International Labour Organization

International labour standards and migrant workers' rights

Guide for policymakers and practitioners

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▶ Preface

Migrant workers play a vital role for businesses, economies and societies worldwide. They provide key services, sustaining labour markets, enhancing productivity and supporting social protection systems. Their work fosters development and strengthens global ties through the transfer of skills, remittances, and knowledge. Many economic sectors would not properly function without migrant workers, starting with the care economy, including domestic work, construction, agriculture, fishing, or manufacturing and a growing number of services.

And yet, despite these positive impacts, migration remains a risk factor in potential rights violations in the world of work. Too often, migrant workers, face serious decent work deficits, including discrimination, forced labour, unsafe working and living conditions, or exclusion from social protection. Migrant workers may not have the right to join a trade union and have limited access to justice. They may also find it challenging to have their qualifications recognized. Protecting their rights is therefore not only matter of social justice. It is also a key element of resilient labour markets, inclusive, sustainable development, and social cohesion; and it is crucial to prevent the erosion of labour standards for all workers.

The International Labour Organization (ILO) recognizes that rights-based and well-governed labour migration benefits all stakeholders: migrants and their families, workers and employers, and countries of origin, transit and destination alike. International labour standards form the core framework to realize this vision. Agreed by the main actors in the world of work - representatives of governments, of workers and employers – they establish common principles rooted in dignity, equality, and fairness, articulate fundamental principles and rights at work and provide minimum guarantees of labour and social protection for all workers, including migrant and refugee workers and their families.

This Guide on International Labour Standards and Migrant Workers' Rights brings together, in a single resource, the rights laid down in those ILO standards that are most relevant to migrant workers throughout the migration experience. It offers practical explanations, guidance from ILO supervisory bodies, and examples from across regions. The Guide also addresses critical cross-cutting issues—such as social dialogue, gender equality, violence and harassment, fair recruitment, climate-induced mobility, and access to justice—that shape migration experiences and demand focused attention.

As global trends continue to reshape the world of work, labour migration remains central to many labour markets, and ensuring decent work for migrant workers is more urgent than ever. We hope this Guide serves as a practical tool to inform the adoption of rights-based responses and strategies for advancing fair labour migration governance, strengthening both labour markets and rights protection for migrant workers, and promoting social justice in a changing world.

Gladys Cisneros

Chief, Labour Migration Branch

Conditions of Work and Equality Department

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The present Guide was produced by the Labour Migration Branch (MIGRANT) of the Conditions of Work and Equality Department (WORKQUALITY) of the ILO, as part of broader efforts by the ILO to promote better understanding of migrant workers' rights under international labour standards. It was prepared by Stefania Errico, independent consultant and former ILO official, and Katerine Landuyt, Senior Labour Migration Specialist, (MIGRANT) who also led the overall coordination.

The Guide would not have been possible without the support of Gladys Cisneros, Chief of MIGRANT. Many thanks go to all the colleagues from ILO Headquarters and the ILO Offices in the regions who participated in the consultations or who provided invaluable inputs, comments and feedback to help enhance the Guide, including (in alphabetical order): Nilim Baruah, Melanie Belfiore, Juan Ignacio Castillo, Ryszard Cholewinski, Noortje Denkers, Anna Engblom, Miranda Fajerman, Ben Harkins, Aurélie Hauchère-Vuong, Livia Husmann, Samia Kazi-Aoul, Catherine Laws, Ratna Mathai-Luke, Rebecca Napier-Moore, Alix Nasri, Henrik Moller, Gloria Moreno Fontes, Marja Paavilainen, Dafne Papandrea, Philip Lawrence Pearce, Mariana Pineda Muñoz, Vanessa Pocasangre, Heloise Ruaudel, Aurelia Segatti, Benjamin Smith, Theo Sparreboom, and Paul Tacon. Grateful acknowledgement is also extended to the colleagues of the International Labour Standards Department for their valuable comments and legal review.

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Introduction

Labour migration is a defining feature of today's globalized economy, with almost 168 million international migrants contributing to labour markets worldwide—nearly two-thirds of all working-age migrants. Almost 65 million of these migrants are women.[1] When well-governed, labour migration brings benefits and opportunities to migrant workers and their families and can contribute to inclusive growth and sustainable development of countries of origin, transit and destination.[2] Labour migration can help balance labour supply and demand, fill labour shortages, foster innovation, support productivity and just transitions, contribute to social protection systems, and enrich society culturally and socially. Migrants drive economic growth in destination countries as entrepreneurs, investors, consumers and taxpayers, support home countries through their remittances, and play a role in facilitating transfer of skills, knowledge and technology across borders. They also contribute to social protection systems, foster innovation, and enrich host communities both culturally and socially.[3]

Driven by the pursuit of decent work and dignified livelihoods, migrant workers are essential in critical sectors such as care services, industry, and agriculture. Yet, their journeys are increasingly shaped by complex factors including conflict, climate change, and inequality.[4] Despite the benefits of labour migration and efforts by many countries to develop legal and institutional frameworks that protect migrant workers' rights and ensure fair migration, many migrant workers continue to face significant decent work deficits, including violations of fundamental rights at work. As migration flows diversify and grow, ensuring the protection and rights of migrant workers is central to inclusive and resilient labour markets.

Relevance of international labour standards

International labour standards are essential to safeguarding the rights and dignity of migrant workers across all migration contexts. Since its founding, the ILO has been concerned with the "protection of the rights of workers when employed in countries other than their own", including those in irregular situations or migrating under abusive conditions. This is reflected in the Preamble of the ILO Constitution of 1919, the ILO Declaration on Fundamental Principles and Rights at Work (1998), as amended in 2022, the ILO Centenary Declaration for the Future of Work, the ILO tripartite Guiding Principles and Operational Guidelines on Fair Recruitment (2016), and in the wide range of international labour standards adopted by the ILO since its founding – particularly the four migrant workers instruments:

Migration for Employment Convention (Revised), 1949 (No. 97)

Migration for Employment Recommendation (Revised), 1949 (No. 86)

Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)

Migrant Workers Recommendation, 1975 (No. 151).

These ILO standards aim to ensure fair migration and decent work, protecting migrant workers throughout the migration process and benefiting countries of origin, transit and destination. While upholding the sovereignty of States to decide on their admission and employment policies, the migrant workers instruments, together with other relevant ILO standards and the ILO Guiding Principles and Operational Guidelines on Fair Recruitment, provide a fundamental framework for international cooperation to promote a rights-based approach to labour migration, while also recognizing labour market needs.

1 ILO, *Global Estimates on International Migrant Workers: International Migrants in the Labour Force*, fourth edition, 2024 (hereafter: ILO, *Global Estimates on International Migrant Workers*).

2 ILO, Resolution and conclusions concerning fair and effective labour migration governance, International Labour Conference, 106th session, 2017; The Doha Political Declaration also recognizes migration as a driver of inclusive growth and sustainable development and acknowledges its positive contributions to social and economic development and ensuring safe, orderly and regular migration pathways, and its relevance for the social development of countries of origin, transit and destination: UN, General Assembly, Resolution 80/5, Doha Policial Declaration of the "World Social Summit" under the title "the Second World Summit for Social Development, A/RES/85/1 (2025), para. 41(b)).

3 See ILO, *Resolution and conclusions concerning fair and effective labour migration governance*, Para.3 and ILO. ILO Agenda and Action on Fair Migration, GB.353/POL/1, 2025.

4 As of June 2024, the number of persons forcibly displaced worldwide stood at 122.6 million, including 68.3 internally displaced persons, see UNHCR, *Refugee Data Finder*.

International labour standards lay down the basic minimum social standards so that people can work in freedom, safety and dignity. By ensuring a level playing field in the global economy, the standards ensure that economic development is not pursued as an end in itself, but as a means to improve the lives of people, in keeping with the principle that "labour is not a commodity". Their implementation is a key pillar in realizing the labour-migration-related targets of the 2030 Agenda for Sustainable Development (notably targets 8.8 and 10.7), the Global Compact for Safe, Orderly and Regular Migration,[5] the Global Compact on Refugees,[6] and the implementation of the ILO's Decent Work and Fair Migration Agendas.

Aim of the Guide and how to use it

This Guide provides an overview of the relevant international labour standards from the perspective of the rights that migrant workers should enjoy, at the various stages of the migration experience. It does so by referring primarily to those international labour standards that are of specific relevance for the protection of migrant workers' rights and for the governance of labour migration. Where appropriate, the Guide distinguishes between the rights of migrant workers in regular and irregular situations.

The Guide is meant to be a source of reference for use by policymakers and migration practitioners across the world. It is primarily intended for those dealing with migration in the public and the private sector on a day-to-day basis and aims to familiarize those within government agencies dealing migration with the specific employment and labour aspects of migration, and the related rights of migrant workers. It hopes also to inform employers and their organisations who may be faced with demand for labour, as well as workers and their organizations so they can better protect the interests of both national and foreign workers. Migrant workers and their organizations as well as civil society groups interested in advocating for workers' rights may also find it useful.

Part I of the Guide provides some basic clarifications on terminology and concepts, along with a brief discussion of key cross-cutting themes affecting labour migration and migrant workers' rights. It then turns to giving an overview of migrant workers' rights in Parts II and III. Part II introduces fundamental principles and rights at work, and their related Conventions, and how they apply to all migrant workers and to all stages of the labour migration process. In Part III, the Guide provides an overview of the most relevant rights in the context of migration, grouping them according to the various stages of the labour migration process, including the international labour standards specifically concerning migrant workers, as well as other relevant labour standards, including sectoral standards. Regarding the latter, this Guide limits itself to those sectoral standards that contain provisions expressly addressing migrant workers. It also refers to the ILO standards on work in fishing given their particular importance for migrant workers in some regions. Finally, Part IV addresses the issue of monitoring and enforcement, and access to justice.

The overview of migrant workers' rights is enriched by the presentation of relevant guidance provided by the ILO's supervisory bodies, notably the:

- ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR)
- ILO Governing Body and the Committee on Freedom of Association; and
- Conference Committee on the Application of Standards.

For more details, see Annex I and ILO webpage on the ILO supervisory bodies.

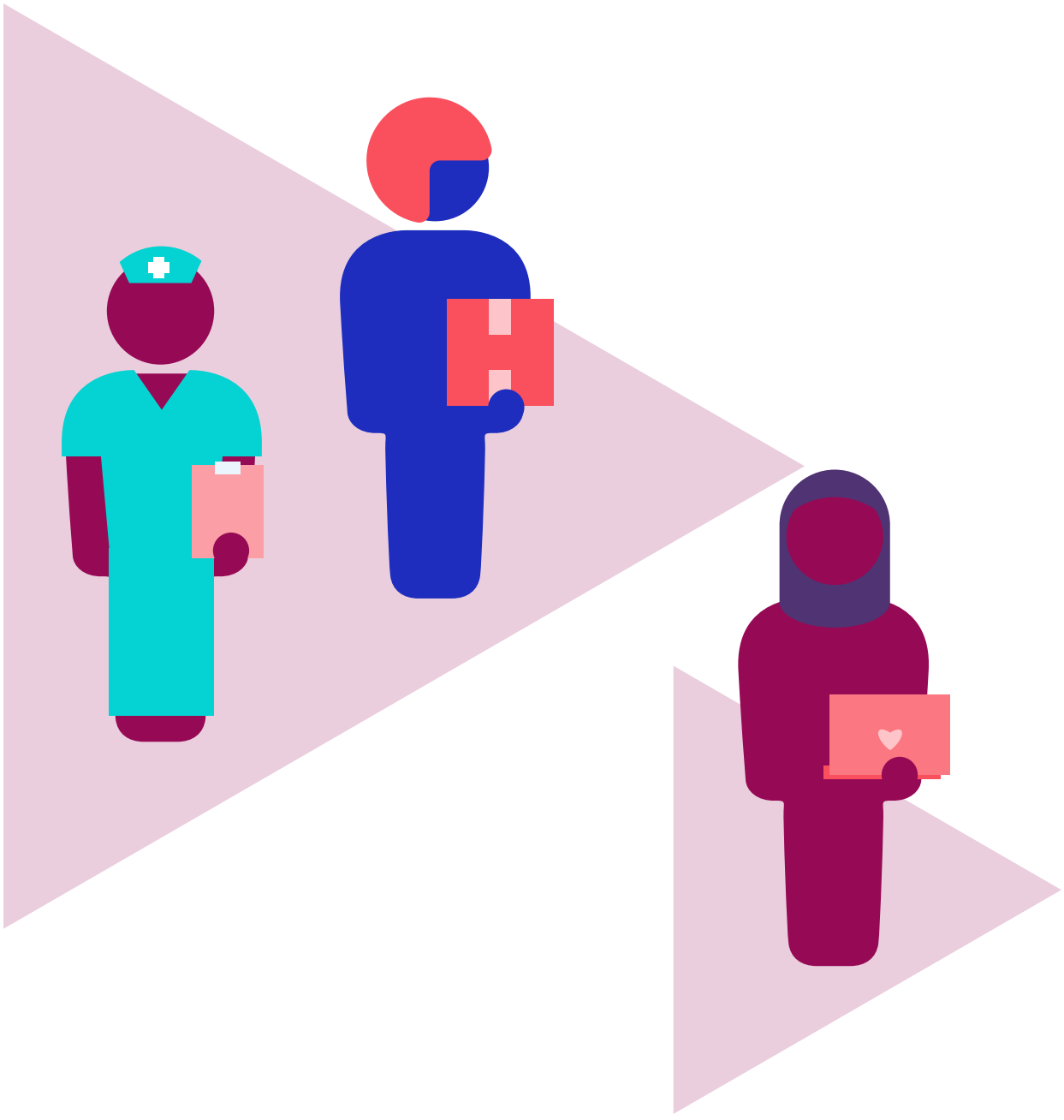
Furthermore, throughout the Guide, the discussion is accompanied by the presentation of country examples from various regions as well as by boxes summarizing the main labour standards of reference and key resources for further reading. In addition, selected topics are discussed in further detail in dedicated thematic boxes (see the list of Boxes and tables in this Guide).

5 The GCM "rests on ... the International Labour Organization conventions on promoting decent work and labour migration", specified as the Migration for Employment Convention (Revised), 1949 (No. 97); Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143); Equality of Treatment (Social Security) Convention, 1962 (No. 118); and Domestic Workers Convention, 2011 (No. 189). See Preamble, para. 2.

6 The GCR, in Chapter III/B/2.2, refers to the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), and the ILO's Guiding Principles on the Access of Refugees and Other Forcibly Displaced Persons to the Labour Market (2016).

Further reading:

- *Rules of the Game: An Introduction to the Standards-related Work of the International Labour Organization, 2019*
- *General Survey on the Instruments concerning Migrant Workers, 2016*
- *ILO Global Estimates on International Migrants Workers: International Migrants in the Labour Force, 2024*
- *ILO Agenda and Action on Fair Migration, 2025*



Part I.
Promoting fair migration: A rights-based approach to labour migration

1. Who are "migrant workers"?

Persons who move for work within their own country are "internal" migrant workers. Persons who move or have moved to work in another country than their own for the purpose of work, are commonly called "foreign" or "international" migrant workers. The focus of this Guide is on international migrant workers.

▶ Box 1. International legal definitions of migrant workers

The **ILO Migration for Employment Convention (Revised), 1949 (No. 97), and the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)**, define a "migrant for employment" or "migrant worker" in similar ways, notably as "a person who migrates (or who has migrated) from one country to another with a view to being employed otherwise than on his own account and includes any person regularly admitted as a migrant for employment" (Convention No. 97, Article 11(1), and Convention No. 143, Article 11(1)), thereby excluding from their scope migrant workers who are self-employed.

However, these definitions only apply for the purposes of Convention No. 97 and Part II of Convention No. 143, which address the situation of migrant workers in a regular situation. Convention No. 97 excludes specific categories of workers from its scope, notably: frontier workers, the short-term entry of members of the liberal professions and artists, and seafarers. Convention No. 143, Part II excludes two further categories: (i) persons coming specifically for purposes of training and education; and (ii) employees of organisations or undertakings operating within the territory of a country and who have been admitted temporarily to that country at the request of their employer to undertake specific duties or assignments for a limited and defined period of time, and who are required to leave that country on the completion of their duties or assignment.

Part I of Convention No. 143, which deals with migration in abusive conditions, covers all migrant workers, regardless of status.

The **UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990 (ICRMW)**, defines a migrant worker more broadly as "a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national" (Article 2). The ICRMW also covers self-employed workers, who are defined in Article 2(h).

Conventions Nos 97 and 143 also apply to refugees and other forcibly displaced persons, where they are employed outside their own countries.[7] It is also with this understanding that the term "migrant workers" is used throughout this Guide (see further in Part I). Other international labour standards, in particular those concerning fundamental rights at work, are also relevant to refugees and forcibly displaced persons. Their situation is specifically addressed in the **Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205)** (see Box 2).

Furthermore, the ILO adopted the **Guiding principles on the access of refugees and other forcibly displaced persons to the labour market** (2016). These are a set of voluntary, non-binding principles rooted in relevant international labour standards and universal human rights instruments and inspired by good practices implemented in the field. Elements of the guiding principles have been incorporated into Recommendation No. 205.

7 ILO, International Labour Conference: Record of Proceedings, ILC, 32nd Session, Geneva, 1949, 285; ILO, ILO, General Survey concerning the Migrant Workers Instruments, 2016, See ILO, Promoting Fair Migration, ILC.105/III/1B, 2016

▶ Box 2. Refugees and other forcibly displaced persons

The **Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205)**, among other things, calls upon States to include refugees in the actions taken with respect to employment, training and labour market access, as appropriate, and in particular:

(a) promote their access to technical and vocational training, in particular through ILO and relevant stakeholder programmes, in order to enhance their skills and enable them to undergo further retraining, taking into account possible voluntary repatriation;

(b) promote their access to formal job opportunities, income-generation schemes and entrepreneurship, by providing vocational training and guidance, job placement assistance, and access to work permits, as appropriate, thereby preventing informalization of labour markets in host communities;

(c) facilitate the recognition, certification, accreditation and use of skills and qualifications of refugees through appropriate mechanisms, and provide access to tailored training and retraining opportunities, including intensive language training;

(d) enhance the capacity of public employment services and improve cooperation with other providers of services, including private employment agencies, to support the access of refugees to the labour market;

(e) make specific efforts to support the inclusion in labour markets of refugee women, young persons and others who are in a situation of vulnerability; and

(f) facilitate, as appropriate, the portability of work-related and social security benefit entitlements, including pensions, in accordance with the national provisions of the host country (Paragraph 33).

Moreover, Recommendation No. 205 calls upon States to promote equality of opportunity and treatment with regard to fundamental principles and rights at work, and in particular to:

- educate refugees about their labour rights and protections, including by providing information on the rights and obligations of workers and the means of redress for violations, in a language they understand;
- enable the participation of refugees in representative organizations of employers and workers; and
- adopt appropriate measures, including legislative measures and campaigns, that combat discrimination and xenophobia in the workplace and highlight the positive contributions of refugees (Paragraph 34).

See also: ILO, "ILO's 2016 Guiding principles on the access of refugees and other forcibly displaced persons to the labour market", and UNHCR, UNHCR Guidelines on International Legal Standards Relating to Decent Work for Refugees

International migrant workers include workers migrating for short-term or seasonal work as well as for permanent settlement. These workers may migrate:

- under government-sponsored programmes, including bilateral agreements;
- through private recruitment (for example, involving private employment agencies); or
- on their own account in search for employment.

International migrant workers are considered "regularly admitted" or "in a regular situation" when their entry and work activity comply with the immigration laws and regulations of the country in which they work. When migrant workers are employed without being regularly admitted – or without being able to produce evidence of their regular admission – they are considered to be "in an irregular situation" or to be "undocumented" migrant workers (see further in Parts II and III below).[8]

8 The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990) considers migrant workers to be undocumented or in an irregular situation if they are not "authorized to enter, to stay and to engage in a remunerated activity in the State of employment pursuant to the law of that State and to international agreements to which that State is a party" (Article 5).

▶ Box 3. Irregular labour migration

Drivers of irregular labour migration are complex and multifaceted. Labour market dynamics and asymmetries in the demand for labour and the supply in countries of destination and origin, respectively, are among them. When options for safe and regular pathways are lacking, some people may be forced to leave for reasons of health or survival. The adverse effects of climate change and environmental degradation; unequal access to economic and social rights, including health care and decent work, food, land, or water; unequal opportunities, as well as gender inequality and genderbased violence, can all be compelling reasons for people to move through irregular migration channels. Other drivers or structural factors include gender-based migration bans, recruitment costs and dishonest labour recruiters, misleading or false information, or lack of understanding of complex immigration rules.

The ways through which migrants may end up in irregular situation are many. They may cross borders through regular channels but overstay their visas and thus become irregular and end up in illegal employment in the formal or informal economy. They may enter without valid documentation or may lose their regular migrant status due to unemployment or non-compliance with permit requirements. Their requests for asylum may be rejected, or they may find themselves in an irregular situation due to bureaucratic failure to process visa applications or permits in a timely manner. Irregular labour migration varies among regions, and in some countries, populations of migrant workers in an irregular situation are more significant than others.

Irregularity tends to increase vulnerability to trafficking and exploitation, discrimination and xenophobia, and other violations of human rights, including labour rights, often in a context of negative migration narratives, attitudes and misconceptions. It can undercut wages for all workers and disrupt labour markets. Irregularity may push migrant workers into informal employment where they face higher risk of exploitation, lack of social protection, and suffer from a deficit of skills and jobs matching. Those who are in low-skilled or in insecure forms of work face additional barriers and are particularly vulnerable to non-respect of labour rights. Women migrants in an irregular situation may be more exposed to exploitative working conditions or gender-based violence and harassment, or intersecting forms of discrimination.

However, irregularity does not mean that migrant workers have no rights or that these rights should not be respected. All migrants retain their human rights regardless of migration status. Respect of their human rights, including labour rights, is critical to tackling irregular labour migration and must be the basis for effective management and cooperation at all levels. A range of international human rights and labour standards and instruments are relevant to this end.

Exemplary practices that facilitate respect and promotion of the human rights of all migrant workers in an irregular situation include action to: promote fair recruitment; prevent irregularity upon loss of employment and to allow flexibility to change employment; respect and realize the fundamental principles and rights at work and the rights recognized in the core UN human rights instruments, while also ensuring equality of treatment in respect of rights regarding remuneration, social security, and other benefits arising from past employment, and; ensure the right to effective remedies.

Source: Extracted and adapted from ILO. *Protecting the Rights of migrant workers in irregular situations and addressing irregular labour migration: A Compendium*, Geneva 2021.

9 ILO. *Rules of the Game. An introduction to the standards-related work of the International Labour Organization*, Geneva, 2019

2. Migrant workers and international labour standards

International labour standards are legal instruments drawn up by the representatives of governments, employers' and workers' organisations from ILO member States at the International Labour Conference, setting out basic principles and rights at work. They can take the form of either:

- **Conventions** or **Protocols**: legally binding international treaties that may be ratified by ILO Member States; or
- **Recommendations**: non-binding guidelines that do not have to be ratified and become effective upon adoption at the International Labour Conference.

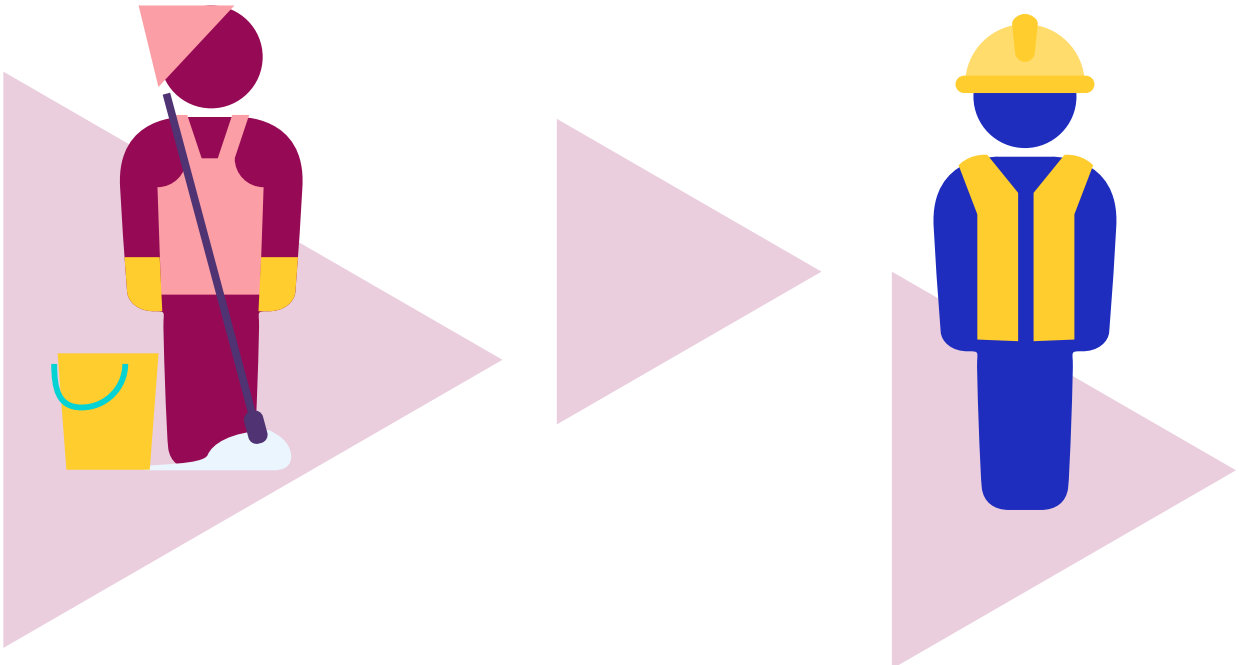
Conventions, in many cases, lay down basic principles to be implemented by ratifying State. Recommendations usually accompany and supplement a Convention by providing more detailed guidance on how it could be applied, but they can also be autonomous, that is, not linked to any specific Convention. Ratifying States undertake to apply the Convention in national law and practice and to report on its application at regular intervals.[9]

ILO Conventions and Recommendations are meant to apply to all workers, including migrant workers, irrespective of nationality or migration status, unless explicitly stated otherwise.

The international labour standards most relevant to migrant workers be roughly divided into the following categories:

1. standards on fundamental principles and rights at work;
2. standards on labour migration;
3. standards with specific provisions on migrant workers;
4. standards on social protection;
5. standards on governance
6. standards of general application; and
7. standards covering specific sectors employing large numbers of migrant workers (see table 1 below).

The text of the specific Convention and Recommendation can be found in NORMLEX, Information System on International Labour Standards.



▶ Table 1. Selection of international labour standards most relevant to migrant workers

Category	International labour standards
1. ILO Standards on fundamental principles and rights at work	▶ **C.029** - Forced Labour Convention, 1930 (No. 29) ▶ **P.029** - Protocol of 2014 to the Forced Labour Convention, 1930 ▶ **R.203** - *Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203)* ▶ **C.087** - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) ▶ **C.098** - Right to Organise and Collective Bargaining Convention, 1949 (No. 98) ▶ **C.100** - Equal Remuneration Convention, 1951 (No. 100) ▶ **C.105** - Abolition of Forced Labour Convention, 1957 (No. 105) ▶ **C.111** - Discrimination (Employment and Occupation) Convention, 1958 (No. 111) ▶ **R.111** - *Discrimination (Employment and Occupation) Recommendation, 1958 (No. 111)* ▶ **C.138** - Minimum Age Convention, 1973 (No. 138) ▶ **C.155** - Occupational Safety and Health Convention, 1981 (No. 155) ▶ **R.164** - Occupational Safety and Health Recommendation, 1981 (No. 164) ▶ **C.182** - Worst Forms of Child Labour Convention, 1999 (No. 182) ▶ **C.187** - Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) ▶ **R.197** - *Promotional Framework for Occupational Safety and Health Recommendation, 2006 (No. 197)*
2. ILO standards on migrant workers	▶ **C.097** - Migration for Employment Convention (Revised), 1949 (No. 97) ▶ **R.086** - Migration for Employment Recommendation (Revised), 1949 (No. 86) ▶ **C.143** - Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) ▶ **R.151** - Migrant Workers Recommendation, 1975 (No. 151)
3. ILO standards with specific provisions on migrant workers	▶ **C.110** - Plantations Convention, 1958 (No. 110) * ▶ **R.115** - Workers' Housing Recommendation, 1961 (No. 115) ▶ **C.117** - Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117) ▶ **R.169** - Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169) ▶ **C.169** - Indigenous and Tribal Peoples Convention, 1989 (No. 169) ▶ **C.181** - Private Employment Agencies Convention, 1997 (No. 181) ▶ **R.188** - Private Employment Agencies Recommendation, 1997 (No. 188) ▶ **R.195** - Human Resources Development Recommendation, 2004 (No. 195) ▶ **R.200** - HIV and AIDS Recommendation, 2010 (No. 200) ▶ **C.189** - Domestic Workers Convention, 2011 (No. 189) ▶ **R.201** - Domestic Workers Recommendation, 2011 (No. 201)* ▶ **R.204** - Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204) ▶ **R.205** - Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205) ▶ **R.206** - Violence and Harassment Recommendation, 2019 (No. 206)

Category	International labour standards
4. ILO standards on social protection applicable to migrant workers	▶ **C.019** - Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19) ° ▶ **C.102** - Social Security (Minimum Standards) Convention, 1952 (No. 102) ▶ **C.118** - Equality of Treatment (Social Security) Convention, 1962 (No. 118) ▶ **C.121** - Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121) ▶ **C.157** - Maintenance of Social Security Rights Convention, 1982 (No. 157) ▶ **C.168** - Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168) ▶ **R.202** - Social Protection Floors Recommendation, 2012 (No. 202) ▶ **C.183** - Maternity Protection Convention, 2000 (No. 183)
5. ILO governance standards	▶ **C.081** - Labour Inspection Convention, 1947 (No. 81) ▶ **C.122** - Employment Policy Convention, 1964 (No. 122) ▶ **C.129** - Labour Inspection (Agriculture) Convention, 1969 (No. 129) ▶ **C.144** - Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)
6. ILO standards of general application	▶ **C.088** - Employment Service Convention, 1948 (No. 88) ▶ **C.094** - Labour Clauses (Public Contracts) Convention, 1949 (No. 94) ▶ **C.095** - Protection of Wages Convention, 1949 (No. 95) ▶ **C.131** - Minimum Wage Fixing Convention, 1970 (No. 131) ▶ **C.141** - Rural Workers' Organisations Convention, 1975 (No. 141) ▶ **C.156** - Workers with Family Responsibilities Convention, 1981 (No. 156)
7. ILO standards covering specific sectors (including those (*) mentioned under 3.)	▶ **C.149** - Nursing Personnel Convention, 1977 (No. 149) ▶ **R.157** - Nursing Personnel Recommendation, 1977 (No. 157) ▶ **C.167** - Safety and Health in Construction Convention, 1988 (No. 167) ▶ **C.167** - Safety and Health in Construction Convention, 1988 (No. 167) ▶ **C.176** - Safety and Health in Mines Convention, 1995 (No. 176) ▶ **C.184** - Safety and Health in Agriculture Convention, 2001 (No. 184) ▶ **C.188** - Work in Fishing Convention, 2007 (No. 188)

° Attention should be paid to the actual status of this instrument at the time of reference .

