
8. The Secretary-General of the United Nations transmits the Committee's annual reports to the party countries in the present Convention, to the Economic and Social Council, to the Commission of the Rights of Man of the United Nations, to the General-Director of the International Labor Secretariat and to other relevant organizations in this domain.

### **Article 75**

1. The Committee adopts its internal Regulations.
2. The Committee elects its secretariat for a period of two years.
3. The Committee as a rule meets every year.
4. The Committee meetings normally take place at the United Nations' headquarters.

## Article 76

1. Any party country in the present Convention can, due to the present article, declare at any moment, that it recognizes the competence of the Committee to receive and evaluate communications from a party country, invoking the non-fulfillment by another country of the obligations resulting from the present Convention. The communications presented to the shelter of the decision of this article can only be received and evaluated if they come from a country that has made a declaration, recognizing the competence of the Committee, as is its concern. The Committee does not receive communications presented by a country that has not made such a declaration.

The communications received under the terms of the present article, the following procedure is applicable:

- a) If a party country in the present Convention considers that the other party country does not fulfill the obligations imposed by the present Convention can, through written communication, call the attention of this country in order to fulfill them. The party country can also take this matter to the knowledge of the Committee. Within a period of three months after the receiving of the communication, the receiving country directs, in writing, to the country that made the communication, an explanation or other statements intended to clarify the matter and that must include, as pertinent as possible, an indication about the procedural rules and the means of resources already used, pending or available;
  - b) If, within the period of six months, counting from the date of reception of the initial communication by the receiving country, the matter has not been solved satisfactorily for both interested party countries, either one of them has the right to submit it to the appreciation of the Committee, directing a notification to the Committee as well as to the other interested country.
  - c) The Committee will only examine the matter after it is verified that all means of internal resources available have been tried, in accordance with the principles generally recognized by international law. This will not be applied when the Committee understands that the resource procedures surpass reasonable time;
  - d) Under reservations of the decisions in paragraph c) of the present number, the Committee is available of the interested party countries in order to obtain a friendly solution for the litigation, based on the respect of the obligations declared in the present Convention;
  - e) The Committee meets behind closed doors in order to examine the communications received under the terms of the present article;
  - f) The Committee can ask the interested countries referred to in paragraph b) of the present number, for the information it deems pertinent regarding any submitted matter under the terms of paragraph b) of the present number;
  - g) The interested party countries, referred to in paragraph b) of the present number, has the right to be represented during the verification of the matter by the Committee and to present oral or written allegations;
  - h) The Committee presents a report, within twelve months counting from the date the notification is received as foreseen in paragraph b) of the present number, under the following terms:
    - ( i ) If a solution is reached under the terms of paragraph d) of the present number, the Committee limits its report to a brief presentation of the facts and the solution reached;
    - ( ii ) If a solution is not reached under the terms of paragraph d) of the present number, the Committee presents the relevant facts regarding the object of the difference between the interested party countries in its report. The written allegation text and the record of oral allegations presented by the interested party countries are attached to the report. The committee can also communicate the opinions it deems pertinent only to the interested party countries. The report is communicated to the interested party countries.
2. The dispositions of the present article will go into effect when ten party countries in the present Convention have made the declaration foreseen in No. 1 of this article. The declaration is deposited by the party country at the Secretary-General of the United Nations, who will transmit a copy to the other party countries. The declaration can be withdrawn at any moment through notification directed to the Secretary-General. The withdraw does not jeopardize the

appreciation of any matter that has already been transmitted under the terms of the present article; no other communication from one party country will be received under the shelter of the present article after the Secretary-General has received the notification of withdrawal of the declaration, unless the interested party country has formulated a new declaration.

