



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
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Excellency

In my capacity as Chairperson of the Committee on Migrant Workers (CMW), I have the honour to refer to the examination of the initial report of Turkey at the Committee's twenty-fourth session, held in April 2016. At the end of that session, the Committee's concluding observations were transmitted to your Permanent Mission (CMW/C/TUR/CO/1). You may recall that in the concluding observations, the Committee requested Turkey to provide, within two years, written information on the steps undertaken to implement the recommendations contained in paragraphs 18, 48, 52 and 54 of the concluding observations.

At its thirty-first session, held in September 2019 in Geneva, the Committee examined the follow-up report of the State party (CMW/C/TUR/CO/1/Add.1). The Committee welcomes the follow-up report received in July 2019 under the CMW follow-up procedure and commends the State party for furthering the implementation of the Convention. It considers the lack of information received concerning the recommendations contained in paragraphs 18, 48, 52 and 54 of the concluding observations regrettable and it recalls the obligation of the State party to adequately report on follow-up recommendations. With respect to the follow-up report, the Committee notes the following:

Regarding the recommendation made in **paragraph 18** of the concluding observations, the Committee regrets that there is no information provided by the State party on any steps taken to make declarations provided for in articles 76 and 77 of the Convention. It considers that **there is a lack of sufficient information to make an assessment on the implementation of the recommendation contained in paragraph 18**. The Committee encourages the State party to take the necessary steps to make declarations provided for in articles 76 and 77 of the Convention.

In regards to the recommendations made in **paragraph 48** of the concluding observations, the Committee encourages the State party to strengthen its efforts to ensure that administrative detention is used as a measure of last resort only and that non-custodial alternatives are promoted, in line with the Committee's general comment No. 2 (2013) on the rights of migrant workers in an irregular situation and members of their families. **The recommendation contained in paragraph 48 (a) has been partially implemented.**

Further, the Committee regrets the limited information received on the implementation of the recommendation contained in paragraph 48 (b), such as the lack of information on any legislative measures in place to completely cease the detention of children on the basis of their parent's immigration status. It also regrets that no information was received on the implementation of the recommendation contained in paragraph 48 (c).

His Excellency
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The Committee considers that **there is a lack of sufficient information to make an assessment on the implementation of the recommendations contained in paragraphs 48 (b) and 48 (c)**. It encourages the State party to take the necessary steps to fully implement the recommendations to: (i) expeditiously and completely cease the detention of children on the basis of their or their parents' immigration status, and adopt alternatives to detention that allow children to remain with family members and/or guardians in non-custodial, community-based contexts while their immigration status is being resolved, consistent with their best interests, and with children's rights to liberty and family life; and (ii) ensure that a humanitarian as opposed to a security approach to migration continues to guide all the State party's policies and practices, including by prioritizing alternatives to, rather than increase in, detention.

Regarding the recommendation made in **paragraph 52** of the concluding observations, the Committee regrets the limited information provided on the implementation of the recommendation contained in paragraph 52 (a), such as the lack of information on the measures taken to guarantee due process to migrant workers and members of their families on an equal basis with nationals in administrative and judicial proceedings, beyond providing information in a language that a migrant worker or member of his/her family can understand. It further regrets that no information was provided on the implementation of recommendations contained in paragraphs 52 (b) and 52 (c).

The Committee considers that **there is a lack of sufficient information to make an assessment on the implementation of the recommendations contained in paragraphs 52 (a), 52 (b) and 52 (c)**. It encourages the State party to take the necessary steps to fully implement its recommendations to: (i) take the steps necessary to ensure that in administrative and judicial proceedings, including detention and expulsion proceedings, migrant workers and members of their families, particularly those in an irregular situation, are guaranteed due process on an equal basis with nationals of the State party before the courts and tribunals; (ii) include in its follow-up and second periodic reports detailed disaggregated information on the number of migrant workers detained for immigration offences and the place, average duration and conditions of their detention, as well as information on the implementation of the rights of migrant workers in respect of due process and equality before the courts; and (iii) ensure that the minimum guarantees enshrined in the Convention are assured with regard to administrative and judicial procedures against migrant workers and members of their families.

In regards to the recommendation made in **paragraph 54** of the concluding observations, the Committee regrets the limited information received on the implementation of recommendations contained in paragraphs 54 (a), 54 (b), 54 (c) and 54 (d), such as the lack of information on the measures in place to enforce Law No. 6458 on Foreigners and International Protection in order to ensure that administrative and judicial proceedings for deportation and/or expulsion are in accordance with the Convention, and on the measures taken to ensure that migrant workers and members of their families who are subject to an administrative deportation or expulsion are aware of their right to appeal against the order. Further, the Committee did not receive any statistical data on the number of such appeals, nor on their outcome. It regrets that no information on the implementation of the recommendation contained in paragraph 54 (f) was received.

The Committee considers that **there is a lack of sufficient information to make an assessment on the implementation of the recommendations contained in paragraphs 54 (a), 54 (b), 54 (c), 54 (d) and 54 (f)**. It encourages the State party to take measures to fully implement the recommendation to: (i) investigate the alleged cases of collective expulsion of Syrian, Afghan and Iraqi migrants, prosecute those responsible and take effective measures to provide redress to the victims and to avoid such expulsions in the future; (ii) take the steps necessary to ensure that administrative and judicial proceedings for deportation and/or expulsion are fully regulated by law and are in accordance with the Convention; (iii) ensure that migrant workers who are subject to an administrative deportation or expulsion order are aware of and exercise their right to appeal

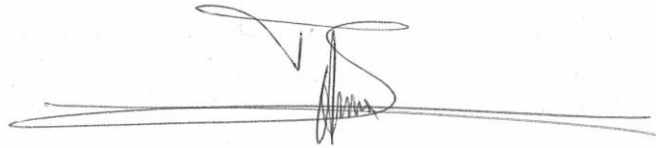
against the order; (iv) develop mechanisms to prevent the expulsion of migrants in transit until the assessment of each individual situation has been completed in order to, inter alia, uphold the principles of non-refoulement and the prohibition of collective expulsion; and (v) ensure that all necessary procedural safeguards are strictly followed in all individual expulsion proceedings in order to prevent arbitrary expulsion, including in the context of the agreement between the European Union and the State party that was signed on 18 March 2016.

The Committee also encourages the State party to intensify its efforts to implement the recommendation to provide in its follow-up and second periodic report information, including disaggregated statistics, on the numbers of expulsions, the grounds for the expulsions and the procedures used. **The recommendation contained in paragraph 54 (e) has been partially implemented.**

The Committee encourages the State party to intensify its efforts to implement the recommendations and to provide in its second periodic report high-quality information, comprehensive explanations on the progress in the implementation of the Convention and to include disaggregated, statistical data on the number of expulsions, the grounds of expulsions and the procedures used, so that the next dialogue with the State party will be constructive and positive.

The Committee looks forward to pursuing its constructive dialogue with the authorities of Turkey on the implementation of the Convention.

Please accept, Excellency, the assurances of my highest consideration.



Ahmadou Tall
Chairperson
Committee on the Protection of the Rights of All
Migrant Workers and Members of Their families