All international labour standards, including those presented in table 1 above, are backed by a supervisory system comprised of a regular system of supervision and special procedures (see Annexes). Workers' and employers' organizations (referred to as the ILO's "social partners") can submit information concerning the application of ratified Convention in law and practice to the supervisory system or file "complaints" or "representations" alleging relevant violations. Through the social partners, migrant workers and their organizations and associations can bring to the attention of the ILO's supervisory bodies issues concerning the application of international labour standards, including those presented in this Guide. (See Annex to this Guide).

2.1. Other relevant international instruments

International human rights law[10] applies to everyone without discrimination, including migrant workers. This includes the:

- International Covenant on Civil and Political Rights;
- International Covenant on Economic, Social and Cultural Rights;
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;[11]
- International Convention on the Elimination of All Forms of Racial Discrimination;
- Convention on the Elimination of All Forms of Discrimination against Women;
- International Convention on the Rights of Persons with Disabilities;
- Convention on the Rights of the Child; and
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment

The ICRMW reflects and builds on the ILO standards on labour migration, is wider in scope and elaborates on the human rights pertaining to all migrant workers and members of their families, including those in an irregular situation. The rights guaranteed under the ICRMW also include the rights to life, protection against inhumane or degrading treatment, freedom of thought and religion, and equal access to legal proceedings.[12]

▶ Box 4. ILO International labour standards and UN human rights treaties

International labour standards give expression to human rights in the civil and political, economic, social and cultural spheres, and have inspired the core international human rights treaties to date. Some ILO standards directly express human rights while others set benchmarks for the labour market institutions that are necessary for realizing human rights at work.

Fundamental principles and rights at work (FPRW) are universal human rights and immutable in nature. They are inseparable, interrelated and mutually reinforcing. They are key to human dignity and well-being and to the foundation of inclusive and just societies. They are important for ensuring that economic and social progress advance together in the pursuit of social justice. FPRW are rights and enabling conditions that are necessary for the full realization of the strategic objectives of the International Labour Organization.[1]

The ILO standards concerning labour migration and the International Convention on the Protection of the Rights of All Migrant Workers and members of their Families (1990) are complementary and mutually reinforcing. Together, they provide the normative framework for the protection of migrant workers, including migrant workers in an irregular situation.[2]

ILO standards bring the added value of tripartism, recognizing the important role that employers and workers and their organizations have in strengthening migration legislation, policies and practice (see, for examples, Part II of this Guide). The application of these standards is furthermore monitored by a dedicated supervisory system – including regular and special procedures – which is considered to be one of the most developed and effective among the many supervisory mechanisms that exist in international and regional organizations.

[1] ILO. Resolution concerning the third recurrent discussion on fundamental principles and rights at work, Geneva, ILC.112/Resolution IV
[2] ILO, General Survey concerning the Migrant Workers Instruments 2016, para. 277
See also: ILO, *Application of International Labour Standards 2023*, ILC.111/III(A)/Add, 2023
Note: For further details, see: ILO, *Rules of the Game: An Introduction to the Standards-Related Work of the International Labour Organization, 2019*

10 OHCHR, "The Core International Human Rights Instruments and Their Monitoring Bodies".
11 The personal scope of the UN Convention is broader than that of the ILO migrant workers instruments, and also covers frontier workers, seasonal workers, itinerant workers, seafarers and workers on offshore installations.
12 ICRMW, Art. 74(2) and (5) establish that the ILO receives reports from the CMW Committee and participates in its meetings in a consultative capacity, providing expert input.

3. Cross-cutting themes

3.1. Migration and social dialogue

Social dialogue between public authorities and social partners is essential to the elaboration and implementation of effective and sustainable labour migration policies and practices. Through social dialogue at the enterprise, national, bilateral, subregional, regional and international levels, governments, employers, workers and their representatives can play an important role in the development of rights-based, transparent and coherent labour migration legislation and policies, taking account of labour market needs.[13] Governments and social partners should aim to consult with civil society and migrant associations on labour migration policy.[14]

The ILO tripartite approach to international labour standards ensures that these have broad support from all ILO Constituents. **The Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)** sets forth the framework for effective national tripartite consultations on questions relating to ILO standards. Most international labour standards require consultations or cooperation between governments and representative organizations of workers and employers to give effect to their provisions in ways that are adapted to national circumstances and the actual needs of employers and workers.

The ILO standards on **labour migration** specifically recognize the pivotal role that the social partners play in the effective governance of labour migration, and acknowledge the importance of them being consulted and involved in areas such as:

- operations of recruitment, including the introduction and placing of migrants for employment (R.086, Para. 19);
- information about irregularly employed migrants (C.143, Art. 2);
- systematic contact and exchange of information with other States on irregular movements of migrants for employment in abusive conditions and on the unauthorized employment of migrants (C.143, Art. 4);
- laws and regulations and other measures designed to prevent and eliminate the abuses referred to above (C.143, Art. 7);
- formulation and application of a social policy appropriate to national conditions and practice that enables migrant workers and their families to share in the advantages enjoyed by nationals (C.143, Art.12(e);
- regulations concerning recognition of occupational qualifications acquired outside the State's territory, including certificates and diplomas (C.143, Art. 14(b); R.151, Para. 6(b));
- measures to foster public understanding and acceptance of equality of opportunity and treatment of migrant workers, and to examine and resolve complaints (R.151, Para. 4(a));
- measures to inform migrant workers of their rights, advance language knowledge, promote adaptation, and encourage the preservation of national and ethnic identities (R.151, Para. 7(1)(b) and (c));
- family reunification (R.151, Para. 14);
- provision of social services for migrant workers (R.151, Paras 25(2) and 29); and
- more broadly, all general questions concerning migration for employment (R.086, Para. 4(2)))

In addition, other ILO standards underscore the need for consultations with workers' and employers' organizations in matters relating to labour migration.

13 See: ILO, Conclusions of the Tripartite Technical Meeting on Labour Migration, TTMLM/2023/14, 2013.
14 ILO, *Multilateral Framework on Labour Migration: Non-binding Principles and Guidelines for a Rights-based Approach to Labour Migration, 2006*, principle 7.

For example, the ILO standards on **domestic workers** call upon States to consult with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers, on the adoption of measures to protect migrant domestic workers against abusive practices (C.189, Art. 15(2)).

The ILO standards on **private employment agencies** require Members to consult the most representative organizations of employers and workers when adopting "necessary and appropriate measures to provide adequate protection for and prevent abuses of migrant workers recruited or placed in its territory by private employment agencies" (C.181, Art. 8(1)).

With respect to **violence and harassment**, the related ILO standards also require governments to consult with representative employers' and workers' organizations, when seeking "to ensure that violence and harassment in the world of work is addressed in relevant national policies, such as those concerning occupational safety and health, equality and non-discrimination, and migration" (C.190, Art. 11(1)(a)).

With regard to situations of crisis, the ILO standards on **employment and decent work for peace and resilience** underscore the importance of enabling the participation of migrant workers and refugees in representative organizations of employers and workers, and of adopting measures that combat discrimination and xenophobia in the workplace and highlight the positive contributions of migrants and refugees, with the active engagement of employers' and workers' organizations. Members should also consult and engage with employers' and workers' organizations with respect to the employment of migrants and the access of refugees to labour markets (R.205, Paras 27(1)(c) and(d), 34(c) and 35).

Spotlight on regional and national contexts

In **Chile**, the national migration policy was finalized in 2023 through consultations with employers' and workers' organizations and civil society organizations. The policy's design and development, facilitated by the ILO, involved three stages:(i) gathering baseline information; (ii) organizing territorial and thematic dialogues; and (iii) collecting data from local governments to assess the impact of migration in local areas and cities. Extensive multi-stakeholder consultations were conducted, starting from 2017, to contribute to the formulation of policies to improve migrants' rights, working conditions and awareness.[3]

The Government of **Portugal** has established an Advisory Council on Immigration Issues to ensure the participation of migrant workers' organizations as well as workers' and employers' organizations in the development of public policies concerning migration.[2]

A Tripartite Framework for the Support and Protection of **Ethiopian** Women Domestic Migrant Workers to the Gulf Cooperation Council (GCC) States, Lebanon and Sudan was established to enhance the protection of women migrant domestic workers.[4]

At the regional level, the **ASEAN Forum on Migrant Labour** (AFML) - an annual regional multi-stakeholder open forum - reviews and exchanges good practices and ideas between governments, workers' and employers' organizations, and civil society on the protection of migrant workers and labour migration governance within ASEAN. It develops recommendations to advance the implementation of the principles of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers. Since 2008, the AFML has discussed and adopted recommendations on a range of issues covering care work, regular pathways for labour migration, regional cooperation, crisis recovery, digitalisation to promote decent work, domestic workers, social protection, and access to justice, among many others. The latest AFML, held in September 2025, focused on Accelerated Actions towards Sustainable Development Goals on Safe Migration and Decent Work for migrant workers.

[1] ILO, General Survey concerning the Migrant Workers Instruments, 2016, paras 135 ff.
[2] ILO, *Protecting the Rights of Migrant Workers in Irregular Situations and Addressing Irregular Labour Migration: A Compendium*, 2021.
[3] ILO, "Social Dialogue for the Governance of Labour Migration", ILO Policy Brief, February 2025.
[4] ILO, "Tripartism and Social Dialogue on Labour Migration", fact sheet, 2019.
[5] ILO. TRIANGLE IN ASEAN. "The ASEAN Forum on Migrant Labour". 10 September 2025

Main ILO standards of reference

- Migration for Employment Recommendation (Revised), 1949 (No. 86), Paragraphs 19 and 4(2)
- Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), Articles 2, 4, 7, 12(e) and 14(b)
- Migrant Workers Recommendation, 1975 (No. 151), Paragraphs 9, 6, 4, 7(1), 14, 25(2) and 29
- Domestic Workers Convention, 2011 (No. 189), Article 15(2)
- Private Employment Agencies Convention, 1987 (No. 181), Article 8(1)
- Violence and Harassment Convention, 2017 (No. 190), Article 11(1)(a)
- Employment and Decent Work for Peace and Resilience Convention, 2017 (No. 205), Paragraphs 27(1)(c)–(d), 34((c)–(d) and 35.

Further reading:

- *Social Dialogue for the Governance of Labour Migration, 2025*
- *ILO Multilateral Framework on Labour Migration. Non-binding principles and guidelines for a rights-based approach to labour migration, 2016*

3.2. International cooperation on migration

International cooperation plays a key role in regulating labour migration and ensuring migrant workers' rights. It may take the form of multilateral cooperation through UN entities and other international organizations or may occur at the regional level through varying regional governance arrangements.

ILO standards on **labour migration** are premised upon an expectation of collaboration between States. Provisions in both Conventions Nos 97 and 143 require the exchange of information and international cooperation between Member States, including to to address irregular labour migration, take steps against misleading information relating to migration or facilitate family reunification and encourage the conclusion of bilateral and multilateral agreements or arrangements. A model bilateral agreement was annexed to the ILO **Migration for Employment Recommendation (Revised), 1949 (No. 86),** for this purpose.

Bilateral labour migration agreements can be key tools for labour migration governance. Bilateral agreements have been concluded to address a variety of matters, including the governance of migration flows, irregular migration, recruitment, seasonal work, social security, skills development and recognition, integration and voluntary return, readmission and development cooperation, among others. Some agreements focus on specific sectors such as healthcare or domestic work, and agriculture. It is important that the contents of these agreements and arrangements are made available to those who benefit from them and that they are written in understandable terms. They should also include adequate monitoring of their implementation, access to enforcement mechanisms and the provision of social dialogue.[15] Parties should also ensure that the bilateral agreements and other arrangements they conclude do not have the effect of weakening protections afforded by international standards and national laws, in particular regarding fundamental rights at work.[16] While such agreements can be a useful tool in support of national labour migration policies, they cannot be a substitute for them.[17]

The effective engagement of social partners in the formulation, negotiation and implementation of agreements can contribute to their wider acceptance and understanding.

15 ILO, General Survey concerning the Migrant Workers Instruments 2016, para. 163.
16 ILO, General Survey concerning the Migrant Workers Instruments 2016, para. 190.
17 United Nations Network on Migration. *Global Guidance on Bilateral Labour Migration Agreements*, Geneva, 2022, 8.

Spotlight on regional and national contexts

The Governments of **Kenya** and the **United Kingdom** signed in 2021 a Bilateral Agreement for Collaboration on Health Care Workforce, based on principles in the World Health Organization (WHO) Global Code of Practice. The agreement sets a framework under which nurses and healthcare professionals from Kenya will be recruited to the UK. It covers areas of cooperation, recruitment, employment conditions, regulation of recruitment and the setting up of a Joint Committee to oversee the implementation and interpretation of the Bilateral Agreement. The Joint Committee is to be tripartite, and to include Ministry of Health officials. Areas of cooperation under the Agreement include bilateral exchanges, recruitment procedures, educational placements and capacity building.

The Governments of the **Philippines** and **Germany** signed a Memorandum of Understanding on the recruitment of Filipino healthcare professionals. The MoU provides for cooperation on fair recruitment, exchange of information on policy developments, skills development education and training, enforcement of measures to address violations, access to legal assistance and social protection. The Committee overseeing the implementation of the MoU includes representative of trade unions from both parties (PSLINK/Philippines and Ver.di/Germany).

Other relevant ILO standards also encourage the adoption of bilateral agreements to give effect to their provisions, including standards on private employment agencies, social security, domestic work, nursing personnel, fishers, employment relationships, and on decent work and employment for peace and resilience.

Main ILO standards of reference

- Migration for Employment Convention (Revised), 1949 (No. 97), Articles 1, 3, 7 and 10
- Migration for Employment Recommendation (Revised), 1949 (No. 86), Annex containing the Model Agreement on Temporary and Permanent Migration for Employment, including Migration of Refugees and Displaced Persons (hereafter referred to as the "Model Agreement")
- Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), Articles 3, 4, 13(1) and 15

In particular, concerning bilateral agreements, see also the following standards:

- Private Employment Agencies Convention, 1997 (No. 181), Article 8(2)
- Social Security (Minimum Standards) Convention, 1952 (No. 102), Article 68
- Equality of Treatment (Social Security) Convention, 1962 (No. 118), Articles 8 and 12
- Maintenance of Social Security Rights Convention, 1982 (No. 157), Articles 4, 9 and 17
- Domestic Workers Convention, 2011 (No. 189), Article 15(1)(d)
- Domestic Workers Recommendation, 2011 (No. 201), Paragraphs 20 and 26
- Nursing Personnel Recommendation, 1977 (No. 157), Paragraphs 62, 64 and 69
- Work in Fishing Convention, 2007 (No. 188), Articles 36 and 37
- Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169), Paragraph 44
- Employment Relationship Recommendation, 2006 (No. 198), Paragraph 7
- Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), Paragraph 42.

Further reading:

- *ILO Model Bilateral Agreement in Annex of Recommendation No. 86*
- *UN Global Guidance on Bilateral Labour Migration Agreements, 2022*
- *African Union Guidelines on bilateral labour agreements 2021*

3.3. Gender and labour migration

Changing labour markets have increased the opportunities and pressures for women to migrate. Of the almost 168 million migrants in the global workforce, almost 40 per cent are women in 2022.[18] Labour migration has the potential to create positive outcomes for women and men, providing opportunities for them to increase their earnings, autonomy and empowerment. In turn, it can change gender roles and responsibilities, contributing to gender equality.

Migration experiences differ significantly for men and women, as gender norms affect all aspects of migration, from the decision to migrate and the opportunities available, to the challenges and risks and the roles that they take on. The gender norms that influence the sectoral labour market insertion of women and men migrants have not significantly changed over time. Globally, around 80 per cent of women migrant workers work in the services sector. Within that sector, women migrant workers make up the largest share of workers in care employment, with almost 29 per cent of women migrant workers working in the care sector – as nurses, domestic workers and teachers – compared with around 12 per cent of migrant men and 19 per cent of non-migrant women. On the other hand, more men work in industry and construction – including manufacturing and as manual labourers in construction – than women.[19] Gender-based occupational segregation often results in women migrants being recruited into low-skilled, low-paid, low security, informal economy jobs.[20]

While for many women, migration represents a positive experience and can have important emancipating and empowering effect, social norms may result in specific restrictions on women's freedom of movement and labour migration opportunities, including bans on migration based on women's age, marital or maternity status, or specific sectors of employment.[21] Moreover, gender-based discrimination intersects with discrimination based on other forms of "otherness" – such as migrant status, race, ethnicity, nationality, religion and economic status – placing women in situations particular vulnerability.[22]

Women migrant workers may be particularly vulnerable to discrimination based on pregnancy and maternity. This includes discriminatory practices such as the requirement to undergo pregnancy tests for employment-related purposes, termination of employment during pregnancy, or cancellation of the work permit in the event of pregnancy.[23] Childcare responsibilities and household duties may also significantly limit women's employability, as well as their opportunities to access training and language courses.

Occupations in the informal economy may not benefit from government-to-government labour agreements (bilateral labour agreements or MOUs) that aim to ensure fair recruitment, equality of treatment and adequate labour protection, or may not be able to meet the requirements of regular migration systems, with the result that women migrant workers may not be able to access regular labour migration pathways.

Men migrant workers can face unique challenges. Gender norms and stereotypes intersect, including those around masculinities and men's breadwinning roles, creating unique discrimination and disadvantage for men. For example, men are more likely to take more dangerous migration routes (including sea routes), and to work in sectors with significant occupational, safety and health risks, such as fishing, construction work and mining. Men are also less likely to have access to gender-specific services, including those for victims of trafficking in persons or labour abuse such as shelters and psychosocial counselling. Men may also be more reluctant to identify themselves as victims of abuse in the first place.[24]

18 ILO, *Global Estimates on International Migrant Workers.*
19 ILO, *Global Estimates on International Migrant Workers.*
20 ILO, *Global Estimates on International Migrant Workers.*
21 Rebecca Napier-Moore, Protected or Put in Harm's Way?: Bans and Restrictions on Women's Labour Migration in ASEAN Countries (ILO, 2017); ILO, No Easy Exit – Migration Bans Affecting Women from Nepal, 2015.
22 ILO, General Survey on Achieving Gender Equality at Work 2023. See: ILO, Achieving Gender Equality at Work, ILC.111/III(B), 2023
23 ILO, General Survey on Achieving Gender Equality at Work 2023.
24 See, for example: ILO, Ship to Shore Rights Southeast Asia: Gender Equality and Women's Empowerment Strategy, 2022.

Gender-responsive labour migration policies can contribute to a transformative agenda for gender equality. International labour standards, notably those relating to gender equality and migration, are key to achieve such gender-responsiveness and to effectively protect the rights of all migrant workers, including by ensuring:

- equality of opportunity and treatment;
- equal pay for work of equal value;
- maternity protection; and
- better balance of and sharing of paid and unpaid work between men and women workers with family responsibilities.

Spotlight on regional and national contexts

Jersey – The Employment Agencies (Registration and Code of Conduct) (Amendment) (Jersey) Order 2013 repealed the reference to "any female person" in section 6 of Employment Agencies (Registration) Code of Conduct (Jersey) Order 1970 and removed the restrictions on women wishing to migrate for employment using private agencies, restrictions that were not imposed with respect to men migrants.[1]

Philippines – The "Balik Pinay! Balik Hanapbuhay!" (BPBH) Programme provides training and starting capital to female overseas Filipino workers who returned to the country after being victim of illegal recruitment, trafficking, exploitation (unpaid and underpaid), sexual and physical abuse, or with a contract which was terminated prematurely.[2]

The African Union (AU) adopted the Model Law on Labour Migration in Africa (2025) as a rights-based, gender-responsive and development-oriented tool to support AU Member States in harmonizing national labour migration law and aligning with international labour standards and AU frameworks. The Model Law provides that the State shall have the primary responsibility to respect, protect and fulfil the fundamental human rights, including labour rights of migrant workers and members of their families. This should also cover "the right to gender equality and specific measures to ensure that these and all other human rights of women are protected by reinforcing legal mechanisms that will protect all women at the national level, by implementing gender-sensitive policies and practices that respond to the lived experiences of women, and by ending impunity for crimes committed against women" (Art.(f)). The Mode Law also contains several provisions aimed at addressing gender-bias in protective measures or restrictions that disproportionately impact equality of labour migration opportunities for any group, and in particular women (Art. 7(9)), gender-based violence and harassment (Art. 7(16)) and gender discrimination by employers or recruitment agencies (Arts. 8(4) and 16(15(a)), among many others.

[1] CEACR, Direct Request - Convention No. 97 - Jersey, adopted in 2018
[2] CEACR, Direct Request – Convention No. 97 - Philippines, adopted 2022

▶ Box 5. Migration and the care economy

Care work consists of two overlapping activities: (i) direct, personal and relational care activities, such as feeding a baby or nursing an ill person; and (ii) indirect care activities, such as cooking and cleaning. **Paid care work** is performed for pay or profit by care workers. These care workers comprise a wide range of personal service workers, such as nurses, teachers, doctors and personal care workers. Domestic workers, who provide both direct and indirect care in households, are also part of the care workforce.

Estimates by the ILO indicate that international migrants are more likely to work in care jobs compared to the non-migrant population. The ageing of populations in many countries is resulting in labour shortages and creating a growing demand for care services. Data covering 109 countries and territories indicate that 18.9 per cent of international migrants are employed in care jobs, compared to 10.9 per cent of non-migrants. This proportion is particularly high among migrant women, with almost one in three (28.8 per cent) employed in care jobs, compared to 19.2 per cent of non-migrant women.[1] Generally, most care workers work in the informal economy under poor conditions and for low pay.

Domestic workers face some of the poorest working conditions across the care economy and are particularly vulnerable to exploitation. These conditions are the result of a confluence of factors, including that domestic work is performed behind closed doors, and often excluded from labour and social protections and without formal working arrangements. The combination of the privacy of the home, the lack of effective protections and discriminatory social norms leave these workers particularly vulnerable to working long hours for low pay, with no regular holidays, insufficient food and inadequate accommodation, and exposed to abuse and violence at work. This situation is compounded in the case of migrants, especially migrant women, due to discrimination and heightened risks of forced labour and debt bondage. Evidence also shows important wage differentials between national and migrant domestic workers, and in some instances between migrant domestic workers of different nationalities, that cannot be attributed to differences in education or work experience. Poor working conditions for domestic workers are also the result of their limited voice and representation in the sector. Migrant domestic workers in particular are frequently excluded from joining or forming trade unions or filling elected positions within trade unions.[2]

Migration policies, labour policies and the coverage and design of health, education and care policies ultimately determine how care workers fare in comparison with other workers and across countries and regions. States must balance the right of recipients to quality care services, the need to grow and protect care systems in countries of origin and destination, and migrant care workers' rights. Achieving this requires coherence across policies on care leave and services, employment (including macroeconomic policy), social protection, labour protection (including non-discrimination), migration and environment. (See the ILO's "5R Framework for Decent Care Work": Recognize, Reduce, and Redistribute unpaid care work, and Reward and Represent paid care work.)[3]

[1] ILO, *Global Estimates on International Migrant Workers*.
[2] ILO, General Survey on Personnel and Domestic Workers 2022. See ILO, *Securing Decent Work for Nursing Personnel and Domestic Workers, Key Actors in the Care Economy*, ILC.110/III/(B), 2022.
[3] ILO, "Migrant Workers in the Care Economy", Policy Brief, 2024.

Main ILO standards of reference

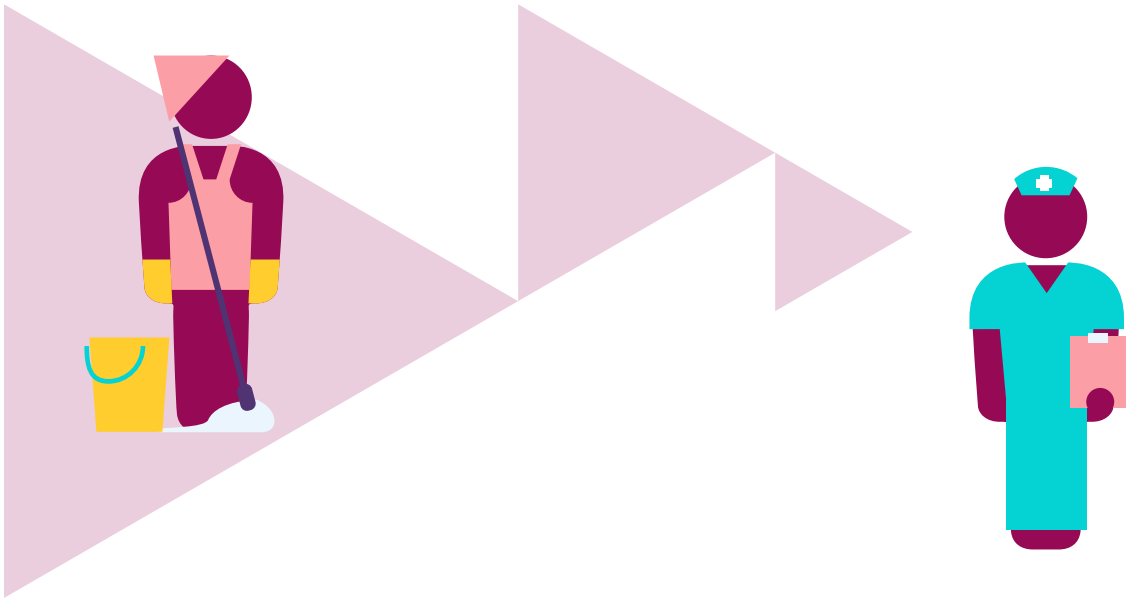
- Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
- Equal Remuneration Convention, 1951 (No. 100)
- Migration for Employment Convention (Revised), 1949 (No. 97), Article 6(1)
- Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), Articles 1 and 10
- Workers with Family Responsibilities Convention, 1981 (No. 156)
- Maternity Protection Convention, 2000 (No. 183)
- Private Employment Agencies Convention, 1997 (No. 181), Article 5
- Domestic Workers Convention, 2011 (No. 189)
- Violence and Harassment Convention, 2019 (No. 190)
- Social Protection Floors Recommendation, 2012 (No. 202)
- Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), Paragraphs 7, 11 and 21

Further reading:

- *General Survey on the Fundamental Conventions 2012*
- *General Survey on Achieving Gender Equality at Work 2023*

On migration and the care economy

- *Migrant Workers in the Care Economy*
- *Decent Work and the Care Economy*
- *Care Work and Care Jobs for the Future of Decent Work*
- *General Survey on Nursing Personnel and Domestic Workers 2022*
- *Care Work and Labour Migration in ASEAN*



3.4. Violence and harassment and migrant workers

Globally, migrants are more likely to have experienced violence and harassment at work than non-migrants.[25] Violence and harassment can occur throughout the migration cycle, including in pre-departure training centres, at immigration control or in transit. Recruiters, agents and employers can be sources of – and contributors to – violence.[26] More particularly, women migrant workers in the service sector may face violence and harassment from the people they work/care for or members of the public. Domestic workers, who often working in isolated conditions in private settings, can be particularly vulnerable; as can women in public facing work, such as street vending, hospitality and sanitation workers.[27] Men migrants, on the other hand, are more likely to be seen as a threat to host societies, and can face violence and harassment also a result of these biased perceptions.[28] Moreover, when they experience violence and harassment, including sexual violence and harassment, gendered attitudes about male behaviour and "masculine" working conditions (including in fishing and construction) can restrict their willingness to report or seek assistance.[29]

Migrant workers can be subject to situations such as:

- verbal, psychological, physical and sexual abuse;
- non or partial payment of wages for work performed;
- withholding of food;
- withholding of the worker's passport, work permit, employment contract and/or ATM card;
- forced or excessive workloads;
- inhumane living conditions;
- restrictions in contacting or communicating with family and friends; and
- curtailment in their freedom of movement while employed, including their ability to leave the job or the country.[30]

Exposure to violence and harassment is highly contextual and may result from a convergence of hazards and risks arising, for instance, from discrimination and working conditions (R.206, Para. 8).[31] While it can potentially affect everyone, violence and harassment may affect specific groups disproportionately. Discrimination and imbalanced power relationships, including due to gender, race and ethnicity, social origin, migrant status, education and poverty are important factors that may increase the likelihood of violence and harassment.[32]

The **Violence and Harassment Convention (No. 190) and Recommendation (No. 206), 2019,** recognize the right of everyone to a world of work free from violence and harassment, including gender-based violence and harassment. They provide a clear framework to prevent and address violence and harassment in the world of work, including gender-based violence and harassment, through the adoption of an inclusive, integrated and gender-responsive approach that brings together equality and non-discrimination with safety and health at work (see further in Part II, sections 4 and 5 below). Such an approach encompasses action on protection and prevention, enforcement and remedies, and guidance and training.