#### **Article 77**

1. Any party country in the present Convention can, at any moment, declare, under the terms of the present article, that it recognizes the competence of the Committee to receive and examine the communications presented by people subjected to its jurisdiction or in its name, invoking the violation by this party country of its individual rights, established by the present Convention. The Committee will not receive any communication relative to a party country that has not made this declaration.
2. The Committee declares inadmissible a communication presented under the terms of the present article that is anonymous or deemed abusive or incompatible with the decisions of the present Convention.
3. The Committee does not examine any communication submitted by a person under the terms of the present article without making sure that:
  - a) the same matter has not already been submitted to another international petition of inquiry or decision;
  - b) the interested party has run out of the available internal appeals; this does not apply if, in the Committee's opinion, the appeal procedures surpass reasonable time limits or if it is improbable that the appeal channels effectively satisfy the interested party;
4. Under the reservation of the decisions in No. 2 of the present article, the Committee recognizes the communications presented under the terms of this article to the party country in the present Convention that has made a declaration under the terms of No. 1 and has allegedly violated a decision of the Convention. Within a period of six months, the referred country submits, in writing, the explanations or declarations clarifying the matter to the Committee and, if thus is the case, the measure taken to overcome the situation.
5. The Committee examines the communications received under the terms of the present article, taking into account all the information provided by the interested party or in its name and by the country placed in the cause.
6. The Committee meets behind closed doors when examining the communications received under the terms of the present article.
7. The Committee transmits its conclusions to the party country in the cause and to the interested party.
8. The decisions of the present article will go into effect when ten party countries in the present Convention have made the declaration foreseen in No. 1 of this article. The declaration is deposited by the party country at the Secretary-General of the United Nations, who will transmit a copy to the other party countries. The declaration can be withdrawn at any moment through notification directed to the Secretary-General. The withdrawal does not prevent the appreciation of any matter object of a communication that has already been presented under the terms of the present article. No communication presented by an individual, or in his name, under the terms of the present article, will be received after the Secretary-General receives the withdrawal notification of the declaration, unless the party country has formulated a new declaration.

#### **Article 78**

The decisions of article 76 of the present Convention are applied, without jeopardy to any process of litigation resolution or of complaints in the domain covered by the present Convention, foreseen in the constituted instruments and conventions of the United Nations and the specialized agencies, and do not prevent the party countries from resorting to any other process of litigation resolution under the shelter of international agreements to which they are linked.

### **PART VIII General Determinations**

#### **Article 79**

None of the determinations of the present Convention affects the right of each party country to establish the criteria of admission of migrant workers and their family members. As to what refers to other

matters relative to the judicial statute and to the treatment of migrant workers and their family members, the party countries are linked by the limitations imposed by the present Convention.

#### **Article 80**

No determination of the present Convention must be interpreted as affecting the determinations of the United Nations' Charter and the constituted act of the specialized agencies, which define the responsibilities respective to the several organs of the United Nations and the specialized agencies as to the matters dealt with in the present Convention.

#### **Article 81**

1. None of the determinations of the present Convention affects the determinations that are more favorable to the realization of rights or the exercise of the freedoms of migrant workers and their family members that might be displayed:
  - a) In the legislation or in the practice of a party country; or
  - b) In any bilateral or multilateral treaty in effect for this country.
2. No determination of the present Convention must be interpreted as being implied for a country, group or person, the right to dedicate to an activity or perform an act that affects the rights or freedoms declare in the present Convention.

#### **Article 82**

The migrant workers and their family members' rights, foreseen in the present Convention, cannot be an object of renouncement. The exercise of any form of pressure against the migrant workers and their family members in order to make them renounce this right or refrain from exercising them is not permitted. The derogation by contract of the rights recognized in the present Convention is not possible. The party countries take the adequate measures to ensure that these principles are respected.

#### **Article 83**

Each party country in the present Convention commits to:

- a) Ensuring that every person whose rights and freedoms, recognized in the present Convention, have been violated can have an effective resource, albeit the violation has been committed by people in the exercise of their official functions;
- b) Ensuring that, by exercising such a resource, the interested party can see that his complaint is examined and decided by a competent judicial, administrative or legislative authority foreseen in the judicial system of the country and to develop the possibility of judicial appeal;
- c) Ensure that the competent authorities follow through with the appeal whenever it is considered justifiable.

#### **Article 84**

Each party country commits to adopting all the legislative measure and others that are deemed necessary to the application of the determinations of the present Convention.