25 ILO, Lloyd's Register Foundation and Gallup, *Experiences of Violence and Harassment at Work: A Global First Survey* (ILO, 2022).
26 ILO, *Meeting of Experts on Violence against Women and Men in the World of Work. Background paper for discussion at the Meeting of Experts on Violence against Women and Men in the World of Work*, MEVWM/2016, Para. 88.
27 ILO, *Review of international experience on protecting rights of domestic workers in selected countries, 2025*.
28 See also: ILO, *Experiences of violence and harassment at work: A global first survey*.
29 Milward, *Kirsty, Ship to Shore Rights Southeast Asia: Gender Equality and Women's Empowerment Strategy*, (ILO, 2022).
30 See, for example: Dina Deligiorgis, "Prevention of Gender-Based Violence and Harassment against Women Migrant Workers in South and Southeast Asia", background paper (UN Women, 2022); Press release "No Travelling out of Kuwait without an Exit Permit: New Rule for Expats", Arab Times, 11 June 2025.
31 See: ILO, *Ending Violence and Harassment against Women and Men in the World of Work*, ILC.107/V/1, 2018
32 See also: ILO, *Ending Violence and Harassment against Women and Men in the World of Work*.

Convention No. 190 calls upon States, in consultation with representative employers' and workers' organizations, to seek to ensure that violence and harassment is addressed in relevant policies, including national migration policies (Art.11(a)).

The Convention further acknowledges that some groups and workers in certain sectors, occupations and work arrangements are more at risk of experiencing violence and harassment (C.190, Art. 6). ILO Members should take legislative or other measures to protect migrant workers, particularly women migrant workers, regardless of migrant status, in origin, transit and destination countries, as appropriate, from violence and harassment in the world of work. Public awareness-raising campaigns should be undertaken in various languages, including those of the migrant workers residing in the country (R.206, Paras 9, 10, 13 and 23(d)) (see further in Part II of this Guide).

The **ILO's Committee of Experts on the Application of Conventions and Recommendations** has recalled the importance of taking effective action to ensure that systems governing the employment of migrant workers, especially migrant domestic workers, do not place these workers in situations of increased vulnerability to discrimination and physical and sexual abuse.[33]

Spotlight on regional and national contexts

In **Belgium**, the National Action Plan to combat all forms of gender-based violence (2015–2019) put forward measures to raise awareness about violence and harassment, including among refugees and migrants, in particular in the hospitality, construction, agriculture, manufacturing and fisheries industries. The Sixth National Action Plan includes specific measures to take into account situations of gender-based violence, including domestic violence and harassment, in the context of asylum procedures and migration policies.[1]

In **Pakistan**, the Homebased Women Workers Federation drew up a memorandum of understanding (MOU) with the public authorities to address the need for social protection for workers and the increasing levels of violence and harassment during the COVID-19 pandemic.[2]

In **Uruguay**, the legislation on gender-based violence against women, including violence at work, also addresses explicitly the situation of migrant women victims of gender-based violence (Act No. 19.580 of 2018, section 43).[3]

[1] ILO. Violence and harassment in the world of work: A guide on Convention No. 190 and Recommendation No. 206, 2021; Belgium, Council of Ministers. National Plan of Action to Combat Gender-based Violence (2021-2025).
[2] ILO, Violence and Harassment in the World of Work: Trade Union Initiatives, Strategies and Negotiations since the Adoption of the Convention on Violence and Harassment (No. 190) and its Recommendation (No. 206), 2019, 2024.
[3] See also CEACR, Direct Request – Convention No. 190) – Uruguay, adopted 2022.

33 ILO, General Survey concerning the Migrant Workers Instruments, 2016, paras 468–469; ILO, General Survey on Nursing Personnel and Domestic Workers 2022, paras. 637–638.

Main ILO standards of reference

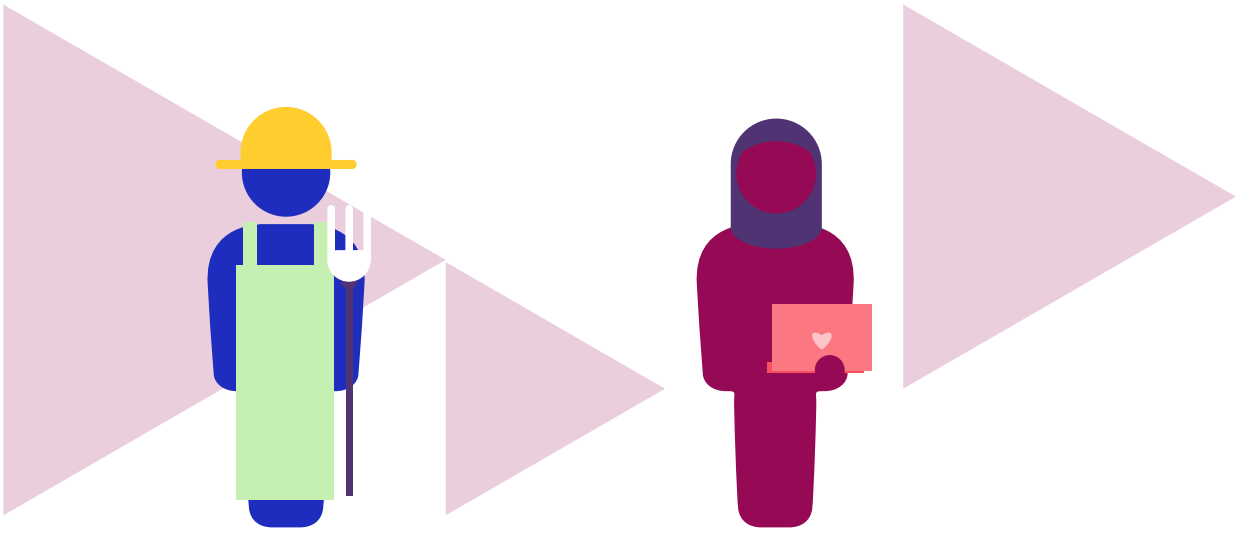
- Violence and Harassment Convention, 2019 (No. 190)
- Violence and Harassment Recommendation, 2019 (No. 206)

Other relevant ILO standards addressing violence and harassment

- Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
- Forced Labour Convention, 1930 (No. 29)
- Protocol of 2014 to the Forced Labour Convention, 1930
- Abolition of Forced Labour Convention, 1957 (No. 105)
- Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187)
- Migration for Employment Convention (Revised), 1949 (No. 97), Article 6(1)
- Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), Articles 1 and 10
- Private Employment Agencies Convention, 1997 (No. 181), Article 8
- Indigenous and Tribal Peoples Convention, 1989 (No. 169), Article 20
- Domestic Workers Convention, 2011 (No. 189), Article 5
- Domestic Workers Recommendation, 2011 (No. 201), Paragraph 7
- Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), Paragraph 11

Further reading:

- *Violence and harassment in the world of work: A guide on Convention No. 190 and Recommendation No. 206*
- *Violence and harassment in the world of work-Trade union initiatives, strategies and negotiations since the adoption of the Convention on Violence and Harassment (No. 190) and its Recommendation (No. 206), 2019*
- *ILO, Lloyd's Register Foundation and Gallup, Experiences of Violence and Harassment at Work: A Global First Survey*



3.5. Climate change, migration and just transition

Climate change will increasingly influence human mobility and is likely to have impacts on the rights of migrant workers, in terms of determining whether they move, under what conditions they move, and their living and working conditions in transit and in countries of destination – including higher risks of ending up in situations of forced labour and trafficking in persons.[34]

When governed in accordance with international labour standards, well-managed and rights-based labour mobility and climate adaptation policies can provide an opportunity to boost resilience and enhance development while reducing the risk of future displacement.[35] Moreover, regular migration pathways for those who are on the move due to the impacts of climate change make it possible to protect the rights of migrants. Such pathways provide an important safeguard, as migrants who are in an irregular situation can be more easily exposed to abuse and exploitation.[36]

Spotlight on regional and national contexts

In 2023, **Pacific region** adopted the Pacific Regional Framework on Climate Mobility, a unique instrument adopted by governments to address the issues of migration, displacement and planned relocation comprehensively, providing guidance on planning for and managing climate mobility through a rights-based and people-centred approach.

In **Bangladesh** too, international migration plays an important role in climate resilience, poverty reduction and income diversification. In 2020, an estimated 11.5 million Bangladeshis were working abroad, mostly in "low-skilled" jobs in the Gulf Cooperation Council countries. The Perspective Plan of Bangladesh 2021–2041, also referred to as Vision 2041, considers climate change as a driver of future migration. It recognizes migration as a potential adaptation option for people living in the most vulnerable areas and includes policy responses to deal with both internal and international migration.1

The **Association of Southeast Asian Nations (ASEAN) Forum on Migrant Labour** adopted in 2023 the ASEAN Declaration the Protection of Migrant Workers and Family Members in Crisis Situations and its Guidelines, which are grounded in the provisions of Recommendation No. 205. The Declaration calls for inclusion of migrant workers and their families in crisis preparedness, response and recovery frameworks in ASEAN and facilitates their timely access to sustained safety, healthcare, psychosocial support, social protection, livelihood support, and return and reintegration support. The Declaration acknowledges the need to provide humanitarian assistance to all migrants and their family members irrespective of their legal status. The Guidelines emphasize the need to ensure that migrants are fully covered under relevant national labour laws and regulations, and that they enjoy the same protections as nationals, especially during crises.

[1] ILO, "Climate Change and Human Mobility in Bangladesh", ILO Policy Brief, 2023.

The **ILO Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205),** provides guidance on priorities for protecting the rights of migrants and refugees affected by disasters. These include addressing risks of forced labour, protecting labour rights and integrating migrants and refugees into disaster risk reduction policies. Recommendation No. 205 emphasizes the importance of respecting, promoting and realizing equality of opportunity and treatment for women and men without discrimination of any kind and ensuring, in particular, that the human rights of all migrants and members of their families staying in a country affected by a crisis are respected on a basis of equality with nationals. Specifically concerning migrant workers, it calls upon States to take measures to:

(a) eliminate forced or compulsory labour, including trafficking in persons;

(b) promote, as appropriate, the inclusion of migrants in host societies, through access to labour markets, including entrepreneurship and income-generation opportunities, and through decent work;

34 UNODC, Global Report on Trafficking in Persons 2024, (United Nations Publication).
35 ILO, "Human Mobility and Labour Migration Related to Climate Change in a Just Transition towards Environmentally Sustainable Economies and Societies for All", ILO Just Transition Policy Brief, October 2022.
36 ILO, "Human Mobility and Labour Migration Related to Climate Change in a Just Transition".

(c) protect and seek to ensure labour rights and a safe environment for migrant workers, including those in precarious employment, women migrant workers, youth migrant workers and migrant workers with disabilities, in all sectors;

(d) give due consideration to migrant workers and their families in shaping labour policies and programmes dealing with responses to conflicts and disasters, as appropriate; and

(e) facilitate the voluntary return of migrants and their families in conditions of safety and dignity (Paragraph 26).

Heat stress linked to climate change can have serious impacts on their occupational health and safety of workers. Migrant workers may face unique exposure situations as they are more likely than nationals to be employed in physically demanding outdoor jobs in construction and agriculture placing them at higher risks.[37] (for more on occupational safety and health, see Part II, section 5).

Migrant workers may also be affected by the "green transition", either moving to take up jobs in emerging green sectors or suffering affected job losses in polluting industries. The ILO Guidelines for a Just Transition Towards Environmentally Sustainable Economies and Societies for All provide a policy framework and an operational tool to address environmental change in a way that advances social justice and promotes decent work creation, ensuring that the just transition is based on "effective social dialogue, respect for fundamental principles and rights at work, and be in accordance with international labour standards".[38]

▶ Box 6. Climate change and labour migration: the case of the "Dry Corridor" in Central America

The Central American "Dry Corridor" comprises an area of tropical dry forest or dry tropics that extends between Costa Rica, Nicaragua, Honduras, El Salvador and Guatemala and hosts more than 10 million people, many of whom are engaged in subsistence agriculture and small-scale production of basic grains. The area is particularly affected by climate change, with long periods of drought and shorter periods of heavy rains that have severe repercussions on the livelihoods and food security of the local population.[1] Under these circumstances, migration represents an adaptation strategy allowing individuals to secure alternative sources of income to compensate for the loss of livelihood due to the impacts of climate change.

In destination countries, migrants seek to join the labour market through occupations related to agriculture, construction and care activities, in order to generate the necessary income for their survival and that of their families in their countries of origin, through the sending of remittances. However, their situation is frequently precarious, as they face various barriers in relation to accessing employment opportunities and their overall integration into destination communities, and as a result they tend to work in the informal economy. Moreover, they often resort to irregular channels or means of migration, which makes them vulnerable to rights violations and exploitation. This is especially the case for individuals migrating from rural areas.[2]

The link between the effects of climate change and the labour situations of the people affected stems from the interplay among a variety of factors, such as the lack of work and employment opportunities, weak governance, violence between communities in a context of increasing competition over scarce resources, as well as the fact that the economic sectors that employ the majority of workers are among the most vulnerable to climate change. Young people, women and indigenous peoples are among the groups most affected. Therefore, it is necessary to design and implement normative and regulatory frameworks that promote safe and regular labour mobility, adopting a comprehensive approach that simultaneously addresses climate change, decent work and migration and that includes, among others, measures to ensure a transition to a greener economy.[2]

[1] FAO, Land of Opportunities: Dry Corridor in El Salvador, Guatemala and Honduras, 2021.
[2] ILO, "Corredor Seco, Empleo y Migración", Migración Laboral y Movilidad Fact Sheet, 2022.

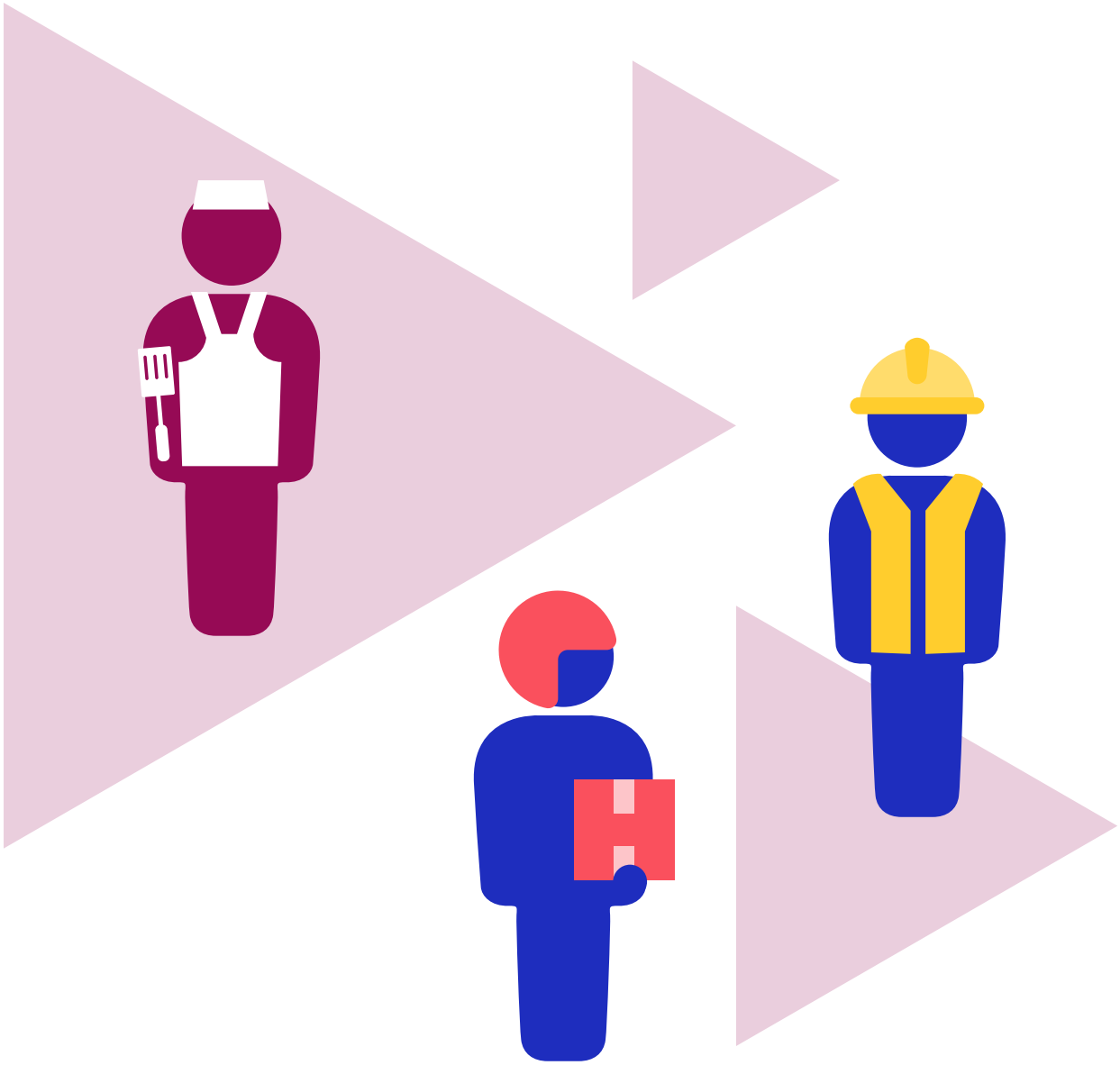
37 ILO. *Heat at work. Implications for safety and health. A global review of the science policy and practice*, Geneva, 2024
38 ILO, Resolution concerning a just transition towards environmentally sustainable economies and societies for all, ILC.111/Resolution V, para. 12.

Main ILO standards of reference

- Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
- Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187)
- Migration for Employment Convention (Revised), 1949 (No. 97)
- Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)
- Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205)

Further reading:

- *Human mobility, climate change and a just transition*



Part II.
Fundamental principles and rights at work

Fundamental principles and rights at work apply to all human beings in all countries. They cover all migrants, irrespective of nationality and migration status, and apply to all stages of the migration process. Following the adoption of the ILO Declaration on Fundamental Principles and Rights at Work, in 1998 (and amended in 2022), these principles and rights must be respected, promoted and realized by all ILO Member States, whether or not they have ratified the fundamental ILO Conventions enshrining those principles and rights.[39] The Declaration's Preamble specifically calls for special attention to "the problems of persons with special needs, particularly the unemployed and migrant workers" and to efforts at all levels to resolve their problems. As indicated in the Declaration, the fundamental principes and rights at work encompass five main areas and are enshrined in the fundamental Conventions listed in table 2 below.

▶ Table 2. Fundamental principles and rights at work and the concerned Conventions

Freedom of association and the effective recognition of the right to collective bargaining	▶ Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) ▶ Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
Elimination of all forms of forced or compulsory labour	▶ Forced Labour Convention, 1930 (No. 29) ▶ Protocol of 2014 to the Forced Labour Convention, 1930 ▶ Abolition of Forced Labour Convention, 1957 (No. 105)
Effective abolition of child labour	▶ Minimum Age Convention, 1973 (No. 138) ▶ Worst Forms of Child Labour Convention, 1999 (No. 182)
Elimination of discrimination in employment and occupation	▶ Equal Remuneration Convention, 1951 (No. 100) ▶ Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
A safe and healthy working environment	▶ Occupational Safety and Health Convention, 1981 (No. 155) ▶ Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187)

It is important to keep in mind that Convention No. 143 – one of the main ILO standards concerning **labour migration** – also calls upon ratifying States to respect the basic human rights of all migrant workers, including migrant workers in an irregular situation (Article 1). Basic human rights are understood to include fundamental human rights contained in the United Nations international human rights treaties,[40] some of which include the fundamental rights of workers. These fundamental rights at work as embodied in the ten ILO fundamental Conventions and reaffirmed in the ILO Declaration on Fundamental Principles and Rights at Work, 1998, as amended in 2022,[41] and further described in this part of the Guide.

The **ILO's Committee of Experts on the Application of Conventions and Recommendations** has emphasized that States are required to take measures to ensure that, in practice, migrant workers in irregular situations are effectively able to exercise their basic human rights and, consequently, have, for example, access to complete information about their labour rights and available means of redress (in a language understandable to them) as well as access to legal assistance.[42]

39 ILO Declaration on the Fundamental Principles and Rights at Work, adopted in 1998 and amended in 2022.
40 Chapter III of the International Convention on the Protection of the Rights of All Migrant Workers and members of Their Families explicitly recognizes the human rights of migrant workers in an irregular situation; See also: ILO, *Protecting the Rights of Migrant Workers in Irregular Situations and Addressing Irregular Labour Migration: A Compendium*, 2021.
41 ILO, General Survey concerning the Migrant Workers Instruments 2016.
42 See, for example: CEACR, Direct Request – Convention No. 143 – Armenia, adopted 2023.

1. Freedom of association and right to collective bargaining

Freedom of association and the effective recognition of the right to collective bargaining are critical to achieve decent work, as they make it possible to promote and realize a range of other rights, such as other fundamental principles and rights at work, good conditions of work, fair wages, and access to social protection.[43]

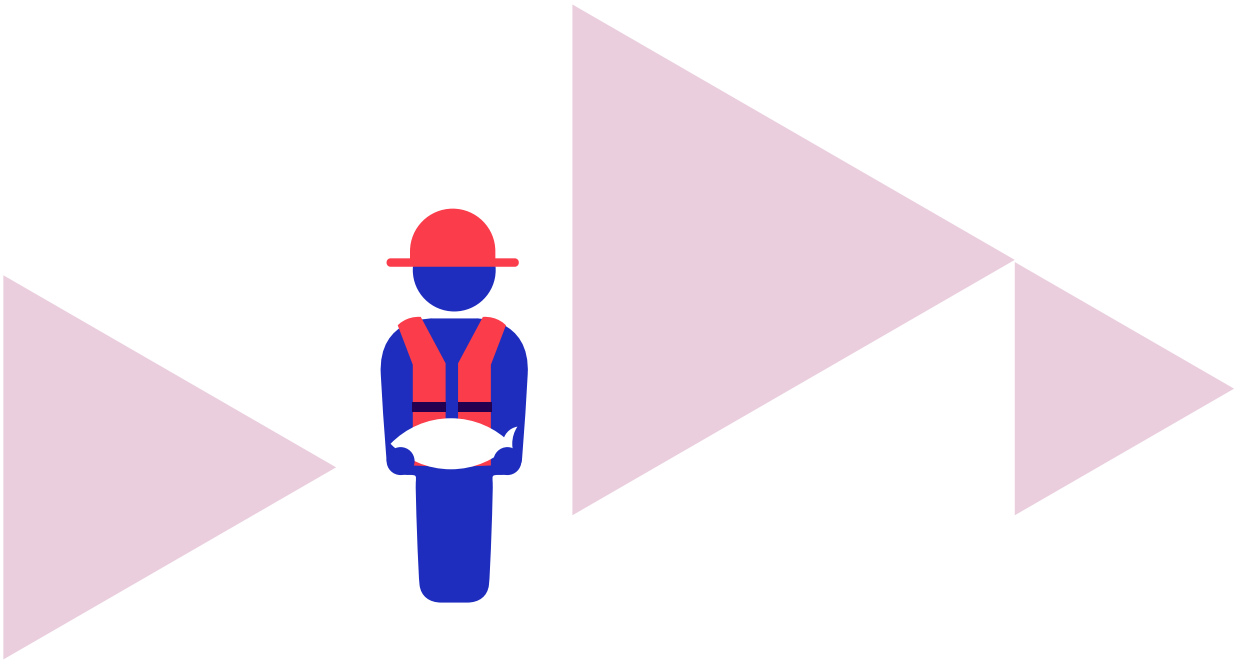
The right to freedom of association is the right of workers and employers to form and join organizations of their own choosing, without distinction whatsoever, including the right to establish and join confederations and to affiliate with international organizations. They should be able to do so without fear of reprisal or interference.

Linked to freedom of association is the effective recognition of the right to collectively bargain, which enables workers, through their representatives, to freely negotiate their working conditions with their employers, conclude collective agreements and have those agreements implemented in practice.[44] Workers shall enjoy adequate protection against acts of anti-union discrimination, including requirements that a worker not join a trade union or give up trade union membership for employment, or dismissal of a worker because of trade union membership or participation in trade union activities. Workers' and employers' organizations shall enjoy adequate protection against any acts of interference by each other (C.098, Arts 1 and 2).

These rights are enshrined and elaborated upon in the **Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87),** and the **Right to Organise and Collective Bargaining Convention, 1949 (No. 98).**

Thus, migrant workers irrespective of their nationality have the right, for example, to:

- form and join unions or associations of the migrant worker's choice
- engage, through their representatives, in collective bargaining on matters affecting conditions of work and terms of employment
- be protected against anti-union discrimination; and
- elect their representatives
- take up trade union office at least after a reasonable period of residence



43 ILO, *Migrant Workers' Rights to Freedom of Association and Collective Bargaining*, 2023.
44 ILO, *Migrant Workers' Rights to Freedom of Association and Collective Bargaining*.

▶ Box 7. Legal and practical barriers to migrant workers' freedom of association and the right to collective bargaining

In many countries, migrant workers may face a variety of legal restrictions to freedom of association and the right to collective bargaining. For example, may be explicitly denied to:

- some or all migrant workers based on their nationality, residence, work permit or reciprocity;
- undocumented workers;
- sectors where migrant workers constitute a high proportion of workers, and where labour law may not apply at all, such as domestic work, agriculture, fishing, and export processing zones; and
- types of informal working arrangements and insecure contracts.

Even in countries where the labour law protects freedom of association and the right to collective bargaining of migrant workers, the lack of alignment between labour law and immigration law can result in private employers or recruitment agencies inserting restrictions on those rights in the labour contracts of migrants.

In addition to those legal barriers, ILO research on the subject, including a global trade union survey, indicated that migrant workers also face a number of practical barriers, such as:

- temporary stay or short duration of contracts in the country of destination;
- participation in temporary labour migration programmes that restrict access to FACB rights;
- long working hours;
- lack of days off;
- isolated workplaces;
- language barriers;
- limited knowledge of their rights;
- discrimination or anti-migrant attitudes;
- fear of anti-trade union reprisals;
- general reluctance to get involved with workers' organizations;
- limited trade unions organizing in key sectors of employment of migrant workers; and
- fear of losing their jobs or facing sanctions from local authorities.

Migrant workers who are part of a minority group, or those in an irregular situation, may face additional discrimination and challenges to exercising rights of association, including fear of detention or deportation.

For guidance on the measures that governments, trade unions and employers and their organizations could take to address and eliminate those barriers, see: ILO, *Migrant Workers' Rights to Freedom of Association and Collective Bargaining*, 2023.

Migrant workers, irrespective of their immigration status, shall also enjoy civil liberties essential for the normal exercise of trade union rights, such as the right to freedom and security of person, freedom from arbitrary arrest and detention, and freedom of opinion and expression and in particular freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Spotlight on regional and national contexts

In **Algeria**, Act No. 22-06 of 25 April 2022 removed the nationality requirement provided under section 6 of Act No. 90-14, now allowing non-national employers and workers to form organizations and, subject to three years' residence and according to modalities established in the statutes, to become members of the executive board of a trade union.

The **Agreement on Labour Cooperation between Canada and the Republic of Honduras** (2013) states that "Each Party shall ensure that its labour law and practices embody, and provide protection for, the following internationally recognized labour principles and rights, particularly bearing in mind its commitments under the ILO 1998 Declaration: (a) freedom of association and the effective recognition of the right to collective bargaining;".

The Central Workers' Union of **Colombia** supported the development of a new affiliate trade union, the National Union of Digital Platform Workers, to represent migrant and local food delivery workers who work for online platforms, many of whom are from the Bolivarian Republic of Venezuela.

In 2015, the Supreme Court of the **Republic of Korea** determined that all people are entitled to basic workers' rights, including the right to join and set up a trade union, regardless of their immigration status.1

In **Madagascar**, the National Union of Malagasy Domestic Workers (SENAMAMA), officially created on 4 September 2019, aims to organize, inform and protect domestic workers in Madagascar or abroad, including those departing or returning, through advice, advocacy and representation in policy-oriented discussion and dialogues and advocacy platforms.

In **Sweden**, trade unions and the confederations LO and TCO have set up and managed the Trade Union Centre for undocumented migrants, where among other activities, they try to ensure that all migrant workers, regardless of their status, are recognized and paid according to collective agreements.1

In **Thailand**, under the Labour Relations Act, migrant workers may join trade unions but – contrary to international labour standards – they are prohibited from forming or leading trade unions. Thus, migrant workers in the Thai fishing and seafood processing sectors have formed worker organizations with support from trade unions and civil society organizations. For example, the Fishers' Right Network (FRN) is a membership-based organization that has been organizing migrant fishers in Thailand with the support of the International Transport Workers' Federation since 2016.

[1] ETUC. Defending undocumented means defending all workers, Unionmigrantnet, 7.
[2] Republic of Korea Supreme Court, Decision Judgement 2007Du4995, 25 June 2015, regarding the Trade Union and Labour Relations Adjustment Act.

The **ILO's Committee of Experts on the Application of Conventions and Recommendations** has indicated that migrant workers should be allowed to stand for office in trade unions and in labour-management relations bodies, including bodies representing workers in undertakings at least after a reasonable minimum period of residence in the country, e.g. three years. It has also pointed out that anyone residing in the territory of a State, whether or not they have a residence permit, shall benefit from the trade union rights without any distinction based on nationality. It has thus addressed legislative restrictions of varying types relating to nationality and residence applying to the trade union rights of migrant workers, including, for example, the requirement of citizenship for the establishment of trade unions, or of a proportion of members who have to be nationals.[45] It has also requested that governments take the necessary measures to ensure the full recognition in law and in practice of the right of domestic workers, including migrant domestic workers, to establish and join organizations.[46]

45 ILO, General Survey on the Fundamental Conventions, 2012. See ILO, *Giving Globalization a Human Face*, ILC.101/III/1B, 2012, para. 79.; See also for example, CEACR, Observation - Convention No. 87 - Ecuador, adopted 2024; CEACR, Observation - Convention No. 87 - El Salvador, adopted 2024; CEACR, Observation - Convention No. 87- Democratic Republic of the Congo, adopted 2024; CEACR, Observation – Convention No. 87 – Costa Rica, adopted 2023; CEACR, Observation – Convention No. 87 – Mauritius, adopted 2021.
46 See for example, CEACR, Observation - Convention No. 87 – Kuwait, adopted 2021.

The ILO standards on **labour migration** underscore the fundamental principle that migrant workers should enjoy equality of treatment with regard to trade union rights (see relevant standards below and Part III of this Guide for further details).

Main ILO standards of reference

Fundamental standards on freedom of association and the effective recognition of the right to collective bargaining

- Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
- Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

Other relevant standards

- Migration for Employment Convention (Revised), 1949 (No. 97), Article 6(1)(a)(ii)
- Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), Articles 1 and 10
- Migrant Workers Recommendation, 1975 (No. 151), Paragraph 8(3).
- Domestic Workers Convention, 2011 (No. 189), Article 3(2) (a) and (3)
- Plantations Convention, 1958 (No. 110), Parts IX and X
- Indigenous and Tribal Peoples Convention, 1989 (No. 169), Article 20

Further reading:

- *Migrant workers' rights to freedom of association and collective bargaining*
- *General Survey concerning the Migrant Workers Instruments 2016*
- *General Survey on the Fundamental Conventions 2012*

2. Freedom from forced labour

According to ILO's latest global estimates, adult migrant workers are more than three times as likely to be in forced labour as non-migrant workers.[47] When migrant workers are not protected by law, face restrictions in exercising their rights, or are recruited through unfair practices, they are at heightened risk of forced labour.[48]

Migrant workers are particularly vulnerable to coercive practices such as forced overtime, retention of wages or confiscation of identity documents, as well as debt bondage and restrictions on freedom of movement. Threats used to extract work often relate to deportation (especially in the case of undocumented workers), physical abuse and withholding of wages.[49]

ILO Member States are required to guarantee to all human beings freedom from forced or compulsory labour,[50] as enshrined in the:

- **Forced Labour Convention, 1930 (No. 29);**
- **Abolition of Forced Labour Convention, 1957 (No. 105);**
- **Protocol of 2014 to the Forced Labour Convention, 1930;**
- **Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203).**

47 ILO, Walk Free and IOM, Global Estimates of Modern Slavery: Forced Labour and Forced Marriage, 2022.
48 ILO, Walk Free and IOM. The ILO estimates that illegal profits generated from international migrants in forced labour amounts to US$37 billion, stemming from both recruitment fees and related costs as well as from wage underpayment: ILO, *Profits and Poverty: The Economics of Forced Labour*, 2024, 20.
49 ILO, *International Labour Standards on Migrant Workers' Rights: Guide for Policymakers and Practitioners in Asia and the Pacific*, 2007.
50 ILO, General Survey on the Fundamental Conventions 2012, paras 252 ff.

Convention No. 29 defines forced or compulsory labour as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily" (Article 2(1)).

Convention No. 105 explicitly prohibits specific forms of forced or compulsory labour "as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system; as a method of mobilising and using labour for the purposes of economic development; as a means of labour discipline; as a punishment for having participated in strikes; or as a means of racial, social, national or religious discrimination" (Article 1).

Based on those standards, migrant workers:

- must not be forced to work under threat of sanction;
- must not be physically confined;
- must be able to terminate their employment, upon reasonable notice as required by national law;
- must not face disciplinary action in the form of compulsory work (for example, for violating workplace rules on OSH); and
- must not be punished with compulsory work for having participated in an unlawful strike.

The **Forced Labour Protocol of 2014** establishes the obligations for ratifying States to prevent forced labour, protect victims and provide them with access to remedies, and emphasizes the link between forced labour and trafficking in persons.[51] It provides that measures are to be taken to prevent forced or compulsory labour, and these measures shall include protecting persons, particularly migrant workers, from possible abusive and fraudulent practices during the recruitment and placement process.[52] The Protocol acknowledges that migrants, among other groups, have a higher risk of becoming victims of forced or compulsory labour (Preamble).

Recommendation No. 203 highlights specific rights for migrant workers, which Members should aim to guarantee through a series of measures. Migrant workers have the right to:

- Be informed about how to protect themselves against fraudulent or abusive recruitment and employment practices, about their rights and responsibilities at work, and how to gain access to assistance in case of need (Para. 4 (b)).
- Receive orientation and information before departure and upon arrival (Para. 4 (g)).

In addition, protective measures for migrants subjected to forced labour, irrespective of their legal status in the national territory, should include the provision of:

- A reflection and recovery period in order to allow them to take an informed decision relating to protective measures and participation in legal proceedings, during which they shall be authorized to remain in the territory of the Member State concerned (Para. 11).
- A temporary or permanent residence permits and access to the labour market; and have access to a safe and preferably voluntary repatriation (Para. 11).

51 The Forced Labour Protocol of 2014 supplements Convention No. 29, so only ILO Member States that have ratified that Convention can ratify the Protocol.

52 Forced Labour Protocol of 2014, Art. 2(d).

Spotlight on regional and national contexts

Ireland's Employment Permits Act 2024 allows non-European Economic Area migrant workers holding a General Employment Permit (GEP) or a Critical Skills Employment Permit (CSEP) to change employers after nine months without needing to reapply, provided the new job remains within the same occupation or skills classification. This reform reduces dependency on a single employer, enabling workers to leave exploitative situations. It also removes the requirement for a new labour market needs test, thereby simplifying job transitions and reducing vulnerability to forced labour.[1]

In **Canada**, specific protections are offered to vulnerable migrant workers through the "open work permit for vulnerable workers", which was introduced in 2019. Under this arrangement, temporary migrant workers who are holders of a valid employer-specific work permit and who experience abuse or are at risk of abuse can receive a time-limited open work permit to abandon the employer while still keeping the authorization to continue working in Canada. This regulation is essential in addressing migrant workers' fear of deportation if they complain about work-related abuse[2]

The Government of **Qatar** adopted legislation that reformed central elements of the kafala sponsorship system which made migrant workers vulnerable to forced labour. These included the legal requirements for migrant workers to obtain exit permits to leave the country (Law No. 13 of 2018 and Ministerial Decision No. 95 of 2019), and non-objection certificates to change employers (Law No. 19 and Ministerial Decision No. 51 of 2020), In addition, Law No. 18 of 2020 introduced legal provisions governing termination of employment and in March 2021, the first non-discriminatory minimum wage, which applies to all workers regardless of nationality and occupation, including domestic workers, entered into force.[3]

[1] Ireland, Department of Enterprise, Trade and Employment, Employment Permits Act 2024: Information, Note on Key Changes, August 2024.
[2] Section 207.1(1) of the Immigration and Refugee Protection Regulation (SOR/2002-227).
[3] See ILO. "Progress report on the technical cooperation programme between the Government of Qatar", February 2025..

The **ILO's Committee of Experts on the Application of Conventions and Recommendations** has expressed concern about the vulnerable situation of migrant workers in both regular and irregular situations. In particular, it has highlighted the following:

Domestic workers

Migrant domestic workers often work under precarious and difficult conditions, which may be characterized by, among other considerations:

- atypical working-time arrangements (long hours of work, no or limited weekly rest periods and leave);
- insufficient guarantees covering their wages (observance of minimum rates, the payment of wages);
- insufficiency or absence of social protection;
- inability to leave the employer; and
- lack of information on the exercise and defence of the above rights (for example, recourse to the courts).

The vulnerability of migrant domestic workers is increased by their frequent isolation in the domestic workplace and the absence of autonomy these workers have in respect of their employers (see box 17 below on employer-tied immigration and work permits). For example, the CEACR has noted that the visa "sponsorship" system (or "kafala" system) in certain destination countries may be conducive to the exaction of forced, and requested the governments concerned to adopt legislative provisions specially tailored to the difficult circumstances faced by this category of workers and to protect them from abusive practices.[53] The CEACR has welcomed measures in some countries to reform the sponsorship system, removing those elements that placed migrant workers covered by it in a situation of increased vulnerability to forced labour.[54]

53 ILO, General Survey on the Fundamental Conventions, 2012. As examples, see also: CEACR, Observation – Convention No. 29 – Lebanon, adopted 2023; and CEACR, Direct Request – Convention No. 29 – Oman, adopted 2024.
54 CEACR, Observations – Convention No. 29 – Qatar, adopted 2020 and 2024

Recruitment-related factors leading to vulnerability to forced labour

The manipulation of credit and debt by either unscrupulous employers or recruiting agents is still a key factor that traps vulnerable workers in forced labour situations. Aspirant migrants may have to pay very large amounts to the agents who help them secure work overseas and facilitate their travel. In order to meet these costs, migrants might borrow from moneylenders and other sources. States should coordinate efforts to regulate, license and monitor labour recruiters and employment agencies, and also eliminate the charging of recruitment fees to workers to prevent debt bondage and other forms of economic coercion (see further in Part III, section 1.2 below).

Freedom to terminate employment is yet another factor of vulnerability, especially for migrant domestic workers and migrants dependent on a sponsorship system (see further in box 17 below). The CEACR has requested governments to adopt provisions with a view to ensuring adequate protection of these workers with regard to termination of their employment, including their right to have recourse to the courts, if necessary. For example, the CEACR has asked governments to allow concerned workers to terminate their employment without the consent of their employer at certain intervals within the duration of their contract or after having given reasonable notice.[55]

Special vulnerability of migrant workers in irregular situations

Specifically concerning migrants in irregular situations, the CEACR has pointed out that the penalization of unlawful migration increases their vulnerability to forced labour, and has requested the governments concerned to adopt the necessary measures to protect migrant workers from the exaction of forced labour, regardless of the workers' legal status.[56] Such protection should include access to information about their rights, as well as effective procedures to seek redress and obtain compensation.[57]

Main ILO standards of reference

Fundamental standards on forced labour

- Forced Labour Convention, 1930 (No. 29)
- Protocol of 2014 to the Forced Labour Convention, 1930
- Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203), particularly Paragraphs 4, 8 and 11.
- Abolition of Forced Labour Convention, 1957 (No. 105)

Other relevant standards

- Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), Article 1
- Indigenous and Tribal Peoples Convention, 1989 (No. 169), Article 20
- Domestic Workers Convention, 2011 (No. 189), Article 3 (2)(b)
- Domestic Workers Recommendation, 2011 (No. 201), Paragraph 26 (2)

55 ILO, General Survey on the Fundamental Conventions, 2012.
56 ILO, General Survey on the Fundamental Conventions, 2012.
57 See, for example: CEACR, Observation – Convention No. 29 – Italy, adopted 2023.

Further reading:

- *ILO Standards on Forced Labour: The New Protocol and Recommendation at a Glance*
- *General Survey on the Fundamental Conventions 2012*
- *Global Estimates of Modern Slavery: Forced Labour and Forced Marriage*
- *Hard to See, Harder to Count: Handbook on Forced Labour Surveys*

3. Freedom from child labour

All ILO Member States have the obligation to eliminate child labour. It is crucial to ensure that every child is free from child labour and has access to quality education. Establishing a minimum age for admission to employment or work is key step, as it sets a basic minimum threshold for child protection.[58]

The principle of freedom from child labour is enshrined and elaborated upon in the **Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182)**, the latter of which reached universal ratification in 2020. Their accompanying Recommendations provide further guidance on the matter.[59]

The primary objective of **Convention No. 138** which applies to all sectors and covers all forms of employment - is the pursuit of a national policy designed to ensure the effective abolition of child labour and to progressively raise the minimum age for admission to employment or work.[60] Moreover, Convention No. 138 aims to protect children's ability to attend school, and seeks to regulate the types of economic activity that are permissible for children (and the appropriate conditions for such work) in order to protect their health, safety and morals.[61] **Convention No. 182** aims at the prohibition and elimination of the worst forms of child labour as a matter of urgency. The Convention enumerates in detail the types of work that constitute the worst forms of child labour (Art. 3). It applies to all children, defined as persons under 18 years of age.

Children accompanying migrant workers and migrant children should not be admitted to employment or work before they have reached the minimum age specified by national law for the type of work concerned. For regular, full-time work, the minimum working age should not be lower than the age at which compulsory schooling ends, and not lower than 15 years – or 14 years if the country's economic and educational infrastructure is not sufficiently developed (C.138, Art. 2(3–4)). The minimum age for admission to any type of hazardous employment or work shall not be less than 18 years (C.182, Art 4; R.190, Paras 3 and 4).

To facilitate the verification of ages, public authorities should maintain an effective system of birth registration. Birth certificates should be issued also to children of migrant workers (R.190, Para. 5).

Children accompanying migrant workers – and unaccompanied migrant children even more so – are often vulnerable to the worst forms of child labour, including trafficking, debt bondage, commercial sexual exploitation, illicit activities (such as forced begging), and work in hazardous conditions that put them at high risk of injury, sickness, violence and abuse. These girls and boys and their communities are entitled to effective and time-bound measures to reduce their vulnerability to the worst forms of child labour (C.182, Art. 7).

58 ILO, General Survey on the Fundamental Conventions 2012, para. 328.
59 Minimum Age Recommendation, 1973 (No. 146), and the Worst Forms of Child Labour Recommendation, 1999 (No. 190)
60 See also: ILO, General Survey on the Fundamental Conventions 2012, para. 332.
61 ILO, General Survey on the Fundamental Conventions 2012, para. 330.

Spotlight on regional and national contexts

Albania's 2021–2023 National Action Plan for the Fight against Trafficking in Human Beings (NAP-THB) aimed at coordinating state and non-state actors engaged in the fight against trafficking in persons. The first policy goal of the NAP-THB is to reduce the threat and impact of organized and serious crime, including through combating illegal trafficking. The activities planned in this regard include the training of judicial institutions to specialize in the criminal offences of trafficking in order to proactively investigate cases of trafficking, carry out criminal prosecutions effectively, and train border and migration police, customs officers and asylum staff to increase their capacity to identify victims, especially among the children of migrants.[1]

Italy adopted Law No. 47 of 7 April 2017 on provisions on protection measures for unaccompanied foreign minors, which provides for an absolute prohibition of refoulement at the borders, and an integrated system of care and verification of identity and age, in order to prevent minors from ending up in the circuits of the worst forms of exploitation.

[1] CEACR, Observation – Convention No. 182 – Albania, adopted in 2024.

The **ILO's Committee of Experts on the Application of Conventions and Recommendations** has underscored that migrant children are at an increased risk of being engaged in the worst forms of child labour and has requested to take effective and time-bound measures to prevent these children from becoming victims of the worst forms of child labour[62] and to ensure their integration into the school system.[63]

Further reading:

- *General Survey on the Fundamental Conventions 2012*

Main ILO standards of reference

Fundamental standards on child labour

- Minimum Age Convention, 1973 (No. 138)
- Worst Forms of Child Labour Convention, 1999 (No. 182)
- Minimum Age Recommendation, 1973 (No. 146), including Paragraph 16 on the verification of age
- Worst Forms of Child Labour Recommendation, 1999 (No. 190)

Other relevant standards

- Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), Article 1
- Domestic Workers Convention, 2011 (No. 189), Article 3
- Work in Fishing Convention, 2007 (No. 188), Article 9

62 CEACR, Observation – Convention No. 182 – Libya, adopted in 2024.
63 CEACR, Observation – Convention No. 182 – Spain, adopted in 2024.

4. Equality and non-discrimination

Equality and non-discrimination in employment and occupation is a fundamental principle and human right to which all women and men are entitled, in all countries and in all societies. Particular attention should be paid to ensure equal remuneration for men and women for work of equal value.[64]

Discrimination entails significant costs for individuals, societies and economies. It prevents workers from reaching their full potential in the world of work and improving their economic situation, and results in a loss of productivity, competitiveness and innovation for employers, and limits their ability to fully harness and benefit from the skills and capabilities available within the workforce. It also distorts the efficient functioning of labour markets, can undermine social cohesion and contribute to social instability.[65]

The **Discrimination (Employment and Occupation) Convention and Recommendation, 1958 (No. 111)** aim at eliminating all forms of discrimination in respect of employment and occupation, including in relation to:

- access to vocational guidance and training;
- access to employment and particular occupations; and
- terms and conditions of employment.

The purpose of these standards is to protect all persons against discrimination in employment and occupation on the basis of seven grounds, notably race, colour, sex, religion, political opinion, national extraction[66] and social origin, with the possibility of extending its protection to discrimination on the basis of other grounds.

The **ILO's Committee of Experts on the Application of Conventions and Recommendations** has emphasized that protection against discrimination based on actual or perceived nationality and ensuring and promoting equal opportunities and treatment in the labour market are fundamental to migrant workers.[67]

▶ Box 8. Discrimination: Some definitions

Discrimination is defined in Convention No. 111, as any distinction, exclusion or preference based on race, colour, sex, religion, political opinion, national extraction or social origin which nullifies or impairs equality of opportunity or treatment in employment or occupation (Article 1(1)(a)).

Direct discrimination occurs when "less favourable treatment is explicitly or implicitly based on one or more prohibited grounds."[1] This includes sexual harassment and other forms of harassment. Examples of direct discrimination include laws that do not allow women to sign contracts, job advertisements that specify the appearance and sex of the candidates, or legislation that excludes women migrant workers from the right to maternity protection.

Indirect discrimination refers to apparently neutral situations, regulations or practices which in fact result in unequal treatment of persons with certain characteristics. Indirect discrimination occurs "when the same condition, treatment or criterion is applied to everyone results in a disproportionately harsh impact on some persons on the basis of characteristics such as race, colour, sex or religion, and is not closely related to the inherent requirements of the job".[2]

64 ILO, General Survey on the Fundamental Conventions 2012, para. 649. ILO, *Synthesis report - Temporary labour migration: Unpacking complexities*, 2022, pages 27-28.

65 ILO." Identifying challenges and possible policy responses regarding the application of the principle of non-discrimination in the world of work", GB.355/POL/2, paras. 4 and 5.

66 The concept of national extraction covers distinctions made on the basis of a person's place of birth, ancestry or foreign origin. Discrimination based on national extraction may be directed against persons who are nationals of the country in question, but who have acquired their citizenship by naturalization or who are descendants of foreign immigrants, or persons belonging to groups of different national extraction living in the same State. See: ILO, General Survey on the Fundamental Conventions 2012, para. 764.

67 ILO, General Survey on the Fundamental Conventions 2012, para. 820.

For example, setting requirements for managerial or secretarial jobs that are irrelevant to the job, such as height or weight levels that typically only people of one sex, race or colour can meet. Language requirements, as a policy or in individual cases, are another practice that may amount to indirect discrimination where they not objectively justified by being closely related to the inherent requirement of the job. They may amount to indirect discrimination against certain ethnic groups, migrant workers or national minorities. General rules or legislation restricting the rights of workers in domestic service when it is known that the domestic workers in the country are predominantly women migrant workers (from a certain ethnic origin) could be considered indirect discrimination on the basis of sex and race/ethnic origin. [3]

[1] ILO, General Survey on achieving gender equality in the world of work 2023, para. 57.
[2] ILO, General Survey on achieving gender equality in the world of work 2023, para. 57 and 64.
[3] ILO, General Survey on the fundamental Conventions 2012, para. 764; ILO, General Survey on achieving gender equality in the world of work 2023, para. 62

The **Equal Remuneration Convention (No. 100) and Recommendation (No. 90),** 1951, address equality specifically between men and women in relation to remuneration. This involves examining equality at two levels: first, at the level of the job (is the work of equal value?), and then at the level of the remuneration received (is the remuneration equal?). The Conventions covers all workers, whether nationals or non-nationals, including migrants and refugees.

▶ Box 9. Multiple and intersectional discrimination

Discrimination, including systemic, multiple and intersectional forms of discrimination, remains a persistent and pervasive dimension and root cause of inequality. The experiences of victims of discrimination often show that their identities reflect multiple personal characteristics that overlap and interact. Sex-based discrimination frequently interacts with other forms of discrimination or inequality based on race, national extraction, social origin or religion, or even age, migrant status, disability or health. Discrimination thus may occur in relation to more than one ground, creating cumulative disadvantage. This is referred to as multiple discrimination.

Intersectional discrimination is a form of multiple discrimination. It occurs when several grounds of discrimination uniquely and inextricably interact. For example, dismissing or refusing to hire a women worker because she wears a hijab at work could constitute a situation of intersecting discrimination based on sex and religion, as well as perceived nationality or migrant status. The CEACR has continuously drawn attention to the need to address multiple and intersecting forms of discrimination within the framework of Convention No. 111, including with regard to specific issues relating to the working conditions of migrant or foreign women domestic workers, migrant women workers and refugees, and women from minority groups.

Source: ILO, General Survey on the Fundamental Conventions 2012, para. 748; ILO General Survey on achieving gender equality in the world of work 2023, paras. 66 and 68

Although States have the sovereign right to determine the conditions under which non-nationals may enter, remain, and work in their territories, migrant workers – irrespective of nationality or migration status – shall not be subjected to discrimination, including discrimination-based harassment.

All migrant workers, including migrant workers in an irregular situation, should enjoy protection against discrimination in employment and occupation on the basis of the grounds enumerated in Convention No 111 (Art. 1(1)(a), as well as any other grounds that have been determined after consultation with representative organizations of workers and employers.

This being so, migrant workers must not suffer discrimination based on these grounds in respect of, among others:

- remuneration for work of equal value; and
- any other conditions of work, including hours of work, rest periods, and occupational safety and health measures.

Occupational segregation is a common manifestation of discrimination against migrant workers, who frequently face barriers to formal employment, leading to their overrepresentation in informal and low-wage jobs in sectors such as construction, hospitality, domestic service and agriculture.[68]

Protecting women migrant workers from discrimination means also ensuring that they do not suffer any unequal treatment due, for example, to pregnancy or maternity, including dismissal and denial of the return to work following maternity leave,[69] and that effective measures are taken to prevent and address sexual harassment.

States should take into consideration and address the effects of multiple and intersecting forms of discrimination. In many cases, migrant workers face discrimination based on more than one ground, including race, colour and national extraction intersecting with gender, religion or social origin. Moreover, in countries of origin both men and women must enjoy full equality of opportunity and treatment in relation to employment and occupation, and this includes equality of opportunity to seek employment abroad if they so wish.[70]

Spotlight on regional and national contexts

In **Albania**, Law No. 10 221, as amended in 2020, explicitly includes intersectional discrimination as a "form of discrimination, whereby several grounds operate and interact with each other simultaneously in such a way that they are inseparable and produce distinct forms of discrimination" (Article 3(3)).

The Law on Aliens (repealing the Law on Movement and Stay of Aliens and Asylum, 2009) of 2015 of **Bosnia and Herzegovina** prohibits in section 9 discrimination against all foreigners on the basis of gender, race, skin colour, language, religion, political or any other opinion, national or social origin, relation to national minority, property, birth or other status, regardless of whether they are in a regular or irregular situation (section 9).

In **Türkiye**, Law No. 6791 considers multiple discrimination in the calculation of administrative fines for cases of discrimination (Art. 25).

The **ILO's Committee of Experts on the Application of Conventions and Recommendations** has indicated that providing appropriate flexibility for migrant workers to change their employer or their workplace assists in avoiding situations in which migrant workers become particularly vulnerable to discrimination and abuse. Employment permit systems and sponsorship systems that severely restrict the possibility of workers changing workplaces, employers or sponsors place migrant workers in a particularly vulnerable position, as these systems provide employers with the opportunity to exert disproportionate power over the migrant workers they employ. This can result in discrimination (see also box 17 on employer-tied permits below).[71] Migrant domestic workers, notably women, have been particularly affected by restrictive sponsorship systems.

The principles of equality and non-discrimination have also been reflected in the ILO standards concerning **labour migration.** As will be illustrated in Part III of this Guide, Convention No. 97 prohibits unequal treatment of and discrimination against[72] migrants lawfully in the country (Art. 6(1)). Convention No. 143 and Recommendation No. 151 further aim to promote equality of opportunity and treatment with nationals with respect to employment and occupation, building on the provisions of Convention No. 111 and extending it to the ground of nationality (C.143, Art. 10; R.151, Para. 2).

68 See also: ILO. *Global estimates on International Migrant Workers*, and Silas Amo-Agyei, The *Migrant Pay Gap: Understanding Wage Differences between Migrants and Nationals*, (ILO, 2020)

69 The ILO Maternity Protection Convention, 2000 (No. 183), recognizes that maternity protection is a precondition for gender equality and for non-discrimination in employment and occupation.

70 See, for example: CEACR, Direct Request – Convention No. 111 – Sri Lanka, adopted 2023; CEACR, Direct Request – Convention No. 111 – Nepal, adopted 2019.

71 ILO, General Survey on the Fundamental Conventions 2012, para. 779.

72 Convention No. 97 specifically prohibits discrimination against migrant workers on the basis of nationality, race, sex or religion.

Moreover, migrants in an irregular situation should enjoy equality of treatment with those in a regular situation with respect to rights arising out of work performed, notably remuneration and social security and related benefits (C.143, Art. 9(1); R.151, Para. 34). States must also undertake to respect the basic human rights of all migrant workers, including the fundamental right to non-discrimination in employment and occupation (C.143, Art. 1).

Spotlight on regional and national contexts

Several countries have included the **ground of nationality** or citizenship among the prohibited grounds of discrimination listed in their labour or non-discrimination legislation, for example:

Argentina (Anti-discrimination Act No. 23582); **Plurinational State of Bolivia** (Act against racism and all forms of discrimination); **Bulgaria** (Protection Against Discrimination Act); **Chad**, Labour Code (Act No. 38/PR/96); **Chile** (Act No. 20609 (Discrimination)); **Djibouti**, Labour Code; **Finland**, Non-discrimination Act (21/2014); **Japan**, Labour Standards Act;; **Republic of Korea**, Labour Standards Act (Law No. 5309); **Lithuania**, Labour Code; **Republic of Moldova**, Labour Code; **Mongolia**, Law on Employment Promotion; **Serbia** (Act on the Prohibition of Discrimination No. 22/09); **Seychelles**, Employment (Amendment) Act; **Syrian Arab Republic**, Labour Law; and **Tajikistan**, Labour Code.

African Union Model Law on Labour Migration (2025) recognises that Member States should take steps to combat intersectional discrimination based on among others migration status. It requires States to respect promote and realise fundamental rights at work, including the elimination of discrimination on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, property, birth, nationality, health, disability, age or other status, including discrimination on these grounds that has the effect of nullifying or impairing equality of opportunity or treatment in seeking, accepting and engaging in employment and occupation. To this end, it contains several provisions aimed at promoting equality of opportunity and treatment for migrant workers and combating discrimination in the world of work in a wide range of areas.

ILO standards on **Violence and Harassment** recognize that violence and harassment is a threat to equal opportunities, and that individuals belonging to groups vulnerable to discrimination may also be more likely to face violence and harassment (C.190, Preamble and Art. 6; R.206, Paras 2 and 13).[73] With a view to preventing and eliminating violence and harassment in the world of work, states must respect, promote and realize the fundamental principles and rights at work and, in particular, to adopt laws, regulations and policies ensuring the right to equality and non-discrimination in employment and occupation. This includes for women workers and for workers and other persons belonging to one or more groups in situations of vulnerability that are disproportionately affected by violence and harassment in the world of work, such as migrant workers (C.190, Arts 5–6; see also Part I, section 3.4 above). Migrant workers, particularly women migrant workers, regardless of migrant status, in origin, transit and destination countries as appropriate, should be protected from violence and harassment in the world of work (R.206, Para.10).

ILO standards on **domestic workers** also require that measures be taken to eliminate discrimination against domestic workers, including migrant domestic workers, in respect of employment and occupation (C.189, Art. 3(2)(d)).

Spotlight on regional and national contexts

In **Zimbabwe**, the 2020 National Labour Migration Policy aims to ensure labour migrants' rights during both inward and outward migration – and especially the rights of women labour migrants, who are more vulnerable to gender-based violence, sexual abuse and human trafficking during all the stages of the migration process. The Policy particularly takes into account violence and harassment, including gender-based violence and harassment.

Source: ILO, Violence and Harassment in the World of Work: A Guide on Convention No. 190 and Recommendation No. 206, 2021.

73 See also: ILO, *Ending Violence and Harassment against Women and Men in the World of Work.*

Other ILO standards, such as those on **workers with family responsibilities and maternity protection** – which cover both national and migrant workers[74] – also aim to overcome discrimination and to achieve the broader objective of gender equality in employment and occupation.