### **PART IX Final Determinations**

#### **Article 85**

The Secretary-General of the United Nations is designated as the trustee of the present Convention.

#### **Article 86**

1. The present Convention is open to the signature of all countries. It is subject to ratification.
2. The present Convention is open to the adhering of all countries.
3. The ratification or adherence instruments will be put in the trust of the Secretary-General of the United Nations.

#### **Article 87**

1. The present Convention will go into effect on the first day of the following month at the term of a period of three months after the date of the deposit of the twentieth ratification or adhesion instrument.
2. For each one of the countries that ratified the present Convention or adheres to it after it goes into effect, the Convention will go into effect on the first day of the month following a period of three months after the date of the deposit, by this country, of its ratification or adhering instrument.

#### **Article 88**

A country that ratifies the present Convention or adheres to it, cannot exclude the application of any one of its parts or, without jeopardy to article 3, exclude any category of migrant workers from its application.

#### **Article 89**

1. Any party country can denounce the present Convention, after a period of five years counting from the date the Convention goes into effect for this country, through a written notification directed to the Secretary-General of the United Nations.
2. The denouncement produces effect on the first day of the month following the term of a period of twelve months after the date the Secretary-General receives the notification.
3. The denouncement cannot have the effect of releasing the party country from the obligations resulting from the present Convention relative to the action or omission practiced prior to the date when the denouncement produces effect, nor prevents, in any way, that a matter submitted to the Committee prior to the date that the denouncement produces effect is examined.
4. After the date when the denouncement produces effect for a party country, the Committee no longer examines any new matter from this country.

#### **Article 90**

1. After a period of five days, counting from the date the present Convention goes into effect, any country can, at any moment, propose a review of the Convention through a notification directed to the Secretary-General of the United Nations. The Secretary-General then transmits the proposal of review to the party countries, requesting that they communicate if they are favorable to a conference of party countries for the examination and voting of the proposal. If, during the four months after this communication, at least one third of the party countries declare to be in favor of the referred conference, the Secretary-General will convene it under the auspice of the United Nations. The amendments adopted by the majority of the party countries present and voting in the conference are submitted to the General Assembly for approval.
2. The amendments go into effect when approved by the General Assembly of the United Nations and accepted by the majority of two thirds of the party countries, in harmony with the respective constitutional norms.
3. When an amendment goes into effect, it will have a binding power for the countries that have accepted it, where the other party countries will be bound by the determinations of the present Convention and by all the previous amendments that have been accepted.

#### **Article 91**

1. The Secretary-General of the United Nations receives and communicates the text with the reservations that are made by the countries at the moment of signature to all the countries, of the ratification or adhesion.
2. No reservation incompatible with the object and with the end of the present Convention is not authorized
3. The reservations can be withdrawn at any moment through a notification directed to the Secretary-General of the United Nations, who will inform all the countries. The notification produces effects on the date the Secretary-General receives it.

#### **Article 92**

1. In case of a difference between two or more countries relative to the interpretation or application of the present Convention, which hasn't been solve through negotiation, will be submitted to



arbitration at the request of one of the interested countries. If, within a period of six months counting from the date of the arbitration request, the parties cannot reach an agreement about the organization of the arbitration, the difference can be submitted to the International Justice Court, in accordance with the Court Statute, by the initiative of any of the parties.

2. Any party country can, at the moment of signing or of the deposit of the ratification or adhesion instrument of the present Convention, declare that it does not consider itself bound by the determinations of No. 1 of the present article. The other party countries are not bound by the referred determinations regarding the party countries that have formulated such a declaration.
3. Any party country that has formulated a declaration under the terms of the previous No. 2 can, at any moment, withdraw it by means of a notification directed to the Secretary-General of the United Nations.

### **Article 93**

1. The present Convention, whose texts in Arabic, Chinese, Spanish, French, English and Russian will be placed in trust with the Secretary-General of the United Nations.
2. The Secretary-General of the United Nations will transmit a notarized copy of the present Convention to all countries.