The **ILO's Committee of Experts on the Application of Conventions and Recommendations** has emphasized that proactive policies are necessary to ensure that legislation and other measures implementing standards on workers with family responsibilities "cover all categories of workers with family responsibilities, and particularly more vulnerable categories, such as migrant workers, domestic workers and workers in non-standard forms of employment".[75]

ILO standards on **private employment agencies** require States to ensure that such agencies treat workers, including migrant workers, without discrimination on the basis of race, colour, sex, religion, political opinion, national extraction, social origin, or any other form of discrimination covered by national law and practice, such as age or disability (C.181, Art. 5(1)).

▶ Box 10. Discrimination based on race, colour and national extraction

Migrant workers are particularly vulnerable to prejudices and differences in treatment in the labour market on grounds such as race, colour and national extraction, often intersecting with other grounds such as gender and religion. When they are in an irregular situation, migrants are at even greater risk of being discriminated against, especially with respect to conditions of work, including wages, and issues relating to occupational safety and health, as well as workplace injuries.[1] In practice, migrant workers tend to be concentrated in low-paid, low-skilled and often undervalued jobs, for example in the hotel and catering, health and care, agriculture, construction, fishing, low-cost manufacturing, and domestic work sectors. This cannot be attributed to their low levels of education and training, as the evidence points to high levels of overqualification among migrant workers.[2]

In 2018, the CEACR adopted a general observation on discrimination based on race, colour and national extraction, acknowledging that these grounds often intersect with other grounds, such as social origin and religion, with compounding effects on women and girls, and emphasizing the need to pay attention also to harassment based on these grounds, defining it as situations "where a person is subject to physical, verbal or non-verbal conduct or other conduct based on race which undermines their dignity or which creates an intimidating, hostile or humiliating working environment for the recipient".[3] The CEACR noted with concern that discriminatory attitudes and stereotypes based on the race, colour or national extraction of men and women workers continue to hinder their participation in education, vocational training programmes and access to a wider range of employment opportunities, resulting in persisting occupational segregation and lower remuneration received for work of equal value. These factors also frequently drive many persons from these groups into jobs in the informal economy. The Committee considered that it is necessary to adopt a comprehensive and coordinated approach to tackling the obstacles and barriers faced by persons in employment and occupation because of their race, colour or national extraction, and to promote equality of opportunity and treatment for all. Such an approach should include the adoption of interlocking measures aimed at:

- addressing gaps in education, training and skills;
- providing unbiased vocational guidance;
- recognizing and validating the qualifications obtained abroad; and
- valuing and recognizing traditional knowledge and skills that may be relevant both to accessing and advancing in employment and to engaging in an occupation.

74 ILO, General Survey on Achieving Gender Equality at Work 2023, para. 188.
75 ILO, General Survey on Achieving Gender Equality at Work 2023, para. 191.

In order to be effective, these measures must include concrete steps, such as laws, policies, programmes, mechanisms and participatory processes, and remedies designed to address prejudices and stereotypes and to promote mutual understanding and tolerance among all sections of the population. It is crucial that governments consult with social partners and the interested groups on the design, monitoring, implementation and evaluation of the measures and plans adopted with a view to ensuring their relevance, raising awareness about their existence, promoting their wider acceptance and ownership, and enhancing their effectiveness.

[1] ILO, General Survey on the Fundamental Conventions 2012, paras 776 ff.
[2] ILO, *Fair Migration: Setting an ILO Agenda*, ILC.103/DG/IB, 2014.
[3] CEACR, General Observation – Convention No. 111, adopted 2018.

Main ILO standards of reference

Fundamental standards on equality and non-discrimination

- Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
- Discrimination (Employment and Occupation) Recommendation, 1958 (No. 111)
- Equal Remuneration Convention, 1951 (No. 100)
- Equal Remuneration Recommendation, 1951 (No. 90)

Other relevant standards

- Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), Articles 1 and 9–10
- Migrant Workers Recommendation, 1975 (No. 151), Paragraphs 2 and 8
- Private Employment Agencies Convention, 1997 (No. 181), Article 5(1)
- Workers with Family Responsibilities Convention, 1981 (No. 156),
- Maternity Protection Convention, 2000 (No. 183)
- Domestic Workers Convention, 2011 (No. 189), Article 3 (2)(d)
- Domestic Workers Recommendation, 2011 (No. 201), Paragraph 3
- Indigenous and Tribal Peoples Convention, 1989 (No. 169), Article 20
- Plantations Convention, 1958 (No. 110), Articles 2 and 52
- Violence and Harassment Convention, 2019 (No. 190)
- Violence and Harassment Recommendation, 2019 (No. 206), Paras. 5. 6 and 10

▶ Box 11. Indigenous and tribal peoples

Indigenous and tribal peoples represent more than 6 per cent of the world's population. Asia and the Pacific is the region where the highest proportion of indigenous peoples live (70.5 per cent), followed by Africa (16.3 per cent), Latin America and the Caribbean (11.5 per cent), Northern America (1.6 per cent) and Europe and Central Asia (0.1 per cent).[1]

Across all regions, persons belonging to indigenous and tribal groups are often forced to seek work outside their traditional communities, including abroad, in order to survive, as a result of land dispossession, large-scale exploitation of natural resources, development of industries and mines, commercial exploitation of forests, and rapid urbanization.

Indigenous peoples represent, for instance, the majority of the migrant population of Guatemala, who are mainly directed to Mexico, the United States or Canada.[2] In the Bolivarian Republic of Venezuela, mining activities, the presence of armed and criminal groups, and the related violence have contributed to the displacement of indigenous communities across national borders. For example, at least 6,000 Jivi, Uwottüja, Yekuana, Sanemá, Yeral and Yanomami have been displaced to Colombia over the past five years.[3]

In many situations, the conditions of work and recruitment for indigenous and tribal peoples are well below national and international labour standards. Often due to their lack of knowledge of the laws and understanding of their own rights, many indigenous and tribal peoples are subject to multiple discrimination: lower wages; hazardous working conditions; coercive recruitment systems, including bonded labour and other forms of debt servitude; and forced labour. Indigenous women are particularly vulnerable to exploitation, sexual abuse and trafficking. In Nepal, for example, it has been estimated that 80 per cent of trafficking victims in the country are women and girls from indigenous communities and Dalit women. In Thailand, because of the lack of birth registration and identification documents, a significant number of women and girls from ethnic minorities are vulnerable to trafficking.[4]

The ILO has long been engaged in protecting the rights of indigenous and tribal peoples. The ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169), is the only international treaty open for ratification with specific provisions for the promotion and protection of the rights of indigenous and tribal peoples. It is premised on the recognition of the aspirations of these peoples to exercise control over their own institutions, ways of life and economic development and to maintain and develop their identities, languages and religions, within the framework of the States in which they live. The Convention provides key guidance to countries of origin to make sure that labour migration is truly freely chosen, given the wide-ranging impacts that it bears, including disruption and threats to the physical and cultural survival of these peoples and their communities, while also providing guidance to countries of destination to ensure the protection of indigenous persons' labour rights.

The Convention and the UN Declaration on the Rights of Indigenous Peoples, adopted by the UN General Assembly in 2007, are complementary and mutually reinforcing.

1 ILO, Implementing the ILO Indigenous and Tribal Peoples Convention No. 169: Towards an Inclusive, Sustainable and Just Future, 2020.
2 ILO, Issue Paper on Child Labour and Education Exclusion among Indigenous Children, 2023.
3 CEACR, Observation – Convention No. 169 – Bolivarian Republic of Venezuela, adopted 2024.
4 Stefania Errico, The Rights of Indigenous Peoples in Asia: Human Rights-based Overview of National Legal and Policy Frameworks against the Backdrop of Country Strategies for Development and Poverty Reduction (ILO, 2017).

Further reading:

- *General Survey on concerning the Migrant Workers Instruments 2016*
- *General Survey on the Fundamental Conventions 2021*
- *General Survey on Achieving Gender Equality at Work 2023 CEACR - General Observation - Discrimination (Employment and Occupation) Convention, 1958 (No. 111*
- *ILO, Governing Body: Identification of challenges and possible policy responses regarding the application of the principle of non-discrimination in the world of work 2025*

5. Right to a safe and healthy working environment

ILO Member States shall respect, promote and realize the fundamental right to a safe and healthy working environment for all workers, including migrant workers, irrespective of their migration status.

All migrant workers, regardless of skills levels, should enjoy a safe and healthy workplace, but for some groups of migrant workers, especially seasonal and less-skilled migrant workers, employed in labour-intensive sectors like agriculture, forestry, fishing, artisanal and small-scale mining sectors, exposure to occupational safety and health risks tend to be higher.[76] Domestic workers may face specific work-related hazards and risks, which may be higher for migrants among them due to insufficient or lack of legal protection, isolated workplaces, or social and cultural barriers.[77]

The **Occupational Safety and Health Convention, 1981 (No. 155)** applies to all workers in the branches of economic activity covered. States, in consultation with the most representative organizations of employers and workers, must formulate, implement and periodically review a coherent national policy on occupational safety, occupational health and the working environment to prevent accidents and injury to health arising out of, linked with or occurring in the course of work (C.155, Art. 4).

- Workers who have removed themselves from a work situation which they have reasonable justification to believe presents an imminent and serious danger to their life or health shall be protected from undue consequences in accordance with national conditions and practice (Art. 13).
- Employers shall be required to:
  - ensure, so far as is reasonably practicable, that the workplaces, machinery, equipment and processes under their control are safe and without risk to health, and the chemical, physical and biological substances and agents under their control are without risk to health when the appropriate measures of protection are taken; and
  - provide, where necessary, adequate protective clothing and protective equipment to prevent, so far as is reasonably practicable, risk of accidents or of adverse effects on health (Art. 16).
- Representatives of workers shall be given adequate information on measures taken by the employer to secure occupational safety and health (OSH) and may consult their representative organizations about such information, provided they do not disclose commercial secrets (Art. 19(c)).
- Workers and their representatives shall be given appropriate training in OSH (Art. 19(d)).
- OSH measures shall not involve any expenditure for the workers (Art. 21).

The **Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187),** requires States – in consultation with the most representative organizations of employers and workers – to promote the continuous improvement of OSH to prevent occupational injuries, diseases and deaths, through the development of three mechanisms:

76 ILO, *A Call for Safer and Healthier Working Environments, 2023.*
77 ILO. *Making decent work a reality for domestic workers. Progress and prospects ten years after the adoption of the Domestic Workers Convention, 2011 (No. 18)*, 2021, pages 172-185

1. a national OSH policy;
2. a national OSH system; and
3. a national programme on OSH (Art. 2).

The **Occupational Safety and Health Recommendation, 1981 (No. 164)** stresses the provision of special training programmes for migrant workers in their own language, where appropriate (Para. 4(d)), whereas the **Promotional Framework for Occupational Safety and Health Recommendation, 2006 (No. 197)** emphasizes that national OSH systems provide for appropriate measures to protect vulnerable workers, including those in the informal economy and migrant workers (Para. 3).

The ILO standards on **labour migration** also recommend that states take all appropriate measures to prevent any special health risks to which migrant workers may be exposed (R.151, Para. 20).

Promoting safe and healthy working environments for all migrant workers means, for example, that:

- Migrant workers should receive adequate training in prevention and protection measures, tailored to their specific educational background and in a language understood by them, including updates in relation to new prevention techniques, technological progress in general and new workplace hazards (C.155, Art. 19; R.164, Para.4(d));[78]
- Migrant workers should, during paid working hours and immediately after beginning employment, receive sufficient information in their mother tongue or, in a language familiar to them, on the essential elements of laws and regulations and on the provisions of collective agreements concerning the protection of workers and the prevention of accidents, as well as on safety regulations and procedures specific to the nature of the work they are going to perform (R.151, Para. 21(2)).
- Employers should take all possible measures so that migrant workers may fully understand instructions, warnings, symbols and other signs relating to safety and health hazards at work (R.151, Para. 22(1)).

The **ILO's Committee of Experts on the Application of Conventions and Recommendations** has also highlighted that women migrant workers, in particular, should be trained with regard to risks specifically concerning women's health, including risks related to pregnancy, breastfeeding and reproductive health.[79] The Committee has also considered that safety and health mechanisms should be reinforced in occupations in which migrant workers are primarily employed, such as agriculture, construction, mining, fishing, manufacturing and domestic work.[80]

Spotlight on regional and national contexts

A number of countries have taken measures in law and practice to ensure that OSH training and information is available in different languages for migrant workers, or alternatively in largely visual formats, including **Hungary, Sweden, Finland and Argentina**.[1]

In **Qatar**, Ministerial Decision No. (17) of 2021 specifying measures to protect workers from heat stress protects migrant workers in the construction and agriculture sectors during the summer time.

[1] ILO, General Survey concerning the OSH Instruments 2017.

78 See also: ILO, *Working Together to Promote a Safe and Healthy Working Environment: General Survey on the Occupational Safety and Health Instruments concerning the Promotional Framework, Construction, Mines and Agriculture*, ILC.106/III/1B, 2017 (hereafter referred to as the "General Survey concerning the OSH Instruments 2017"); and Recommendation No. 151, Para. 21(1).

79 Convention No. 155, Arts. 14 and 19; Recommendation No. 197, Para. 4. See also: ILO, General Survey concerning the OSH Instruments 2017.

80 Recommendation No. 197, Para. 3. See also: ILO, General Survey concerning the OSH Instruments 2017.

Domestic workers, including migrant workers, experience specific work-related hazards and risks, owing to the characteristics of their work, the nature of the workplace and the specificities of the sector. The ILO standards on **domestic work** explicitly state that "(e)very domestic worker has the right to a safe and healthy working environment" (C.189, Arts. 3(2)(e) and 13). Effective measures, with due regard for the specific characteristics of domestic work, are needed to ensure their occupational safety and health, and to minimize work-related hazards and risks, as far as possible, in order to prevent injuries, diseases and deaths and promote OSH in the household workplace (C.189, Art. 13; R.201, Para. 19).

In most countries, legislation requires employers to protect workers' safety and health in the workplace and obliges workers to comply with safety and health regulations. In some countries, safety and health regulations implicitly or explicitly cover risks and hazards that could lead to violence and harassment.[81] ILO standards on **violence and harassment** require Members to take legislative measures requiring employers to take appropriate steps commensurate with their degree of control to prevent violence and harassment in the world of work (C.190, Art. 9).[82] In particular, and so far as is reasonably practicable, employers should:

- Take into account violence and harassment and associated psychosocial risks in the management of OSH; and
- Identify hazards and assess the risks of violence and harassment, with the participation of workers and their representatives, with a view to taking measures to prevent and control these hazards and risks (C.190, Arts. 9 and 12 R.206, Para.8)).[83]

All workers, including all migrant workers, have the right to remove themselves from a work situation which they have reasonable justification to believe presents an imminent and serious danger to life, health or safety due to violence and harassment, without suffering retaliation or other undue consequences, and the duty to inform management (C.190, Art. 10(g)).

Spotlight on regional and national contexts

In **Uruguay**, Act No. 19.580 on gender-based violence addresses, among others, the situation of migrant women victims of gender-based violence (section 43); while Act No. 17.817 of 2004 "against racism, xenophobia and all other forms of discrimination" addresses physical and psychological violence on various grounds of discrimination with a general scope. Uruguay's Migration Act (No. 18.520) establishes equal labour rights for foreign workers, and the national gender equality strategy includes certain measures to prevent sexual harassment at work (policy guidelines VIII.2 and X.3).

The **ILO's Committee of Experts on the Application of Conventions and Recommendations** has emphasized that migrant workers, should be adequately trained in prevention and protection measures, in a language understood by them. Measures should be taken to effectively monitor the safety and health of all workers, including migrant workers. This could include steps to ensure that labour inspectors are able to communicate with migrant workers, including opportunities to speak with migrant workers directly and as appropriate through the hiring of interpreters. It also emphasized that workers in a vulnerable situation may not be willing to cooperate with the labour inspection services if they fear negative consequences as a result of inspection activities, such as the loss of their job or expulsion from the country.[84]

For information on work injury compensation, see Part III, section 3.3, on social protection below.

81 ILO, *Violence and Harassment in the World of Work: A Guide on Convention No. 190 and Recommendation No. 206*, 2021, Chapter 5.
82 However, a degree of flexibility is foreseen in the instruments, and measures should be commensurate with the means available and reasonable within a given context (not beyond the employer's "degree of control") (Convention No. 190, Art. 9).
83 See also Recommendation No. 206, Para. 8.
84 See: ILO, General Survey concerning the OSH Instruments 2017, paras 331, 451 ff.

Main ILO standards of reference

Fundamental standards on occupational safety and health

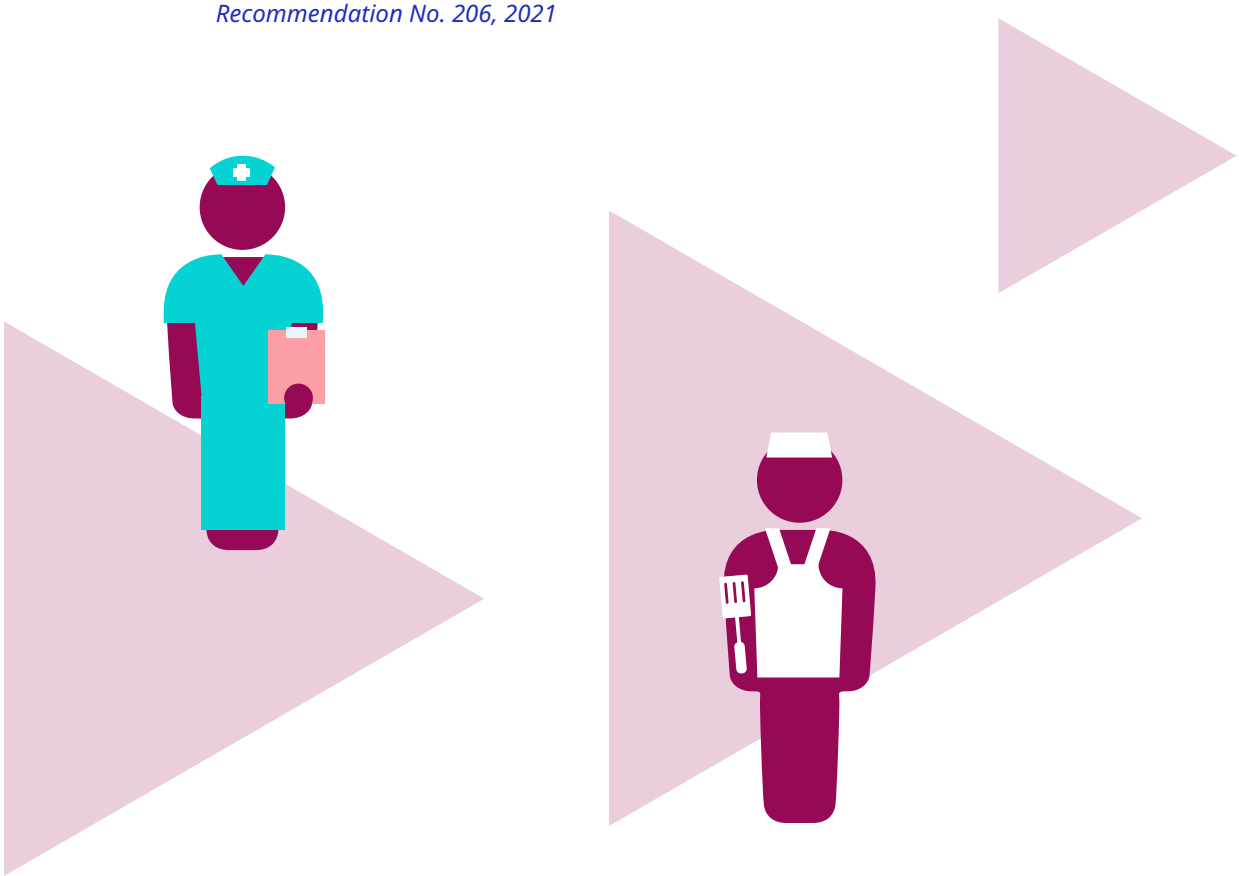
- Occupational Safety and Health Convention, 1981 (No. 155)
- Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187)
- Occupational Safety and Health Recommendation, 1981 (No. 164)
- Promotional Framework for Occupational Safety and Health Recommendation, 2006 (No. 197)

Other relevant standards

- Violence and Harassment Convention, 2019 (No. 190), Articles 9, 10(g) and 12
- Violence and Harassment Recommendation, 2019 (No. 206), Paragraph 8
- Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), Article 1
- Migrant Workers Recommendation, 1975 (No. 151), Paragraphs 2 and 20–22
- Domestic Workers Convention, 2011 (No. 189), Articles 3(2)(e) and 13
- Domestic Workers Recommendation, 2011 (No. 201), Paragraph 19
- Work in Fishing Convention, 2007 (No. 188), Articles 8 and 31–33
- Biological Hazards in the Working Environment Convention, 2025 (No. 192)

Further reading:

- *General Survey concerning the Instruments on occupational safety and health 2017*
- *Violence and Harassment in the World of Work: A Guide on Convention No. 190 and Recommendation No. 206, 2021*



Part III.
Migrant workers' rights throughout the migration experience

The rights of migrant workers covered in this part of the Guide are grouped according to the various stages in the migration process: **(i) pre-departure and during the journey; (ii) on arrival and during employment; and (iii) return/repatriation and labour market reintegration.** The rights relating to **fair recruitment** are addressed throughout these stages, where relevant.

1. Fair recruitment

Fair recruitment for migrant workers is the starting point of decent work, and hence a very important means to ensure respect of migrant workers' rights at the very start of their journey.[85]

Migrant workers often lack accurate information about the complex process of going abroad, including the recruitment options, the jobs, and the working and living conditions abroad.

Migrant workers, particularly low-wage migrant workers, are frequently at risk of abuse during recruitment. The most common abuses include:[86]

- recruitment fees and related costs being charged to workers, which can lead to debt bondage;
- deliberate misinformation and deception concerning the nature of the job, the wage or other conditions of work;
- use of force, violence or threats in recruitment;
- retention of identity documents;
- illegal wage deductions (to recover recruitment fees and related costs); and
- restricted mobility of migrant workers in relation to their employers (in the absence of contract termination clauses and/or corresponding legislation enabling labour market mobility for migrant workers).

Migrants often have little or no means of redress for recruitment-related violations in destination countries. Those situations can lead to forced labour, for instance, in cases where workers acquire very high levels of debt to cover recruitment fees and related costs.[87] Evidence also shows that recruitment abuse might be more prevalent in some sectors of the economy, such as construction, manufacturing and agriculture (which tend to be dominated by men), but also services and domestic work (which tend to be dominated by women). These sectors are also often those where enforcement of the labour law is weaker or absent.[88]

85 In 2014, the ILO launched the Fair Recruitment Initiative as part of the ILO Director-General's call for a Fair Migration Agenda encompassing fair recruitment processes.
86 ILO, *Fair Recruitment Roadmap: A Guide for National Action*, 2024.
87 ILO, *Fair Migration: Setting an ILO Agenda*, ILC.103/DG/IB, 2014.
88 ILO, *Fair Recruitment Roadmap.*

▶ Box 12. ILO Fair Recruitment Principles and Guidelines

In 2016, the ILO Governing Body approved for publication and dissemination the non-binding **General Principles and Operational Guidelines for Fair Recruitment, and Definition of Recruitment Fees and Related Costs** (GPOG), which are grounded on international labour standards, with the objective of promoting and ensuring fair recruitment. The GPOG are intended to cover the recruitment of all workers, including migrant workers, whether directly by employers or through intermediaries, and cover all sectors. They address the responsibilities of specific actors in the recruitment process, including: governments, enterprises and public employment services (including employers and private labour recruiters). They also contain a detailed definition of what constitute "recruitment fees and related costs".

Recruitment should be based on a clear set of General Principles. For example, it should take place in a way that respects, protects and fulfils internationally recognized human rights, including those expressed in international labour standards. It should respond to established labour market needs and not serve as a means to displace or diminish an existing workforce, to lower labour standards, wages, or working conditions, or to otherwise undermine decent work. Recruitment should also take into account policies and practices promote efficiency, transparency and protection for workers in the process, such as mutual recognition of skills and qualifications. The regulation of employment and recruitment activities should be clear and transparent and effectively enforced, and workers or jobseekers should not be charged or bear recruitment fees or related costs. Recruitment across international borders should respect the applicable national laws, regulations, employment contracts and applicable collective agreements of countries of origin, transit and destination, and internationally recognized human rights, including the fundamental principles and rights at work, and relevant international labour standards. These laws and standards should be effectively implemented.

Recruitment includes the advertising, information dissemination, selection, transport, placement into employment and – for migrant workers – return to the country of origin where applicable. This applies to both jobseekers and those in an employment relationship return to the country of origin.

Source: General principles and operational guidelines for fair recruitment and Definition of recruitment fees and related costs

At this early stage of the labour migration process, the rights and access of migrant workers in relation to the following areas are particularly important:

- free assistance services, including accurate information about working and living conditions in the destination country;
- recruitment, including of recruitment fees and related costs;
- employment contracts;
- facilitated departure; and
- medical examinations.

This section of the Guide will address each of these topics, providing an overview of the relevant rights of migrant workers as laid out in international labour standards.

1.1. Free assistance and accurate information about working and living conditions in the destination country

Access to reliable sources of information on a wide range of matters associated with labour migration is essential for migrant workers at all stages of migration. While much of the general information on countries of destination is now readily available online, information about visa processes, rights and obligations, recruitment and job opportunities, living and working conditions, or employment contracts, and means of redress, is often scattered or misrepresented on social media platforms.

ILO standards on **labour migration** emphasize the importance of free services to assist and provide accurate information to migrant workers about the general working and living conditions in the country in which they intend to work, and on any other issues of potential interest to them in their capacity as migrants.

- Information should be provided in their language or dialect, or at least in a language they can understand (R.086, Para. 5).
- Information must be provided free of charge (C.097, Art. 2).
- Measures must be taken against misleading information relating to migration and immigration (C.097, Art. 3)

The right to obtain accurate information, free of charge, encompasses the whole labour migration process, and also includes recruitment, employment and return. Workers should have access to free, comprehensive and accurate information regarding their rights and the conditions of their recruitment and employment (GPOG, General Principle 10).

▶ Box 13. Migrant Worker Resource Centres

Migrant Worker Resource Centres (MRCs) are physical, mobile or virtual spaces that provide a range of information and support services for migrant workers, including potential and returnee workers and their families. These services encompass the provision of reliable information about migrant workers' rights throughout the migration process, but also legal assistance and other types of support in claiming redress, including for non-payment or delayed payment of wages, career guidance, organizing, strengthening social protection rights, or capacity building on skills. MRCs are sometimes also the result of collaboration between different actors, including NGOs, trade unions and job centres.

Before migration, migrant workers can make use of MRCs to get a better understanding of the risks as well as the potential benefits. This allows potential women and men migrant workers to make informed choices about their future. In destination countries, MRCs may offer legal aid when migrant workers' rights are abused at work or in the destination community, serve as an accessible link to the local authorities, and deliver training.

MRCs have become trusted and accessible support hubs for migrant workers in countries of origin and destination, especially in sectors such as fishing, agriculture and domestic work. MRCs have significantly expanded their outreach efforts—combining interpersonal engagement with digital tools such as social media, radio programming and community networks. By the end of 2024, a total of 65 MRCs provides services in countries of origin and destination in the ASEAN region, providing services to close to 650,000 migrant workers (43 per cent are women). as well as to their family members. Some 15,600 legal cases were settled with MRC assistance between 2014 and 2024, with more than US$13 million in compensation awarded to migrant workers in these cases.

Source: ILO, *Empowering Migrant Workers: Lessons Learned from ILO Migrant Worker Resource Centres in the ASEAN region*, 2025; ILO, "*ILO Guidance Note on Migrant Worker Resource Centres (MRCs)*", ILO Brief, January 2024; and ILO, *Migrant Worker Resource Centre Operations Manual*, 2024.

Spotlight on regional and national contexts

Both Indonesia and the Philippines have adopted legislation recognize the need to enhance the preparedness of migrant workers before departure.

- **Indonesia's** Law No. 18 of 2017 on the Protection of Indonesian Migrant Workers mandates comprehensive pre-departure training for all prospective migrant workers (section 8). In addition, the country has set up a Gender Responsive Migrant Worker Resources Centre and the One Roof Integrated Services in four districts known as origin districts of Indonesian migrant workers so as to improve the protection of women migrant workers and their families at every stage of migration, from predeparture to return.[1]
- In the **Philippines**, the Migrant Workers and Overseas Filipinos Act of 1995 (Republic Act No. 8042 – along with its amendment Republic Act No. 10022) provides the legal foundation for the protection of overseas Filipino workers. The legislation mandates the implementation of pre-departure orientation seminars to educate departing workers about their rights, employment terms and destination country conditions.

Nigeria established Migrant Resource Centres in three states (Lagos, Edo and Abuja), as well as job centres across the country, to serve as "one-stop shops" where migrant workers and potential migrant workers can access relevant information and a wide range of services. Through these MRCS and one-stop shops, the following services are provided:

1. Pre-departure orientation seminars for private employment agencies.
2. Protection of migrant workers through the approval of employment contracts between the migrant workers and private employment agencies recruiting for overseas placement, as well as referral services for returning migrants.
3. The establishment of a Labour Market Information System (LMIS) that will serve as an informational platform for jobseekers.
4. Production of information materials with different messages to create awareness on the risks associated with irregular migration.
5. Licensing and monitoring of private employment agencies recruiting for domestic and overseas employment to ensure compliance with labour laws and to prevent forced labour and human trafficking.[2]

Mexico established Migrant Integration Centers (CIM) in Tijuana (Baja California), Ciudad Juárez (Chihuahua) and Matamoros (Tamaulipas), to assist migrants in the country. The CIMs provide free food and accommodation, as well as health, education, psychosocial support and labour intermediation services.[3] The Center in Tijuana is managed by the SUCOMM, and aims to assist potential migrants, migrants, asylum-seekers and refugees, as well as their families, with services that facilitate their access to decent work and justice for any violations of their labour rights.

[1] CEACR, Observation – Convention No. 29 –Indonesia, adopted 2023.
[2] CEACR, Direct Request – Convention No. 97 – Nigeria, adopted 2023.
[3] ILO, Fair Recruitment in El Salvador, Guatemala, Honduras and Mexico: Assessing Progress and Addressing Gaps, 2023.

ILO labour standards on **domestic workers** underscore the need for additional measures in the case of migrant domestic workers, including public outreach services to inform them, in languages they understand, of:

- their rights;
- relevant laws and regulations;
- available complaint mechanisms and legal remedies, concerning both employment and immigration law;
- legal protection against crimes such as violence, trafficking in persons and deprivation of liberty; and
- any other pertinent information they may require (R.201, Para. 21(1)(f)).

Countries of origin of migrant domestic workers should assist in the effective protection of the rights of these workers by informing them of these rights before departure (R.201, Para. 21(2)).

The ILO standards on **indigenous peoples** require the adoption of special measures, in cooperation with the peoples concerned, to ensure that migrant workers belonging to indigenous peoples are fully informed of their rights under labour legislation and of the means of redress available to them (C.169, Art. 20).

The ILO standards on **forced labour** equally stress that migrants should receive orientation and information in order for them to be better prepared to work and live abroad and to create awareness and better understanding about trafficking for forced labour situations (R.203, Para. 4(g)). More generally, these labour standards call for targeted awareness-raising campaigns – especially for those who are most at risk of becoming victims of forced or compulsory labour – to inform them, inter alia, about:

- how to protect themselves against fraudulent or abusive recruitment and employment practices;
- their rights and responsibilities at work; and
- how to gain access to assistance in case of need (R.203, Para. 4(b)) (on recruitment, see further in section 1.2 below).

The importance of taking appropriate steps against misleading propaganda relating to emigration and immigration is also highlighted in the ILO standards concerning **work on plantations** (C.110, Art. 17).

Spotlight on regional and national contexts

In an effort to protect migrant workers from exploitation and abuse, migrants in **Viet Nam** are required by law to undertake a pre-departure training delivered by their recruitment agency prior to their departure. The training covers subjects like the culture, customs and laws of the destination country; workers' rights and responsibilities; accessing support services and complaint mechanisms; sending money home; and return and reintegration.

The Migrant Fishers Information Package developed by the Fair Training Center (FTC) and Stella Maris **Philippines** addresses the unique needs of migrant fishers before making the decision to apply for a commercial fishing job, and before their deployment onto the vessel. The Package is being rolled out in 15 locations across the country.

Main ILO standards of reference

Standards on migrant workers

- Migration for Employment Convention (Revised), 1949 (No. 97), Articles 2–3
- Migration for Employment Recommendation (Revised), 1949 (No. 86), Paragraph 5.
- Migrant Workers Recommendation, 1975 (No. 151), Paragraph 7(1)(a)

Other relevant standards

- Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203)
- Domestic Workers Recommendation, 2011 (No. 201), Paragraphs 21(1)(f) and 21(2)
- Indigenous and Tribal Peoples Convention, 1989 (No. 169), Article 20
- Plantations Convention, 1958 (No. 110), Article 17

Further reading:

- *General Principles and Operational Guidelines for Fair Recruitment*
- *Fair Recruitment Roadmap: A Guide for National Action*
- *Lessons Learned on the Recruitment of Migrant Workers*
- *Compendium of Promising Practices to Advance Fair Recruitment of (Migrant) Workers*
- *ILO Guidance Note on Migrant Worker Resource Centres*

1.2. Regulation of recruitment, including fees and costs

ILO standards on **labour migration** prescribe that the right to engage in operations of recruitment, introduction or placing shall be restricted to public employment offices or other public bodies (C.097, Annex I Arts 2-3, Annex II, Arts 2-3). Recruitment services rendered by public employment services should be free of charge (C.097, Art. 7).

Where national laws and regulations or a bilateral arrangement permit, prospective employers or persons acting on their behalf, or private agencies can also engage in recruitment, introduction and placing, provided they have prior authorization by the relevant governmental body. Their activities shall be carried out under official supervision in order to protect migrants against excessive fees, fraudulent contracts, the use of misleading propaganda, and attempts to evade immigration controls (C.097, Annex I, Arts 2–3, and Annex II, Arts 2–3).

Several other ILO standards underscore the need for addressing the recruitment of workers, including migrant workers, and the fees and costs connected to such recruitment.

For example, the ILO standards on **private employment agencies** require States to take measures, where appropriate, in collaboration with other States to adequately protect and prevent abuses of migrant workers recruited or placed by private employment agencies. These measures should include laws or regulations that provide for penalties, including the prohibition of private employment agencies that engage in fraudulent practices and abuses (C.181, Art. 8(1)).

Private employment agencies should not charge directly or indirectly, in full or in part, any fees or costs to workers (C.181, Art. 7(1)). Private employment agencies may only charge workers for fees related to recruitment under strict conditions, namely:

- the fees and costs are determined to be in the interest of the workers concerned, after consultation with the most representative organizations of workers and employers; and
- the fees and costs are limited to certain categories of workers and specified types of services (C.181, Art. 7(2)).[89]

ILO standards on the **protection of wages** prohibit deductions from the wages of a worker as a direct or indirect payment for the purpose of securing employment. This includes any payments of this type made by a worker to their employer, a labour contractor or a recruiter (C.095, Art. 9).

Furthermore, the ILO standards on **forced labour and domestic workers** equally recognize the need for measures to eliminate abuses and fraudulent practices by labour recruiters and private employment agencies, such as:

- eliminating the charging of recruitment fees to workers;
- requiring transparent contracts that clearly explain terms of employment and conditions of work;
- establishing adequate and accessible complaint mechanisms;
- imposing adequate penalties;

89 In its General Survey on the employment instruments, the CEACR noted that the use of justified exceptions to the non-charging of fees to workers is subject to the principles of consultation, transparency and reporting. ILO, *General Survey concerning Employment Instruments in Light of the 2008 Declaration on Social Justice for a Fair Globalization*, Report III (Part 1B), ILC, 99th Session, 2010, para. 334; CEACR, Observation – Convention No. 181 – Israel, adopted in 2024; and CEACR, Observation – Convention No. 181 – Ethiopia, adopted in 2023.

- regulating or licensing these services
- considering concluding bilateral, regional or multilateral agreements to prevent abuses and fraudulent practices in recruitment, placement and employment (P029, Art. 2(d); C.189, Arts 8(1) and 15(1); R.203, Para. 8)

ILO standards on **indigenous peoples** call for the adoption of special measures, in cooperation with the peoples concerned, to ensure effective protection with regard to recruitment and conditions of employment of workers belonging to these peoples. This must include measures to ensure that migrant workers belonging to indigenous peoples are fully informed of their rights under labour legislation and of the means of redress available to them (C.169, Art. 20).

Special attention concerning the recruitment of migrant workers and licensing for professional recruiting is found in the ILO standards addressing **work on plantations** (C.110, Part II) and **work in fishing**, including the prohibition against fees or other charges for the recruitment or placement of fishers being borne directly or indirectly, in whole or in part, by the fisher (C.188, Art. 22).

Spotlight on regional and national contexts

In Canada, the Manitoba Worker Recruitment and Protection Act 2008 (WRAPA) establishes the requirements for obtaining a licence for employment agencies; individuals involved in recruiting foreign workers; and anyone involved in recruiting or representing children under the age of 17 who perform as entertainers or models. The Act provides clear and explicit requirements to protect foreign workers who are recruited under immigration or foreign temporary worker programmes to be employed in Manitoba. Section 15(4) of WRAPA prohibits agencies and individuals involved in foreign worker recruitment from charging fees, either directly or indirectly, to workers for finding or attempting to find employment for them.[1]

Mexico explicitly prohibits the charging of recruitment fees to workers, as per article 5 of the 2006 Worker Placement Agencies Regulation. In addition, article 10(I–II) of the same regulation also prohibits the charging of workers for job advertisements, job application processing, training costs and other related costs. In addition, article 28(1) of the Federal Labour Law of Mexico (as amended in 2019) stipulates that the labour contracts of Mexican migrant workers abroad must provide that the employer bears any repatriation costs. Also, if a worker is subject to fraud in relation to the working conditions in a job abroad, the private recruitment agency will be responsible for repatriation costs.[2]

In addition, **CIERTO – a Mexican farmworker recruiting organization** that has been in operation since 2016 – recruits, trains, and places workers from Mexico and Guatemala on farms in North America. In 2020, CIERTO recruited 1,614 workers following the principles of fair recruitment. For example, none of these workers were charged for recruitment or management of immigration procedures, nor were documents or salaries withheld. In addition, there are no records that the workers recruited that year through CIERTO contracted COVID-19, which shows the good implementation of health and safety protocols at work.[3]

The Government of **India** has created a system for blacklisting foreign employers and recruitment agencies that have violated the rights of Indian migrant workers. If there is a complaint of rights violations against a foreign employer/recruitment agency by migrant workers, the Indian recruiter is expected to resolve the complaint as the first step. The recruiter can face suspension of license or even forfeiture of bank guarantee if found to be at fault. This serves as an incentive for Indian recruiters to carry out due diligence of foreign employers and agencies. In January 2021, there were 706 employers and agencies from 16 countries on the blacklist. The list includes individual employers as well as small, medium and large businesses and even multinationals.[4]

In **Indian Ocean region (Comoros, Madagascar, Mauritius and Seychelles)**, employers' organizations, Private Recruitment Agencies (PEAs) and other key stakeholders (e.g. Cap Business Indian Ocean, the Indian Ocean Commission Secretariat, IOE, and the SADC Private Sector Forum) developed a regional Code of Conduct (CoC) and Self-Assessment Tool aimed at improving fair and ethical recruitment practices across the region. These

tools are intended for employers hiring migrant workers directly, as well as PEAs responsible for sourcing and placing workers nationally and abroad. The CoC contains eight principles, including promoting awareness and compliance with national laws and international conventions (1), respecting workers' rights and principles of non-discrimination (3), and exercising due diligence at all stages of the recruitment process (7).[5]

[1] Canada (Manitoba) Worker Recruitment and Protection Act, C.C.S.M. c. W197; see also ILO. Guide on Private Employment Agencies, Second (Revised) Edition, 2025, Box. 5.4.
[2] ILO, Fair Recruitment Roadmap: A Guide for National Action, 2024
[3] ILO, Fair Recruitment in El Salvador, Guatemala, Honduras and Mexico: Assessing Progress and Addressing Gaps, 2023.
[4] ILO, Global Study on Recruitment Fees and Related Costs, second edition, 2024
[5] ILO. "Employers Code of Conduct and Self-Assessment Tool on the Fair and Ethical Recruitment of Migrant Workers in the Indian Ocean region", ILO Policy Brief, 2025

▶ Box 14. Recruitment fees and related costs

The ILO Fair Guiding Principles and Operational Guidelines on Fair Recruitment read together with the Definition of Recruitment Fees and Related Costs recognize the principle that workers shall not be charged directly or indirectly, in whole or in part, any fees or related costs for their recruitment.

The Definition on recruitment fees and related costs is guided by international labour standards, based on global comparative research and takes into account the practical realities and context-specific conditions that workers, labour recruiters, enterprises and employers face. It identifies fees and related costs in recruitment practices and recognizes that costs for workers recruited internationally can be significantly higher than those for workers recruited nationally due to a range of factors, including the fact that workers recruited across borders may find themselves in situations of particular vulnerability (Part I, 1-4).

Recruitment fees

According to the Definition, the terms "recruitment fees" refer to any fees or costs incurred in the recruitment process in order for workers to secure employment or placement, regardless of the manner, timing or location of their imposition or collection. They should not be collected from workers by an employer, their subsidiaries, labour recruiters or other third parties providing related services, directly or indirectly, such as through deductions from wages and benefits (Part II, 6-7). They include:

- payments for recruitment services offered by labour recruiters, whether public or private, in matching offers of and applications for employment;
- payments made in the case of recruitment of workers with a view to employing them to perform work for a third party;
- payments made in the case of direct recruitment by the employer; or
- payments required to recover recruitment fees from workers (Part II.A,9)).

These fees may be one-time or recurring and cover recruiting, referral and placement services which could include advertising, disseminating information, arranging interviews, submitting documents for government clearances, confirming credentials, organizing travel and transportation, and placement into employment (Part II.A,10).

Related costs

According to the Definition, related costs are expenses integral to recruitment and placement within or across national borders, taking into account that the widest set of related costs are incurred for international recruitment. The Definition provides that the costs categories could be further developed by the government and the social partners at the national level, and recognizes some flexibility to determine exceptions to their applicability, consistent with ILO standards, after consulting representative originations of employers and workers, and subjects to certain conditions (Part II.B,11).

According to the Definition, the following costs should be considered related to the recruitment process, when initiated by an employer, labour recruiter or an agent acting on behalf of those parties; required to secure access to employment or placement; or imposed during the recruitment process:

- **Medical costs:** Payments for medical examinations, tests or vaccinations;
- **Insurance costs:** Costs to insure the lives, health and safety of workers, including enrolment in migrant welfare funds;
- **Costs for skills and qualification tests:** Costs to verify workers' language proficiency and level of skills and qualifications, as well as for location-specific credentialing, certification or licensing;
- **Costs for training and orientation:** Expenses for required trainings, including on-site job orientation and pre-departure or post-arrival orientation of newly recruited workers;
- **Equipment costs:** Costs for tools, uniforms, safety gear, and other equipment needed to perform assigned work safely and effectively;
- **Travel and lodging costs:** Expenses incurred for travel, lodging and subsistence within or across national borders in the recruitment process, including for training, interviews, consular appointments, relocation, and return or repatriation;
- **Administrative costs:** Application and service fees that are required for the sole purpose of fulfilling the recruitment process. These could include fees for representation and services aimed at preparing, obtaining or legalizing workers' employment contracts, identity documents, passports, visas, background checks, security and exit clearances, banking services, and work and residence permits (Part II.B, 12).

The Definition also outlines what are considered illegitimate, unreasonable and undisclosed costs (Part. II.C, 15).

A global study by the ILO on recruitment fees and related costs[1] found that a very high number of countries regulate recruitment fees and costs or explicitly prohibit them (69 countries out of the 110 reviewed). The study also highlighted some regional differences. In Asia and the Pacific, there is a tendency towards regulation; while in Europe and Central Asia and in the Arab States, recruitment fees are more likely to be prohibited. However, in Europe and Central Asia, these prohibitions often only apply to temporary employment agencies, and in the Arab States, they often do not include costs incurred in the country of origin. The policy landscapes in the Americas and in Africa show a much more mixed picture. For instance, while most of the countries in both regions lean towards prohibiting recruitment fees, a lesser but sizeable amount also focus on regulation instead of prohibition, which can also be explained by very different regional dynamics.

Source: ILO, General Principles and Operational Guidelines for Fair Recruitment and Definition of Recruitment Fees and Related Costs, 2019.

[1] ILO, Global Study on Recruitment Fees and Related Costs, second edition, 2024.

Main ILO standards of reference

Standards on migrant workers

- Migration for Employment Convention (Revised), 1949 (No. 97), Article 7, Annex I, and Annex II, Articles 2–3
- Migration for Employment Recommendation (Revised), 1949 (No. 86), Paragraphs 1(b–d) and 13–14

Other relevant standards

- Private Employment Agencies Convention, 1997 (No. 181)
- Private Employment Agencies Recommendation, 1997 (No.188, Para 8(b)
- Protection of Wages Convention, 1949 (No. 95), Article 9
- Domestic Workers Convention, 2011 (No. 189), Article 15
- Domestic Workers Recommendation, 2011 (No. 201), Paragraph 8
- Indigenous and Tribal Peoples Convention, 1989 (No. 169), Article 20
- Plantations Convention, 1958 (No. 110), Part II
- Work in Fishing Convention, 2007 (No. 188), Article 22.
- ILO Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203), Paragraph 8
- Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169), Part X

Further reading:

- *General Principles and Operational Guidelines for Fair Recruitment & Definition of Recruitment Fees and Related Costs*
- *General Survey concerning the Migrant Workers Instruments 2016*
- *Guide on Private Employment Agencies, Second (Revised) Edition, 2025*
- *ILO Guidelines for fair labour market services for migrant fishers 2025*

1.3. Employment contracts

The ILO **Labour migration** standards prescribe that, where governments maintain a system of supervising contracts of employment, migrant workers have the right to receive – before departure – a written contract of employment covering conditions of work and terms of employment, particularly the rate of remuneration and the contract duration. Contracts should also regulate hours of work, weekly rest periods and annual leave (C.097, Annex I, Art. 5, and Annex II, Art. 6).[90]

The governments of the migrant worker's home country and country of employment can also agree that a copy of the contract be given to the worker on arrival in the host country. In that case, the migrant worker should receive a document before departure that indicates (at a minimum) the occupational category in which the migrant worker is to be engaged and the other conditions of work, in particular the guaranteed minimum wage. The contract, or any other documents related to employment, should be in a language that the migrant worker understands (C.097, Annex I, Art. 5, and Annex II, Art. 6; R.086, Model Agreement, Art. 22).

The **ILO Fair Recruitment Guidelines** recommend that the terms and conditions of a migrant worker's employment should be specified in an appropriate, verifiable and easily understandable manner, preferable through written contracts. The terms should also be clear and transparent, and inform the workers of the location, requirements and tasks of the job for which they are being recruited. Written contracts should be in a language the migrant worker can understand, should be provided sufficiently in advance of departure from the country of origin, should be subject to

90 ILO, General Survey concerning the Migrant Workers Instruments 2019, para. 217.

measures to prevent contract substitution, and should be enforceable (GPOG, General Principle 8).

The ILO standards on **domestic workers** prescribe that these workers, including migrant domestic workers, shall be informed of their terms and conditions of employment in an appropriate, verifiable and easily understandable manner and preferably, where possible, through written contracts, including the:

- name and address of the employer and of the worker;
- address of the usual workplace or workplaces;
- starting date and, where the contract is for a specified period of time, its duration;
- type of work to be performed;
- remuneration, method of calculation and periodicity of payments;
- normal hours of work;
- paid annual leave, and daily and weekly rest periods;
- provision of food and accommodation, if applicable;
- period of probation or trial period, if applicable;
- terms of repatriation, if applicable; and
- terms and conditions relating to the termination of employment, including any period of notice by either the domestic worker or the employer (C.189, Art. 7).

Migrant domestic workers should receive a written job offer or contract of employment addressing the terms and conditions referred to above prior to crossing national borders (C.189, Art. 8(1)).

States should consider establishing a model contract of employment for domestic work, in consultation with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers. The model contract should at all times be made available free of charge to domestic workers, employers, representative organizations and the general public (R.201, para. 6 (3) and (4)).

The ILO standards concerning **work in plantations** prescribe that, where circumstances make it practicable and necessary, the competent authority shall require that each recruited worker who is not engaged at or near the place of recruitment will be issued a document in writing that contains, for example, particulars of the identity of the worker, the prospective conditions of employment and any advances of wages made to the worker (C.110, Art. 10).

Concerning **work in fishing**, the related ILO standards lay down that fishers shall receive a "fisher's work agreement" that is comprehensible to them and provide detailed indications on minimum information that should be included in such an agreement. This agreement should, among others, describe the duties of the fisher and cover wages, provisions, rest periods and leave, social protection and any relevant collective bargaining agreements (C.188, Art. 16 and Annex II).

Fishers shall have an opportunity to review and seek advice on the terms of the fisher's work agreement before it is concluded; a copy shall be provided to the fisher, shall be carried on board and be available to the fisher and, in accordance with national law and practice, to other concerned parties on request (C.188, Arts 17 and 18).

The **ILO's Committee of Experts on the Application of Conventions and Recommendations** has noted that, in some countries, model employment contracts or standard terms of employment for migrant workers, including migrant domestic workers and migrant workers in the agriculture sector, are used or are being developed. It has indicated that the provisions of these contracts should be established in consultation with the most representative organizations of workers and employers, with a view to also hearing the voices of migrant workers. Model contracts of employment should be made available free of charge to migrant workers, and should be in a language familiar to them.[91]

91 ILO, General Survey concerning the Migrant Workers Instruments 2016, para. 220.

Main ILO standards of reference

Standards on migrant workers

- Migration for Employment Convention (Revised), 1949 (No. 97), Appendix I, art. 5, and Appendix II, Article 6
- Migration for Employment Recommendation (Revised), 1949 (No. 86), Model Agreement, Article 22.

Other relevant standards

- Domestic Workers Convention, 2011 (No. 189), Articles 7–8
- Domestic Workers Recommendation, 2011 (No. 201), Paragraph 6(1–4)
- Plantations Convention, 1958 (No. 110), Article 10
- Work in Fishing Convention, 2007 (No. 188), Articles 16–18 and Annex II

Further reading:

- *General Survey concerning the Migrant Workers Instruments 2016*
- *General Survey on Nursing Personnel and Domestic Workers 2022*
- *ILO Guidelines for fair labour market services for migrant fishers 2025*

1.4. Facilitated departure

When migrant workers leave their own country, especially for the first time, they usually need help to cope with the practical and administrative steps involved.

Besides the measures outlined in the previous sections, ILO standards on **labour migration** also prescribe that migrant workers should receive assistance from the public authorities to deal with documentation and other formalities relating to the immigration process. These services should be provided free of charge (C.097, Arts 2 and 4; Annex I, Arts 4 and 6; and Annex II, Arts 4 and 7).

More generally, States are required to facilitate departure, including by not imposing restrictions or bans (see also Part II, section 4, on equality and non-discrimination above, and Part III, section 2.9, on freedom of movement below).

Spotlight on regional and national contexts

Indonesia and **Malaysia**, respectively lifted bans for women and men in particular sectors: Law No. 18/2017 on the Protection of Indonesian Migrant Worker set the minimum age for emigration for work in any sector, including domestic work, at 18 years old. This lifted the previous requirement of 21 years. In 2021 Malaysia lifted the restriction for Bangladeshi men to work in construction, plantations and manufacturing, and in 2024 for Indonesian men working in manufacturing.

The ILO standards on **work on plantations** also call for the adoption of measures to facilitate the departure of migrants (C.110, Art. 18).

Main ILO standards of reference

Standards on migrant workers

- Migration for Employment Convention (Revised), 1949 (No. 97), Article 4; Annex I, Articles 4 and 6; and Annex II, Articles 4 and 7.

Other relevant standards

- Plantations Convention, 1958 (No. 110), Article 18

Further reading:

- *General Survey concerning the Migrant Workers Instruments 2016*

1.5. Medical examination

According to the ILO standards on **labour migration** migrant workers and members of their families authorized to accompany them have the right to medical examination and attention before departure, during the journey and on arrival in the destination country (C.097, Art. 5).

The purpose of this provision is twofold: first, to ensure that the migrant is fit to undertake the journey to the country of destination, and second, to avoid the migrant and members of their family completing the journey to the host country only to be refused entry on medical grounds.[92]

The **ILO's Committee of Experts on the Application of Conventions and Recommendations** has indicated that, given the significant developments in transportation over the years, a single medical inspection (preferably on departure) is sufficient.[93] It has also noted that the legislation of some countries prohibits entry or stay on medical grounds to persons with a real or perceived disability. While medical testing and the prohibition of entry of non-nationals on the ground that they may constitute a grave risk to public health is likely to be a routine and a responsible precaution, the exclusion of individuals on certain medical or personal grounds that do not pose a danger to public health or a burden to public funds may constitute discrimination.[94] The CEACR recalled that refusal of entry or repatriation on the grounds that the worker concerned is suffering from an infection or illness of any kind that has no effect on the task for which the worker has been recruited, constitutes an unacceptable form of discrimination.[95]

Specific provisions on medical examination are also contained in the ILO standards concerning specific sectors, such as **work on plantations** and **work in fishing** (C.110, Art. 11; C.188, Arts 10–12).

ILO General Principles and Operational Guidelines on Fair recruitment recommend that workers should not be charged for medical examinations that are part of the recruitment process.[96]

Migrant workers should not be subject to discrimination in the context of medical examinations related to employment. ILO standards on **HIV and AIDS** and on **domestic workers** emphasize the principle that migrant workers, including migrant domestic workers, must not be forced to undergo compulsory or non-confidential medical examinations, such as testing for pregnancy and HIV/AIDS, nor should they be forced to disclose their HIV or pregnancy status (R.200, Paras. 25 and 27; R.201, Para. 3(c)).

92 ILO, General Survey on Migrant Workers 1999, para. 226.
93 ILO, General Survey concerning the Migrant Workers Instruments 2016, para. 249.
94 ILO, General Survey concerning the Migrant Workers Instruments 2016, para. 251.
95 ILO, General Survey concerning the Migrant Workers Instruments 2016, para. 254.
96 See box 15 above.

Furthermore, migrant workers should not be disqualified or dismissed from a job on the basis that they tested positive to these tests, nor should they be excluded from migration by countries of origin, transit or destination on the basis of their real or perceived HIV status (R.200, Paras 26 and 28).

ILO standards on **maternity protection** specifically prohibit employers from requiring women to take pregnancy tests when applying for employment, except where required by national laws or regulations in respect of work that is:

- prohibited or restricted for pregnant or nursing women; or
- where there is a recognized or significant risk to the health of the woman or the child (C.183, Art. 9(2)).

Migrant workers should also enjoy equality of treatment with nationals in respect of women's employment – without discrimination based on nationality, race, sex, or religion – in so far this is regulated in laws and regulations or subject to the control of administrative authorities (C.097, Art. 6(1)(a)(i)))

The **ILO's Committee of Experts on the Application of Conventions and Recommendations** has considered pregnancy testing as a form of discrimination based on sex. It has recalled that women jobseekers must not be required to undergo a test for pregnancy during medical examinations undertaken as part of the recruitment process, except in respect of work that is prohibited or restricted for pregnant or nursing women under national laws or regulations or where there is a recognized or significant risk to the health of the woman and child. The CEACR has also considered that pregnancy testing should be explicitly prohibited in law, as general provisions prohibiting gender or sex discrimination are not sufficient in this regard because they may lead to a lack of legal certainty and may not amount to an effective prohibition against pregnancy testing in practice.[97]

Main ILO standards of reference

Standards on migrant workers

- Migration for Employment Convention (Revised), 1949 (No. 97), Article 5
- Migration for Employment Recommendation (Revised), 1949 (No. 86), Paragraphs 12 and 14
- Migrant Workers (Supplementary Provisions) Convention; 1975 (No. 143), Article 1

Other relevant standards

- Work in Fishing Convention, 2007 (No. 188), Articles 10–12
- Plantations Convention, 1958 (No. 110), Article 11
- HIV and AIDS Recommendation, 2010 (No. 200), Paragraphs 25-28
- Domestic Workers Recommendation, 2011 (No. 201), Paragraph 3(c)
- Maternity Protection Convention, 2000 (No. 183), Article 9(2)
- Discrimination (Employment and Occupation), 1958 (No. 111), Article 1

Further reading:

- *General Survey concerning the Migrant Workers Instruments 2016*
- *General Survey on Achieving Gender Equality at Work 2023*

97 CEACR, General Survey on Achieving Gender Equality at Work 2023, paras 372 ff.; see also: CEACR, Direct Request – Convention No. 97 – Philippines, adopted 2022.

2. On arrival and during the stay

2.1. Customs exemption

Under **labour migration** standards, migrant workers lawfully in a country have the **right to take into their country of employment, free of customs duty: (i) their personal effects; (ii)** the personal effects of family members authorized to accompany or join them; and (iii) the tools of their trade.

Main ILO standards of reference

Standards on migrant workers

- Migration for Employment Convention (Revised), 1949 (No. 97), Appendix III, Article 1

2.2. Assistance in finding suitable employment

The ILO standards on **labour migration** recognize that there may be situations where migrant workers, who upon arrival in the country of destination find themselves confronted with the fact that the employment for which they have been recruited is not suited to their capacities or skills.

In such cases, migrant workers who are lawfully in the territory are entitled to the services of the appropriate public authority to find suitable employment, without paying any fees or administrative costs (C.097, Annex II, Art 10; C97, Art. 7(2)). They should also enjoy effective equality of opportunity and treatment with nationals in respect of access to vocational guidance and placement services, and regarding security of employment, the provision of alternative employment, relief work and retraining (R.151, Para. 2(a) and(d)).

Alternatively, the competent authorities must take steps to ensure the return of the migrant worker to the area of recruitment, so long as the migrant is willing to be returned or previously agreed to such a return at the time of recruitment. If return along these lines is not possible, then the competent authorities must take steps to resettle the worker elsewhere.

If for reasons for which the migrant worker is not responsible, the employment they were recruited for cannot be secured or no other suitable employment can be found, the cost of return shall not be charged to the migrant worker. This cost includes any administrative fees, any transport and maintenance charges to the final destination for the worker and authorized family members, and the transport of the migrant worker's household belongings (C.097, Annex II, Art. 9).

Main ILO standards of reference

Standards on migrant workers

- Migrant Workers Recommendation, 1975 (No. 151), Paragraphs 2(a) and 2(d)
- Migration for Employment Convention (Revised), 1949 (No. 97), Articles 2 and 7(2), and Annex II, Articles 9–10

Further reading:

- *General Survey concerning the Migrant Workers Instruments 2016*

98 See also Convention No. 97, Annex II, Art. 11 regarding migrant workers who are refugees or displaced persons.

2.3. Settling in and integration, including housing

Under the ILO standards on **labour migration**, during an initial period in the country of work, migrant workers lawfully in the country are entitled to any necessary assistance in settling into their new environment. Possible types of service include interpretation, help with documentation and other formalities, and the supply of information and guidance on immediate personal and family concerns (C.097, Annex I, Art. 6, and Annex II, Art. 7).

Additionally, migrant workers should receive information in their mother tongue or, if that is not possible, in a language with which they are familiar, about their rights under national law and practice concerning labour-related matters and living conditions, including benefits linked to social services and educational and health facilities (R.151, Paras 2 and 7 – see further under section 2.8 below).

Measures should be taken to promote migrant workers' adaptation to the society of their country of employment. This includes measures to advance their knowledge of the language or languages of their country of employment, which, as far as possible, should be implemented during paid time (R.151, Para. 23).

The **ILO's Committee of Experts on the Application of Conventions and Recommendations** has indicated that programmes against xenophobia and campaigns to ensure equal opportunity and treatment for migrant workers also form part of the range of measures that States should adopt to facilitate settling in and integration.[99]

Spotlight on regional and national contexts

In **Slovenia**, the Council for the Integration of Foreigners undertakes a number of projects to facilitate the integration of migrant workers from outside the European Union, such as: (1) the development and distribution of a multilingual guide on healthcare; (2) providing and updating information on the legislation on the website of the Ministry of the Interior; and (3) developing programmes to enhance social inclusion and skills acquisition to facilitate entry into the labour market.

Source: CEACR, Direct Request – Convention No. 143 – Slovenia, adopted 2023.

The information and guidance on personal and family concerns of migrant workers referred to above should also include housing.

Ensuring access to adequate housing is particularly crucial for seasonal and temporary workers, such as agricultural workers and live-in domestic workers. In a number of countries, housing is the responsibility of the employer, in particular for certain categories of workers in domestic service, agriculture or construction. Some of these workers have been found to live in overcrowded and unhygienic accommodations that lack basic facilities.[100]

Under the ILO standards on **labour migration** migrant workers lawfully in the country shall enjoy treatment no less favourable than that which is applied to nationals in respect of accommodation (C.097, Art. 6(1)(a)(iii)) (see also section 3.5 below).

The **ILO's Committee of Experts on the Application of Conventions and Recommendations** has indicated that the national housing policy should promote construction of housing and related community facilities with a view to ensuring that adequate and decent housing accommodation and a suitable living environment are made available to all workers and their families, including migrant workers.[101]

99 ILO, General Survey concerning the Migrant Workers Instruments 2016, para. 345.
100 ILO, General Survey concerning the Migrant Workers Instruments 2016, paras 416 ff.
101 ILO, General Survey concerning the Migrant Workers Instruments 2016, para. 419.

Spotlight on regional and national contexts

A Decision of the Supreme Administrative Court of **France** repealed legislative provisions imposing a two-year residence requirement on certain categories of foreigners to benefit from the enforceable right to decent housing. The Court ruled that the decree was not in conformity with Convention No. 97 and had ignored the equality principle by excluding temporary short-term residence permit holders from the enforceable right to housing. (Decision of the Supreme Administrative Court of 11 April 2012 (Conseil d'Etat Ass 11 April 2012, GISTI et FAPIL, No. 322326)

The ILO standards on **workers' housing** provide guidance on ensuring that adequate and decent housing and a suitable living environment are made available to all workers and their families. Special attention should be paid to housing migrant workers and, where appropriate, their families, with a view to achieving as rapidly as possible equality of treatment between migrant workers and national workers in this respect (R.115, Para. 2).

According to the ILO standards on **Domestic workers,** including migrant domestic workers, shall be free to reach agreement with their employer or potential employer on whether to reside in the household (Convention No. 189, Art. 9(a)). When residing in the household, domestic workers shall enjoy decent living conditions that respect their privacy (C.189, Art. 6).

The terms and conditions of domestic workers' employment shall specify the details of any accommodation provided (C.189, Art. 7(h); R.201, Para. 6.2(f)). The accommodation provided should include, taking into account national conditions, the following:

- ✓ a separate, private room that is suitably furnished, adequately ventilated and equipped with a lock, the key to which should be provided to the domestic worker;
- ✓ access to suitable sanitary facilities, shared or private; and
- ✓ adequate lighting and, as appropriate, heating and air conditioning in keeping with prevailing conditions within the household (R.201, Para. 17).

When a domestic worker is required to live in accommodation provided by the household, no deduction may be made from the remuneration with respect to that accommodation, unless otherwise agreed to by the worker (R.201, Para. 14).

Moreover, in the event of termination of employment at the initiative of the employer, for reasons other than serious misconduct, live-in domestic workers should be given a reasonable period of notice and time off during that period to enable them to seek new employment and accommodation (R.201, Para. 18).

The ILO standards concerning **work on plantations** prescribe that where housing forms part of remuneration, all practicable steps shall be taken to ensure that they are adequate and their cash value properly assessed (C.110, Art. 27(3)). The appropriate public authorities shall lay down minimum standards and specifications of the accommodation to be provided, including the minimum size of accommodation, ventilation, and floor and air space, as well as veranda, cooking, washing, storage, water supply and sanitary facilities (C.110, Arts 85–86).

Where housing is provided by the employer, the conditions under which plantation workers are entitled to occupancy shall be not less favourable than those established by national custom or national legislation. Whenever a resident worker is discharged, they shall be allowed a reasonable time in which to vacate the house (C.110, Art. 88).

Concerning **work in fishing**, the related ILO standards prescribe that accommodation on board fishing vessels needs to be of sufficient size and quality and appropriately equipped for the service of the vessel and the length of time the fishers will be living on board. In particular, measures shall address, among others, hygiene and overall safe, healthy and comfortable conditions; ventilation; excessive noise; location; size; equipping of sleeping rooms; sanitary facilities; and procedures for responding to complaints in this regard (C.188, Art. 26; for further details, see also C.188, Annex III, and R.199).

Spotlight on regional and national contexts

In **Singapore**, after the COVID pandemic, the Government conducted a comprehensive review of existing dormitory standards in consultation with public health and infectious diseases experts, and adopted the Improved Standards for New Migrant Worker Dormitories which provide for:

- reducing intermixing among dormitory residents by modularizing dormitory living and segmenting communal facilities (for example, cooking, dining and laundry facilities);
- improving ventilation of dormitory rooms and toilets to reduce virus accumulation within enclosed areas; and
- more spacious rooms (at least 4.2 square metres of living space per resident) and in-room Wi-Fi coverage to allow them to communicate with their families and friends.

Source: Singapore, MOM, "Press Release on Improved Standards for New Migrant Worker Dormitories to Strengthen Public Health Resilience and Enhance Liveability", 17 September 2021.

Main ILO standards of reference

Standards on migrant workers

- Migration for Employment Convention (Revised), 1949 (No. 97), Article 6(1)(a)(iii); Appendix I, Article 6(c); and Appendix II, Article 7(c)
- Migrant Workers Recommendation, 1975 (No. 151), Paragraphs 2, 7 and 23

Other relevant standards

- Workers' Housing Recommendation, 1961 (No. 115)
- Domestic Workers Convention, 2011 (No. 189), Articles 6, 7(h) and 9(a)
- Domestic Workers Recommendation, 2011 (No. 201), Paragraphs 5(2), 6(2)(f), 14(c–d) and 17–18
- Plantations Convention, 1958 (No. 110), Articles 27(3) and 85–88
- Work in Fishing Convention, 2007 (No. 188), Articles 25–26 and 28, and Annex III
- Work in Fishing Recommendation, 2007 (No. 199), Paragraphs 16–34 and 47(l)

Further reading:

- *General Survey concerning the Migrant Workers Instruments 2016*
- *Home Truths: Access to Adequate Housing for Migrant Workers in the ASEAN Region*

2.4. Property rights

The ILO standards on **Labour migration** indicate that bilateral agreements between countries of origin and destination should make provision for the acquisition, possession and transmission of rural and urban property by migrant workers. At any rate, migrant workers in a regular situation should be given a reasonable period of time to dispose of their property before they have to go back to their home country (R.086, Para. 18).

Main ILO standards of reference

Standards on migrant workers

- Migration for Employment Recommendation (Revised), 1949 (No. 86), Paragraph 18 and Model Agreement, Article 18

2.5. Education and culture

Under the ILO standards **labour migration** migrant workers and their family members lawfully within the country are entitled to equality of treatment and opportunity in respect of education and cultural rights. They have the right to participate in the cultural life of the country on a basis of equality with nationals, while at the same time having the right to maintain and practice their own culture (C.143, Arts 10 and 12(f); R.151, Para. 7(c)).

States shall take steps to assist and encourage the efforts of migrant workers and their families to preserve their national and ethnic identity and their cultural ties with their country of origin, including the possibility for the children of migrant workers to be given some knowledge of their mother tongue (C.143, Art. 12(f)). Moreover, measures should be adopted to allow migrant workers and their families to learn the language of the host country (R.151, Para. 7(c)).

Spotlight on regional and national contexts

In **Italy**, the Unified Text of Legislative Decree No. 286 of 25 July 1998 on migration contains specific provisions directed at ensuring the right to education of migrants, including intercultural education.

The Organic Law 4/2000 on the rights and freedoms of foreigners and their social Integration of **Spain** establishes that public authorities must promote access of foreign residents to education to facilitate their social integration, while recognizing and respecting their cultural identity (section 9(4)).

The **African Union** Model Law provides that migrant workers with regular status shall enjoy equality of opportunity and treatment with national workers in respect of cultural rights (Article 10 (3)(b))

Main ILO standards of reference

Standards on migrant workers

- Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), Articles 10 and 12(f)
- Migrant Workers Recommendation, 1975 (No. 151), Paragraphs 2 and 7

2.6. Transfer of funds to home country

Under the ILO standards on **labour migration**, migrant workers have the right to transfer their earnings and savings as they wish. Such transfers must respect national laws and regulations concerning the import and export of currencies (C.097, Art. 9). These transfers enable migrant workers to contribute substantially to the welfare of their family members who have stayed behind in the home country.

The **ILO's Committee of Experts on the Application of Conventions and Recommendations** has emphasized that migrant workers shall have the right, but not the obligation, to transfer such part of their earnings and savings as they may desire.[102] It has also recalled that requiring nationals working abroad to transfer a certain percentage of their earnings or savings to the country of origin government is contrary to the clear intent of Article 9 of Convention No. 97. Furthermore, it has stressed the importance of reducing remittance costs in the context of the debate on effective governance of international labour migration, referring to Sustainable Development Goal target 10.c of the 2030 United Nations Sustainable Development Agenda, which aims to reduce to less than 3 per cent the transaction costs of migrant remittances by 2030.[103]

The ILO standards concerning the **protection of wages** embed the principle of the freedom of the worker to dispose of their own wages as they deem appropriate (C.095, Art. 6). The same principle is also reflected in the labour standards concerning **work on plantations** (C.110, Art. 29).

The **ILO's Committee of Experts on the Application of Conventions and Recommendations** has underscored that the system of compulsory remittance occasionally imposed on workers employed abroad serves as a reminder of the real risk of abuse to which the most vulnerable categories of workers may be subjected, and of the need to forcefully reaffirm the inalienable character of the right of workers to receive their wages directly and in full, and to spend them as they please.[104]

ILO standards concerning **work in fishing** require States to ensure that all fishers working on board fishing vessels be given a means to transmit all or part of their payments received, including advances, to their families at no cost (C.188, Art. 24).

Main ILO standards of reference

Standards on migrant workers

- Migration for Employment Convention (Revised), 1949 (No. 97), Article 6(1)(a)(iii); Appendix I, Article 6(c); and Appendix II, Article 7(c)
- Migrant Workers Recommendation, 1975 (No. 151), Paragraphs 2, 7 and 23

Standards on migrant workers

- Migration for Employment Convention (Revised), 1949 (No. 97), Article 9

Other relevant standards

- Protection of Wages Convention, 1949 (No. 95), Article 6
- Plantations Convention, 1958 (No. 110), Article 29
- Work in Fishing Convention, 2007 (No. 188), Article 24

102 CEACR, Direct Request – Convention No. 97 – Philippines, adopted 2022.
103 CEACR, Observation – Convention No. 97 – Barbados, adopted 2021.
104 CEACR, Direct Request – Convention No. 95 – Philippines, adopted 2023.

2.7. Family reunification and visits

Under the ILO standards on **labour migration**, States may take all possible measures to facilitate family reunion (that is, for spouses and dependent children, father and mother) (C.143, Art. 13; R.151, Para. 13). In cases where families cannot be reunited, migrant workers who have been lawfully employed for at least one year should be allowed to visit their families during the paid annual holiday to which they are entitled. Alternatively, the family should be allowed to visit the worker for a period corresponding to at least the paid annual holiday to which the worker is entitled (R.151, Para. 17).

Main ILO standards of reference

Standards on migrant workers

- Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), Article 13
- Migrant Workers Recommendation, 1975 (No. 151), Paragraphs 13–19

2.8. Social services

Migrant workers and their families may encounter several challenges upon arrival and afterwards in the country of destination. They often need advice and assistance (on housing, schooling, health, public services and so on) to facilitate their adaption to an unfamiliar situation. This may include access to social services provided by public authorities, trade unions or voluntary organizations – which should be free of charge and adapted to their needs.

The ILO standards **labour migration** recommend that migrant workers and members of their family should benefit from, and enjoy equal access with nationals to, social services activities. Additionally, such social services should assist migrant workers in adapting to the new social, economic and cultural environment of the host country. This would normally include helping migrants to:

- obtain information and advice from appropriate bodies;
- comply with administrative formalities; and
- make full uses of services and facilities in education, vocational training, language training, health services, social security, housing, transport and recreation.

Services should be offered, as far as possible, in the native language of the workers concerned or in a language with which they are familiar, or otherwise with interpretation and translation facilities – particularly in relation to legal assistance or in the context of court proceedings. These services should be provided free of charge (R.151, Paras 23–24).

The ILO standards on **forced labour** also emphasize that victims of forced labour and trafficking in persons – who are often migrants – should be able to access medical and psychological assistance, as well as special rehabilitative measures, with particular attention paid to those who have been also victims of sexual violence (R.203, Para. 9).

Spotlight on regional and national contexts

Spotlight on regional and national contexts

In **Spain**, emergency housing and police protection are available to migrant women, including those in irregular situations, if they report a complaint of physical abuse[1]

In **Georgia**, the Agency of State Care and Assistance of (Statutory) Victims of Human Trafficking provides various assistance services to presumed victims and victims of trafficking, such as accommodation, legal aid and consultation, medical and psychological assistance, and compensation.[2]

In **Mozambique**, victims of trafficking can benefit from emergency shelters operating under the responsibility of the Ministry of Gender, Child and Social Action, which offers appropriate housing, medical and psychological assistance and (sometimes) vocational training.[3]

[1] ILO, General Survey on Nursing Personnel and Domestic Workers 2022.
[2] CEACR, Direct Request – Convention No. 29 – Georgia, adopted 2023.
[3] CEACR, Observation – Convention No. 29 and Protocol of 2014 to the Forced Labour Convention, 1930 – Mozambique, adopted 2020.

▶ Box 15. Migrant workers and social services on HIV/AIDS

Migrant workers may be vulnerable to infection and less able to cope with HIV/AIDS because of difficulties in seeking voluntary testing, counselling, treatment or support. They may also not be easily in a position to take part in advocacy and prevention campaigns.

The **HIV and AIDS Recommendation, 2010 (No. 200)**, establishes as a general principle that workers, their families and their dependants should have access to and benefit from prevention, treatment, care and support in relation to HIV and AIDS, and that workplaces should play a role in facilitating access to these services (Para. 3).

While any routine medical testing in either the origin or destination country to determine medical fitness to work should not include mandatory HIV testing (see further in Part III, section 1.5 above), employers, migrant workers and their representatives should encourage confidential voluntary HIV counselling and testing that is provided by qualified health services. Moreover, migrant workers should benefit from programmes to prevent specific risks of occupational transmission of HIV and related transmissible diseases, such as tuberculosis.

Accurate, up-to-date, relevant and timely information, including on HIV prevention and treatment, should be made available and accessible to all in a culturally sensitive format and language through the different channels of communication available (Recommendation No. 200, Para. 16(a)).

Migrant workers with HIV-related illness should not be denied the possibility of continuing to carry out their work – with reasonable accommodation, if necessary – for as long as they are medically fit to do so. Measures to redeploy such persons to work reasonably adapted to their abilities, to find other work through training or to facilitate their return to work should be encouraged (Recommendation No. 200, Para. 13).

Measures to ensure access to HIV prevention, treatment, care and support services for migrant workers should be taken by countries of origin, of transit and of destination, and agreements should be concluded among the countries concerned, whenever appropriate (Recommendation No. 200, Paras 17–20, and ILO Code of Practice on HIV/AIDS and the World of Work).

See also: ILO, *An ILO Code of Practice on HIV/AIDS and the World of Work*, 2001, and sectoral guidance available at: ILO, "HIV and AIDS".

Main ILO standards of reference

Standards on migrant workers

- Migration for Employment Convention (Revised), 1949 (No. 97), Article 2
- Migrant Workers Recommendation, 1975 (No. 151), Paragraphs 2, 7(1)(a) and 23–24.

Other relevant standards

- Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203), Paragraph 9

Further reading:

- *General Survey concerning the Migrant Workers Instruments 2016*

2.9. Freedom of movement

The ILO standards on **Labour migration** recognize that migrant workers must be free to move at any time from one place to another in the country of work, provided that they have been regularly admitted to within the territory (C.143, Art. 14(a))) This means, for example, that they should be allowed to go out for socialization or leisure outside of their workplace during their non-working hours (including at night) and travel to visit family or friends in the host country or their home country during holidays or leave. They should not be locked up or confined to their workplace.

Migrant workers' right to geographical mobility is subject only to limitations that apply also to national workers (C.143, Art. 14(a)). "Zoning policies" that exist in some countries and restrict the movements of certain categories of migrant workers to certain zones, cities or provinces, are not in line with international labour standards.

The ILO's **Committee of Experts on the Application of Conventions and Recommendations** has recalled that the right to geographical mobility must be ensured whatever the duration of residence or employment, and that some countries continue to impose restrictions on geographical mobility.[105]

According to the ILO standards on **forced labour**, restrictions on freedom of movement and the retention of passports are considered to be means of coercion and abusive practices that could amount to the exaction of forced labour. [106]

The ILO's **Committee of Experts on the Application of Conventions and Recommendations** has recalled that the practice of confiscation of work permits or seafarers' identity documents (SIDs) is a serious problem that may increase migrant fishers' vulnerability to abuse, by leaving them undocumented, reducing their freedom of movement and preventing them from leaving an employment relationship. Penalties substantial enough to dissuade the confiscation of work permits or SIDs should be imposed on employers who engage in such practices.[107]

Many migrant domestic workers live in the households in which they work, and sometimes in precarious working and living conditions. Domestic workers, including migrant domestic workers, should have the right to negotiate where they reside, both before and after the establishment of an employment relationship.

ILO standards concerning **domestic workers** prescribe that States shall take measures to ensure that domestic workers who reside in the household are not obliged to remain in the household or with household members during periods of daily and weekly rest or annual leave. Domestic workers should also be entitled to keep in their possession their travel and identity documents (C.189, Art. 9(b) and (c)).

105 CEACR, Direct Request – Convention No. 143 – Tajikistan, adopted 2014; CEACR, Observation – Convention No. 143 – Benin, adopted 2024.
106 CEACR, Direct Request – Convention No. 29 – Singapore, adopted 2023. See also: ILO, *ILO Indicators of Forced Labour*, 2012.
107 CEACR, Observation – Convention No. 29 and Forced Labour Protocol of 2014 – Thailand, adopted 2019.

Spotlight on regional and national contexts

In **Argentina**, Act No. 26.844 de 2013 (Régimen Especial de Contrato de Trabajo para el Personal de Casas Particulares), provides in section 32 that live-in workers may decide to take annual holidays and leave the place of work, and that any allowances for accommodation and board provided by the employer must be replaced by payment of the equivalent sum in money.

In **Switzerland**, in accordance with section 4.7.15.2 of the Directives of the Federal Act on Foreign Nationals (LEtr), the parties are free to agree whether or not domestic workers will live in. If domestic workers live in the employer's residence, they are not required to stay in the house during rest periods or holidays.

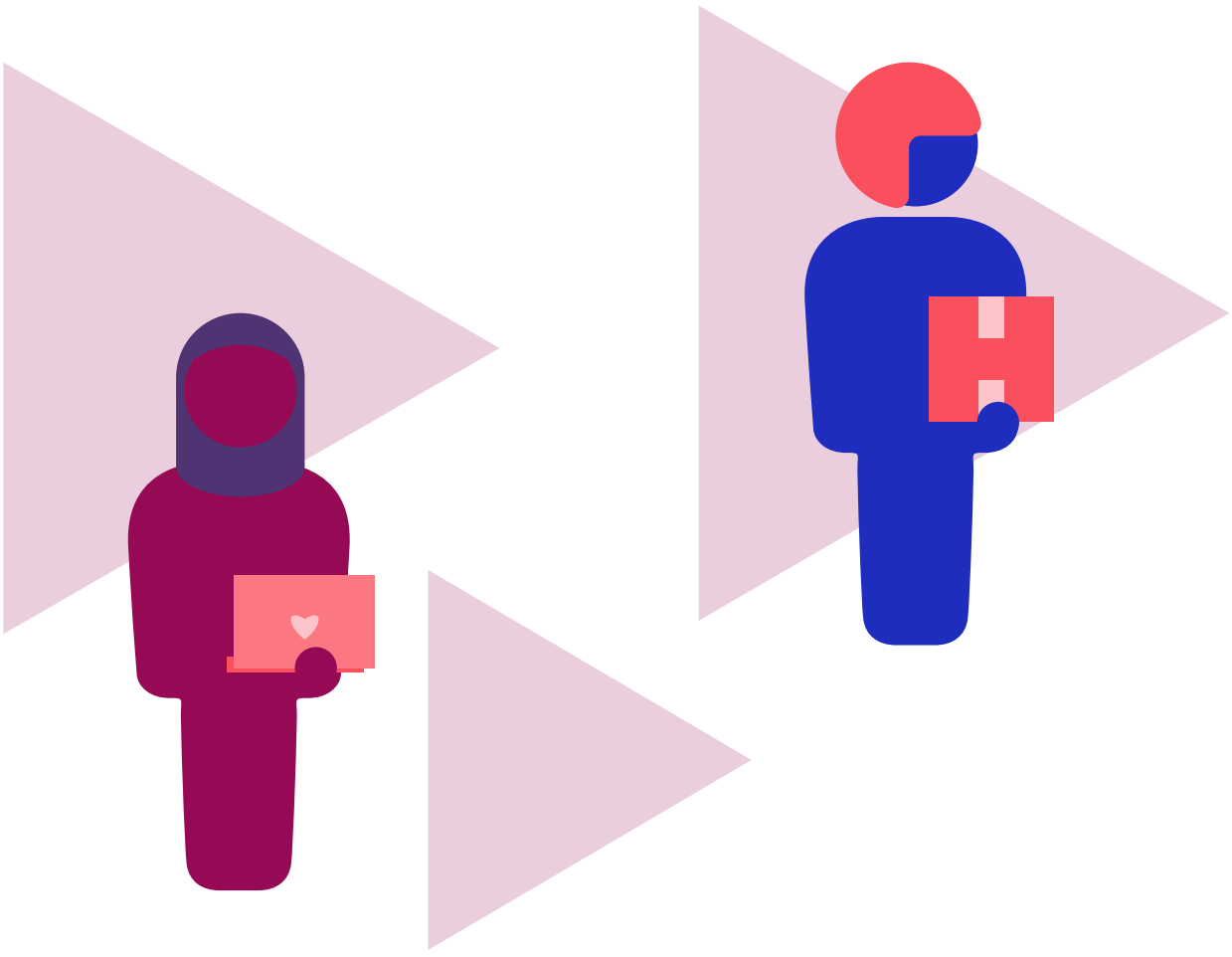
Main ILO standards of reference

Standards on migrant workers

- Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), Article 14(a)

Other relevant standards

- Forced Labour Convention, 1930 (No. 29)
- Protocol of 2014 to the Forced Labour Convention, 1930
- Domestic Workers Convention, 2011 (No. 189), Article 9(b) and (c)



3. Equality of opportunity and treatment with nationals

All migrant workers should be protected against discrimination in employment and occupation as defined in Convention No. 111 (see also Part II, Section 4). However, migrant workers often encounter discrimination and unequal treatment in employment on multiple intersecting grounds, including nationality and migrant status.

The ILO standards on **labour migration**, in particular Convention No. 97, require, at a minimum, the repeal of legal provisions or administrative practices that discriminate against migrant workers who are regularly admitted in respect of a number of areas, including conditions of work, social security, accommodation, trade union membership and collective bargaining (C.097, Art. 6). The Convention does not, however, deal with access to employment and access to different occupations.[108]

The most recent labour migration standards - Convention No. 143 and Recommendation No. 151, which expand on the principles of Convention No. 97 and Convention No. 111, provide that migrant workers who are regularly admitted to the country shall enjoy equality of opportunity and treatment with nationals in respect of employment and occupation, including in relation to:

- access to vocational guidance and placement services;
- access to vocational training and employment;
- security of employment;
- remuneration for work of equal value;
- conditions of work;
- social security; and
- trade unions rights (C.143, Art. 10; R.151, Para. 2).

States are required to pursue and implement a national policy to promote and guarantee such equality of opportunity and treatment, including by:

- seeking the cooperation of workers' and employers' organizations;
- enacting legislation and promoting educational programmes;
- taking measures aimed at familiarizing migrant workers with the national equality policy; and
- repealing discriminatory law and administrative action, among others (C.143, Arts 10 and 12).

While the implementation of certain measures under the national policy may be progressive, the implementation of others should be immediate, notably the repeal of any discriminatory laws and practices.

The **ILO's Committee of Experts on the Application of Conventions and Recommendations** has indicated that the exclusion of certain categories of workers or certain occupations from the scope of protection of labour or employment laws may constitute a significant obstacle to the effective implementation of the principle of equality and non-discrimination. This is sometimes the case for domestic workers, workers in agriculture (particularly workers on family farms and other small agricultural undertakings), and casual or temporary workers.[109]

108 This subject is instead covered by Paragraph 16 of Recommendation No. 86.
109 ILO, General Survey concerning the Migrant Workers Instruments 2016, para. 329.

Main ILO standards of reference

Standards on migrant workers

- Migration for Employment Convention (Revised), 1949 (No. 97), Article 6
- Migration for Employment Recommendation (Revised), 1949 (No. 86), Paragraph 16.
- Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), Articles 10 and 12
- Migrant Workers Recommendation, 1975 (No. 151), Paragraph 2

Other relevant standards

- Discrimination (Employment and Occupation) Recommendation, 1958 (No. 111), Paragraph 8

Further reading:

- *General Survey concerning the Migrant Workers Instruments 2016*
- *General Survey on the Fundamental Conventions 2012*

3.1. Employment opportunities

ILO standards on **labour migration** provide that once a migrant worker has been admitted to a country for the purpose of employment, he or she must enjoy equality of opportunity and treatment in respect of access to employment (C.143, Art. 10). Only certain restrictions to the principle of equality of treatment with regard to access to employment may be allowed (see section 3.1.1 below).

The fact that a migrant worker is recruited for a particular job does not mean that the worker must remain in the same position regardless of experience, ability or conduct. Migrant workers should be given the same opportunities for promotion and advancement as nationals of the country (R.151, Para. 2(c)). Given equal qualifications, women should also have equal opportunities to men in this regard.

Moreover, family members of migrant workers lawfully within the country should also enjoy equality of treatment and opportunity in respect of access to employment (C.143, Art. 10; R.151, Para. 2).

Main ILO standards of reference

Standards on migrant workers

- Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), Article 10
- Migrant Workers Recommendation, 1975 (No. 151), Paragraph 2
- Migration for Employment Recommendation (Revised), 1949 (No. 86), Paragraph 16.

Other relevant standards

- Discrimination (Employment and Occupation) Recommendation, 1958 (No. 111), Paragraph 8

3.1.1. Free choice of employment

In many countries, work permits for temporary migrant workers are issued for a given occupation or sector, for a specific employer, or for a particular post in an enterprise (at least during an initial period, but also for longer). Often migrants may be authorized to change employer only after an examination of the labour market. In other cases, employers may be authorized to employ migrant workers only if it is warranted by the labour market situation or if certain quotas have not been exceeded. However, many migrant workers – especially those employed under temporary labour migration schemes – typically have very limited possibilities to change employment.[110]

The ILO standards on **Labour migration** allow for certain restrictions to the principle of free choice of employment. However, any general restrictions on free choice of employment may only be temporarily authorized for a specific period not exceeding two years. After this period, migrant workers who have been regularly admitted should be granted free choice of employment. If the host country permits fixed-term contracts of less than two years, free choice of employment should be granted after the migrant worker has completed their first contract (C.143, Art. 14(a)).

The **ILO's Committee of Experts on the Application of Conventions and Recommendations** has highlighted that employment restrictions may include both work permits issued for a certain job or a given employer, as well as indirect restrictions stemming from the requirement that the employer obtain an authorization to employ a foreign worker. In both cases, the restrictions should not exceed the two-year maximum stipulated in Article 14(a) of Convention No. 143. Employment priorities in favour of national workers or workers belonging to certain regional groups should also not exceed two years' duration.[111] The CEACR has also addressed the case of temporary work permits for third-country nationals in the European Union that are tied to the specific occupation and employer mentioned in the employment contract. Under such permits, workers are limited when it comes to changing their employer, as they must find a new role in the same occupation or economic activity. The CEACR has indicated that restricting the right to change employment to a specific occupation or economic activity limits the access of migrant workers to employment beyond the maximum period permitted in labour migration standards.[112]

While labour migration standards allow for certain temporary restrictions to the free choice of employment, this restriction period should not impact migrant workers' enjoyment of their fundamental rights at work, nor should it affect equality of treatment in respect of matters covered in Convention No. 97, such as conditions of work, remuneration, accommodation, membership in trade unions, or access to legal proceedings, for example. The ILO supervisory bodies have on several occasions expressed concern that the lack of flexibility under certain employment permit systems when it comes to workers' ability to change employment may impede the full enjoyment of the rights guaranteed in the ILO's ten fundamental Conventions (see Part II above).

The **ILO's Committee of Experts on the Application of Conventions and Recommendations** has emphasized that workers should be allowed to terminate their employment without the consent of their employer at certain intervals or after having given reasonable notice during the duration of the contract.[113] Terms and conditions relating to termination of employment, including any notice period by the worker or the employer, must be indicated in the employment contract.[114] The CEACR further noted that it was important that foreign worker employment systems, including sponsorship systems, be kept under regular review with a view to assessing whether appropriate flexibility to change workplaces is being provided in practice for all migrant workers, including allowing migrant workers the possibility of changing employers when a judgment is pending. The Committee also recalled the importance of taking effective action to ensure that systems governing the employment of migrant workers, especially migrant domestic workers, do not place the workers concerned in a situation of increased vulnerability, particularly when they are subjected to abusive employer practices, such as retention of passports, non-payment of wages, deprivation of liberty, and physical and sexual abuse.[115]

110 See also: ILO, Synthesis report - Temporary labour migration: Unpacking complexities, 2022), pages 27-28.
111 ILO, General Survey concerning the Migrant Workers Instruments 2016, para. 365.
112 CEACR, Direct Request – Convention No. 143 – Cyprus, adopted 2013.
113 See, for example, CEACR, Observation – Convention No. 29 – Lebanon, adopted 2023.
114 See, for example, Convention No. 189, Art. 7.

▶ Box 16. Employer-tied immigration and work permits

Sponsorship systems, like the "kafala" system,[1] may be conducive to the exaction of forced labour, as workers may refrain from bringing complaints out of fear of retaliation and sanctions for leaving their employers (see Part II, section 2, above). Sponsorship systems severely restrict the possibility of migrant workers changing employers/sponsors and provide employers with the opportunity to exert disproportionate power over workers, which could result in discrimination (see Part II, section 4, above).[2] Migrant domestic workers – notably women – have been particularly affected by restrictive sponsorship systems, which render them vulnerable to abusive working conditions, including non-payment of wages, long working hours, confiscation of their passports, and physical and psychological abuse, including sexual violence.[3] In recent years, there have been positive developments in some countries reforming the central elements of the kafala system, allowing among others more flexibility for migrant workers to change jobs[4] (see below)

[1] Under kafala systems, a migrant worker's immigration and legal residency status is tied to an individual sponsor (kafeel) throughout his or her contract period in such a way that the migrant worker cannot typically enter the country, resign from a job, transfer employment or leave the country without first obtaining explicit permission from their employer.
[2] See, for example, CEACR, Observation – Convention No. 111 – Kuwait, adopted 2023.
[3] See, for example, CEACR, Observation – Convention No. 111 – Lebanon, adopted 2022.
[4] See for example: CEACR, Observation – Convention No. 29 – Oman, adopted 2024; CEACR, Observation – Convention No. 29 – Qatar, adopted 2024, and box 15;

Spotlight on regional and national contexts

In **Oman**, the visa-sponsorship system, established under the Foreign Residence Act No. 16/95, as amended in 2020, allows foreign workers to transfer their residency from one employer (sponsor) to another employer who is licensed to recruit workers. Transfers are permitted if there is proof that the worker's previous employment contract has ended or been terminated, and if the competent government agency approves the new contract with the second employer. The new Labour Law, promulgated by Royal Decree No. 53 of 2023, continues to allow all workers, including foreign nationals, to terminate indefinite employment contracts at any time with a legitimate reason and upon written notice (section 38). Section 41 outlines valid reasons for leaving without notice or before a fixed-term contract ends, such as employer fraud, non-payment of wages for over two months, physical assault by the employer, or serious workplace safety threats that the employer knew about but did not address.[1]

[1] CEACR, Observation – Convention No. 29 – Oman, adopted 2024.

A country may continue to restrict migrant workers' access to limited categories of employment or functions where this is necessary in the interests of the State (for example, civil service functions linked to security and defence) (C.143, Art. 14(c)).

The **ILO's Committee of Experts on the Application of Conventions and Recommendations** has indicated that general prohibitions as regards the access of foreigners to the public service, when permanent, are contrary to the principle of equal treatment unless they apply to limited categories of occupations or public services and are necessary in the interest of the State. Such general prohibitions are thus to be limited only to occupations or functions which, if opened to foreign workers, could present a risk to the interests of the State.[116] In certain cases, the Committee has requested the government concerned to examine the list of "protected" occupations in light of Article 14(c) of Convention No. 143 and to alter the list accordingly.[117]

116 CEACR, Direct Request – Convention No. 143 – Benin, adopted 2024; CEACR, Direct Request – Convention No. 143 – Madagascar, adopted 2023; CEACR, Direct Request – Convention No. 143 – Cyprus, adopted 2019.
117 CEACR, Direct Request – Convention No. 143 – Mauritania, adopted 2024.
115 ILO, General Survey concerning the Migrant Workers Instruments 2016, paras 468–469.

Main ILO standards of reference

Standards on migrant workers

- Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), Articles 14(a) and 14(c)
- Migration for Employment Recommendation (Revised), 1949 (No. 86), Paragraph 16.

3.2. Recognition of qualifications obtained abroad

The employment opportunities of migrant workers are often reduced because the skills they have acquired in their home country are not recognized abroad. Governance of migration would become much more efficient and effective if skills standards and certification systems of countries of origin and destination could be harmonized.

The ILO standards on **Labour migration** refer to the possibility for States, after consulting the representative organizations of employers and workers, to make regulations concerning the recognition of occupational qualifications acquired outside their territories, including certificates and diplomas (C.143, Art. 14(b)).

ILO standards on **human resources development** consider that special provisions should be designed to ensure recognition and certification of skills and qualifications for migrant workers (R.195, Para. 12).

The ILO standards on **employment and decent work for peace and resilience** also call upon countries to facilitate the recognition, certification, accreditation and use of the skills and qualifications of refugees through appropriate mechanisms, and to provide access to tailored training and retraining opportunities, including intensive language training (R.205, Para. 33(c)).

The **ILO's Committee of Experts on the Application of Conventions and Recommendations** has emphasized that one prerequisite to being capable of competing with nationals in accessing employment is to have qualifications that are recognized in the country of employment.[118]

Spotlight on regional and national contexts

The West African Health Organization (WAHO), a specialized institution of the **Economic Community of West African States (ECOWAS)**, has created the P10 programme on human resources in the health sector, which aims to facilitate the training, use and free movement of health professionals in the ECOWAS region.

For Member States of the **European Union**, Directive 2005/36/EC of the European Parliament and the Council on the Recognition of Professional Qualifications consolidated a system of mutual recognition that provides for: automatic recognition of a limited number of professions based on harmonized minimum training requirements (sectoral professions); a general system for the recognition of evidence of training; and automatic recognition of professional experience. Under this Directive, automatic recognition applies to seven sectoral professions, including that of general care nurse.

In 2006, all **ASEAN** Member States signed the ASEAN Mutual Recognition Arrangements (MRAs) on Nursing Services. Under the MRAs, individual Members may recognize the licenses of other Members. Nurses in one ASEAN Member State may apply to be registered in another if they meet certain criteria, including: evidence of a minimum qualification (bachelor's degree in nursing); registration in a Member State; evidence of three years of safe practice; and ethical and other criteria. There is no intention to create a regional professional register for nurses. Instead, each of the ASEAN Member States uses different procedures to facilitate foreign nurse registration. The objective is to facilitate the free movement of professionals in the region and to strengthen professional capabilities by promoting the flow of information and permitting the exchange of experiences and expertise.[1]

118 ILO, General Survey on Migrant Workers 1999, para. 531.

In 2008, the Member States of the Southern Common Market (**MERCOSUR**) adopted the Multilateral Agreement on the Recognition of University Degrees for the Exercise of Regulated Professions. This agreement – signed by Argentina, Brazil, Paraguay and Uruguay – aims to simplify and harmonize procedures for recognizing academic qualifications in regulated professions, such as medicine, engineering and law. The agreement facilitates cross-border professional mobility by establishing common criteria and mutual trust in the quality of tertiary education systems. The agreement has helped reduce bureaucratic barriers and made it easier for professionals to move and practice within the region.

Chile's National System for the Recognition of Foreign Qualifications was significantly reformed in 2016 to respond to increasing migration flows, especially from Latin America. Administered by the Ministry of Education and designated universities, the system allows migrants to have their foreign degrees recognized for employment and professional licensing. In 2020, during the COVID-19 pandemic, Chile introduced temporary fast-track procedures to accelerate recognition for health professionals, particularly for doctors and nurses from Venezuela, Colombia and Haiti. These reforms have helped integrate skilled migrants into the labour market, especially in critical sectors like healthcare and education.

[1] ILO, General Survey on Nursing Personnel and Domestic Workers 2022.

Main ILO standards of reference

Standards on migrant workers

- Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), Article 14(b)

Other relevant standards

- Human Resources Development Recommendation, 2004 (No. 195), Paragraph 12.

Further reading:

- *How to Facilitate the Recognition of Skills of Migrant Workers?*
- *General Practical Guidance on Promoting Coherence among Employment, Education/Training and Labour Migration Policies*
- *The Role of Social Partners in Skills Development, Recognition and Matching for Migrant Workers*
- *Guidelines for Skills Modules in Bilateral Labour Migration Agreements*
- *ASEAN, Vientiane Declaration on Skills Mobility, Recognition and Development for Migrant Workers*

3.3. Conditions of work

3.3.1. Remuneration

Wage inequalities between migrant workers and nationals are significant in many countries. The most recent estimates by the ILO indicate, for example, that migrant workers earn almost 13 per cent less per hour than nationals in high-income countries. Migrant women and migrant care workers pay a double wage penalty. When comparing the hourly wages of migrant women with those of non-migrant men in high-income countries, the pay gap widens to almost 21 per cent. The pay gap between migrant care workers and non-migrant care workers is almost 20 per cent.[119]

Non-compliance with or exclusion of migrant workers from minimum wage legislation is an important factor resulting in less favourable treatment of migrant workers compared to nationals with respect to remuneration. Exclusion from minimum wage coverage can take many forms. In some countries, national provisions may explicitly provide for reduced minimum wage rates for migrant workers. Migrant workers could also be excluded from coverage because they are concentrated in sectors that do not have a minimum wage. In some countries, domestic workers are explicitly excluded from minimum wage legislation.[120]

Under the ILO standards on **labour migration**, at a minimum, laws, regulations and administrative practices shall not treat regular status migrant workers less favourably than nationals with regard to remuneration (C.097, Art. 6). Beyond this, migrant workers should enjoy equality of opportunity and treatment in respect of remuneration for work of equal value (C.143, Art. 10; R.151, Para. 2(e)).

Remuneration must be based on the objective characteristics of a job – such skills, knowledge, working conditions and responsibilities – and not on the sex or the nationality of the majority of workers employed in that job category. To assess whether a migrant worker is receiving equal remuneration for work of equal value, the remuneration must be compared with the remuneration received by citizens in the same job category, as well as by citizens in comparable job categories, taking into account the objective characteristics of the job.

The most recent ILO standards on labour migration further provide that migrant workers whose position could not be regularised should enjoy equality of treatment with regular status migrant workers for themselves and their families in respect of rights arising out of remuneration rights arising out of present and past employment (C.143, Art 9(1)).

Spotlight on regional and national contexts

In **Switzerland**, equal remuneration is a condition for granting a work permit. Under the Federal Act on Foreign Nationals and Integration of 2005, a foreign national may not be admitted in the country for paid employment unless the usual wage and employment conditions for the location, profession and sector are complied with (section 22).[1]

In **France**, section L1262-4 of the Labour Code provides that an employer temporarily posting an employee to the national territory shall guarantee him or her equal treatment with workers employed by companies in the same branch of activity in the national territory, with regard to, inter alia: working hours; compensatory rest; public holidays; paid annual leave; remuneration within the meaning of Article L.3221-3; payment of wages, including overtime pay; rules on occupational safety and health; age of admission to work; and reimbursement for accommodation.[2]

[1] ILO, General Survey concerning the Minimum Wage Fixing Instruments 2014. See also ILO, Minimum Wage Systems, ILC.103/III/1B, 2014, para. 189.
[2] CEACR- Direct Request – Convention No. 97 – France, adopted 2019

According to the ILO standards on **Domestic workers,** these workers, including migrant workers among them, should not be discriminated against in respect of employment and occupation, and in particular, they should enjoy minimum wage coverage, where such coverage exists. Their remuneration should be established without discrimination based on sex (C.189, Arts 3(2)(d) and 11).

119 ILO, *The Migrant Pay Gap: Understanding Wage Differences between Migrants and Nationals*, 2020
120 ILO, *The Migrant Pay Gap*; ILO, General Survey concerning the Migrant Workers Instruments 2016, para. 377.

Regarding **work on plantations**, Convention No. 110, recognizing the considerable number of migrant workers in this sector, prescribes the following in regard to remuneration:

- ✓ Employers and workers concerned must be informed of the minimum rates of wages in force, and that wages must not be paid at less than these rates in all applicable cases (C.110, Art. 25(1).
- ✓ If the minimum wage rate is applicable to a worker but that worker has been paid wages at less than the minimum rate, then the worker should be entitled to recover, by judicial or other appropriate proceedings, the amount that they have been underpaid, subject to any limitations of time specified in law (C.110, Art. 25(2)).

Main ILO standards of reference

Standards on migrant workers

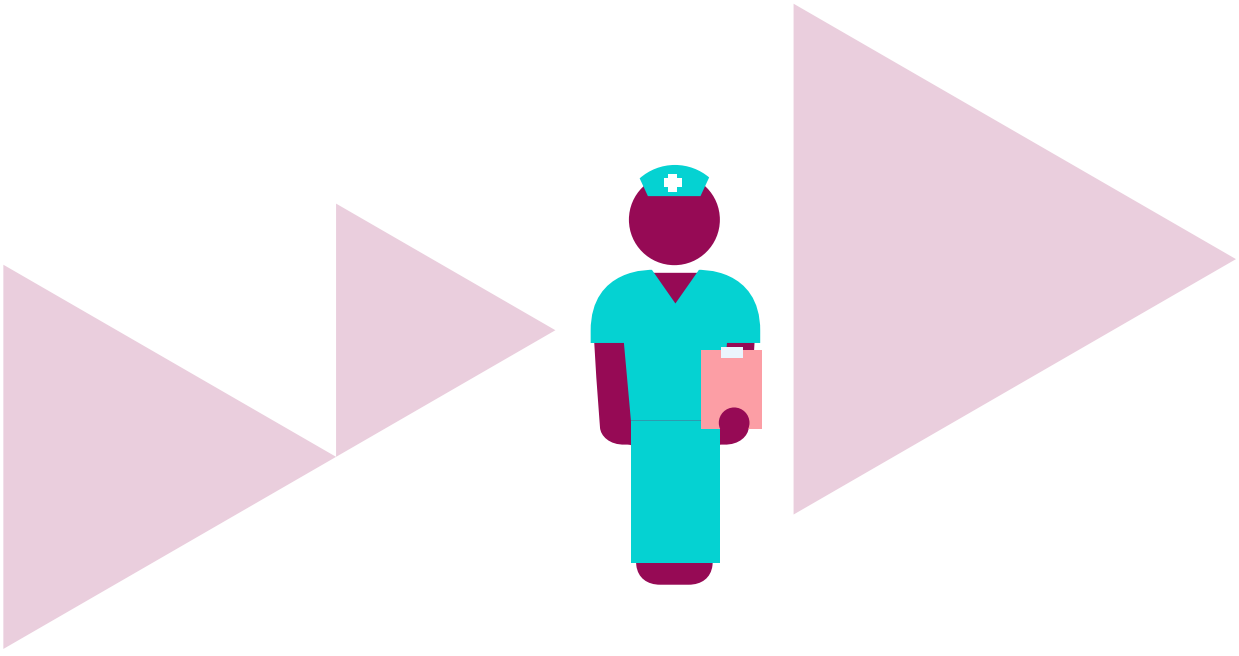
- Migration for Employment Convention (Revised), 1949 (No. 97), Article 6(1)(a)
- Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), Articles 10 and 9(1)
- Migrant Workers Recommendation, 1975 (No. 151), Paragraph 2

Other relevant standards

- Minimum Wage Fixing Convention, 1970 (No. 131)
- Domestic Workers Convention, 2011 (No. 189), Articles 3(2)(d) and 11–12
- Plantations Convention, 1958 (No. 110), Articles 24–25
- Protection of Wages Convention, 1949 (No. 95), Article 4(2)

Further reading:

- *General Survey concerning the Minimum Wage Fixing Instruments 2014*
- *General Survey concerning the Migrant Workers Instruments 2016*
- *The Migrant Pay Gap: Understanding Wage Differences between Migrants and Nationals*



3.3.2. Other working conditions

ILO standards on **labour migration** prohibit to set out in laws, regulations and administrative practices any unequal treatment with regard to working conditions between migrant workers lawfully in the country of employment and nationals (C.097, Art. 6(1)(a)(i)). In addition, active steps are required so as to ensure that migrant workers lawfully in the country of employment enjoy equal treatment and opportunity with regard to working conditions as nationals (C.143, Arts. 10 and 12(g); R.151, Para. 2(f)).

Besides remuneration, conditions of work commonly include:

- hours of work (with some restrictions for young workers);
- rest periods (including breastfeeding breaks);
- overtime arrangements;
- holidays with pay;
- apprenticeship and training;
- protection against toxic substances, dangerous machinery, and noise and vibration;
- protection against violence and harassment at work; and
- welfare facilities and other benefits.

Special attention should be given to women and young workers who are entitled to special protection, including, for instance, setting a minimum age for employment; putting in place restrictions to protect young persons (for example, prohibition of overtime); and providing maternity protection (including maternity leave, maternity benefits and protection against dismissal).

Special provisions concerning conditions of work beyond remuneration are also included in sector-specific ILO standards, including those on **work on plantations** and **work in fishing**. ILO standards on **domestic workers** contains detailed provisions regarding working time, including on call periods, periods of rest and annual leave (C.189, Arts 6 and 10; R.201, Paras 8-13).

Main ILO standards of reference

Standards on migrant workers

- Migration for Employment Convention (Revised), 1949 (No. 97), Article 6
- Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), Articles 10, 12(g) and 9(1)
- Migrant Workers Recommendation, 1975 (No. 151), Paragraph 2

Other relevant standards

- Plantations Convention, 1958 (No. 110), Part V and Part VII
- Domestic Workers Convention, 2011 (No. 189), Articles 6, 10 and 13–14
- Work in Fishing Convention, 2007 (No. 188), Articles 13 ff.

3.4. Social protection

Social protection, or social security, is defined as the set of policies and programmes designed to reduce and prevent poverty, vulnerability and social exclusion throughout the life cycle.[121]

Social security or social protection systems provide economic security to people who face income losses in cases of unemployment, sickness, old age, family responsibilities such as maternity and childcare, invalidity, need for medical care, loss of the family breadwinner, and employment injury. They are commonly financed by the State and/or contributions from employers and employees.

Compared to nationals who work throughout their life in one country, migrants are more likely to face legal and practical obstacles to the exercise of their right to social security and in relation to effectively accessing social protection benefits, including healthcare. Migrant workers may be denied access to social protection coverage in the host country for a variety of reasons, including:

- their migration status or nationality;
- their periods of employment and residence being of insufficient duration;
- inconsistency between social security and migration laws; and
- lack of administrative and financial coordination between the social security schemes of their home and host countries.

Migrants' access to social protection may also be hindered by a lack of information about their rights and obligations and by linguistic and cultural barriers.[122]

The ILO standards concerning **social security** underscore the principle of equality of treatment between nationals and non-nationals and provide that States should aim to establish – through bilateral or multilateral social security agreements – the conditions for the maintenance of acquired rights and rights in the course of acquisition (C.102, Art. 68; C.118, Arts 3 and 7; C.157). These standards also provide for States to grant nationals of other States parties who suffer an employment injury on their territory (and also their dependants) the same treatment as they grant their own nationals, without any condition of residence (C.019) (see further in section 3.4.1 below).

▶ Box 17. ILO social security standards with key provisions for migrant workers' social protection

All international labour standards, including all social security standards, apply to migrant workers unless otherwise specified. The following Conventions and Recommendations are particularly relevant for migrant workers' social protection:

- The **Social Security (Minimum Standards) Convention, 1952 (No. 102)**, is the key international Convention on social security. It defines the nine branches of social security and includes in Article 68 the principle of equality of treatment between nationals and non-nationals.
- The **Social Protection Floors Recommendation, 2012 (No. 202)**, calls on Member States to provide basic social security guarantees to at least all residents and children, as defined in national laws and regulations (Paragraph 6). Thus, these guarantees should be provided at least to migrant workers with residence status, as well as to children, irrespective of their status and that of their parents or guardians.
- The **Equality of Treatment (Social Security) Convention, 1962 (No. 118)**, recognizes the cornerstone principle of equality of treatment between nationals and non-nationals, and provides that ratifying States should aim to establish, through bilateral or multilateral social security agreements, the conditions for the maintenance of acquired rights and rights in the course of acquisition.

121 ILO, World Social Protection Report. Universal Social Protection to Achieve Sustainable Development Goals, 2019, page 2.
122 ILO, Extending Social Protection to Migrant Workers, Refugees, and their Families. A Guide for Policymakers and Practitioners, 2021.

- The **Maintenance of Social Security Rights Convention, 1982 (No. 157)**, enshrines, among other elements, the principle of maintenance of acquired rights and provision of benefits abroad. It also provides for the maintenance of rights in the course of acquisition.
- The **Maintenance of Social Security Rights Recommendation, 1983 (No. 167)**, complements Convention No. 157 and includes a model social security agreement.

In addition, ILO standards on **labour migration** include important provisions on social protection. The principle of equality of treatment is enshrined in both Conventions Nos 97 and 143 and in Recommendation No. 151. At a minimum, migrant workers lawfully in the host country, both those with permanent and temporary residence status, should enjoy treatment no less favourable than that applicable to nationals (C.097, Art. 6(1)(b)). In addition, countries should ensure that migrant workers lawfully in the country of employment enjoy equality of opportunity and treatment with nationals in respect of social security (C.143, Art. 10;)

Conditions such as residency requirements may be imposed to the same extent as they apply to nationals. Exceptions to the equality of treatment are permissible only in two situations: (i) with respect to benefits that are payable solely from public funds; and (ii) concerning benefits paid to persons who do not satisfy the conditions required for a normal pension (C.097; Art. 6(1)(b)(ii)).

Migrant workers in an irregular situation whose position cannot be regularized must, on the basis of their past employment, be able to claim social security benefits under the same conditions as regular status migrant workers (C.143, Art 9(1))

Additionally, any migrant worker, irrespective of migration status, who leaves the country of employment should also be entitled to reimbursement of social security contributions that do not give rise to benefits (R.151, Para. 34).

Countries should conclude bilateral or multilateral social security agreements detailing the methods of applying a system of social security to migrant workers and their dependents, including appropriate arrangements for the maintenance of migrants' acquired rights and rights in course of acquisition (C.118; C.157; R.167, Annex I; R.086, Model Agreement; R.151, Para. 34(1)(c)(ii)).

▶ Box 18. Caribbean Community (CARICOM) Agreement on Social Security.

The CARICOM Agreement on Social Security was signed in 1996, with entry into force as from 1997. The Agreement applies to 13 of the 15 CARICOM Member States and to the five CARICOM Associate Members from British Overseas Territories. The instrument seeks to ensure that nationals of CARICOM countries and territories and their family members have access to social protection benefits while working in another CARICOM country or territory.

The Agreement makes explicit reference to ILO Conventions and to the social security coordination principles enshrined in ILO Conventions – notably Conventions Nos 118 and 157. The Agreement follows the model provisions for the conclusion of multilateral social security agreements contained in the Annex to the ILO Maintenance of Social Security Rights Recommendation, 1983 (No 167).

The CARICOM Agreement covers invalidity, disability, old-age and survivors' pensions and death benefits. It applies to insured migrant workers who are or have been subject to the national legislation of one or more CARICOM Member States and to their dependants and survivors, regardless of nationality. Its provisions also establish the applicable legislation, including for certain categories of insured persons (such as posted workers; the staff of diplomatic missions, consulates and international organizations; and seafarers). The instrument also includes provisions on the settlement of disputes.

According to the ILO standards concerning **domestic workers**, domestic workers, including migrant workers, should enjoy conditions that are not less favourable than those applicable to workers generally in respect of social security protection, including with respect to maternity protection (C.189, Art. 14(1)). The monetary value of payments in kind should be taken into account for social security purposes, including in respect of the contribution by employers and the entitlements of domestic workers. Moreover, States should consider concluding bilateral, regional or multilateral agreements to provide for the preservation or portability of social security entitlements (R.201, Para. 20).

Other ILO standards, including those on **work on plantation** (C.110, Part VII and Part VIII) and **work in fishing** (C.188, Arts 29–30 and 34 ff.), contain specific provisions on ensuring social protection access among workers engaged in these sectors.

Spotlight on regional and national contexts

Some countries have implemented measures for facilitating the social security coverage of migrant workers, including migrant domestic workers, including:

- online enrolment and payment of contributions;
- incentives to encourage employers to register with social security administrations; and
- the possibility of voluntary registration in social security.

These measures, together with bilateral and multilateral social security agreements, are indispensable not only for guaranteeing short-term social security benefits in the country of destination, but also for ensuring that workers do not lose acquired benefits and those in the course of acquisition when they return to their country of origin.

In **Indonesia** migrant domestic workers are integrated into the national social security system, which covers employment injury, survivor benefits and pensions on a voluntary basis.

In **Chile**, migrant workers are subject to the same regulations as nationals. Their access to social protection benefits and to membership in and coverage under the national social security system is mandatory. Migrant workers have access to benefits under the social security system if they have a work permit and meet certain requirements, such as a minimum period of contributions and legal residence or minimum length of stay. Most of these benefits are based on private insurance schemes and cover several branches of social protection, including old-age, unemployment, disability, invalidity, sickness, occupational disease and maternity benefits. The public system also provides basic and complementary old-age pensions.

Domestic workers are recognized as a specific category of workers in Chile's Labour Code, and its regulations apply to migrant domestic workers, regardless of nationality. These regulations require employers to contribute 4.11 per cent of domestic workers' wages per month to an individual compensation fund, with a benefit payable upon termination of the worker's contract. In an effort to formalize domestic work and to guarantee workers' labour and social security rights, a more recent legal reform (Act No. 20,786 of 2014) requires employers to submit a copy of their workers' employment contracts to the labour inspectorate and to pay their social security contributions.

Source: ILO, Making the Right to Social Security a Reality for Domestic Workers: A Global Review of Policy Trends, Statistics and Extension Strategies, 2022.

▶ Box 19. ILO Strategy: Extending Social Protection to Migrant Workers, Refugees and Their Families

The ILO strategy promotes the following six complementary and mutually reinforcing policy measures to extend social protection to migrant workers, refugees and their families:

1. Build national social protection systems, including social protection floors, that are inclusive of migrant workers, based on the principle of equality of treatment between nationals and non-nationals.
2. Ratify and/or implement relevant international labour standards, including all social security standards, that apply to migrant workers unless otherwise specified.
3. Conclude bilateral/multilateral social security agreements and respective administrative arrangements, to ensure the coordination and portability of benefits across countries (based on the model agreement in the Annex of the ILO Maintenance of Social Security Rights Recommendation, 1983 (No. 167).
4. Conclude bilateral labour migration agreements with social security provisions based on the principle of equality of treatment between nationals and migrant workers.
5. Set complementary measures addressing the administrative, practical and other obstacles faced by migrant workers to access social protection.
6. Adopt other unilateral measures or mechanisms that facilitate migrant workers' access to social security benefits by allowing for flexibility in the design of the scheme and assistance with regards to qualifying conditions and minimum requirements.

Source: ILO, ILO Strategy on Extending Social Protection to Migrant Workers, Refugees and Their Families, 2024.

Main ILO standards of reference

Standards on migrant workers

- Migration for Employment Convention (Revised), 1949 (No. 97), Article 6(1)(b)
- Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), Articles 9(1) and 10
- Migrant Workers Recommendation, 1975 (No. 151), Paragraphs 2 and 34
- Migration for Employment Recommendation (Revised), 1949 (No. 86), Annex (Model Agreement), Article 21

Other relevant standards

- Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)
- Social Security (Minimum Standards) Convention, 1952 (No. 102)
- Equality of Treatment (Social Security) Convention, 1962 (No. 118)
- Maintenance of Social Security Rights Convention, 1982 (No. 157)
- Maintenance of Social Security Rights Recommendation, 1983 (No. 167)
- Domestic Workers Convention, 2011 (No. 189), Article 14
- Domestic Workers Recommendation, 2011 (No. 201), Paragraph 20
- Plantations Convention, 1958 (No. 110), Part VII and Part VIII
- Work in Fishing Convention, 2007 (No. 188), Articles 29–30 and 34 ff.

Further reading:

- *General survey concerning the Migrant Workers Instruments 2016*
- *General Survey concerning the Social Protection Floors Recommendation, 2012 (No. 202)*
- *Securing Social Protection for Migrant Workers and Their Families: Challenges and Options for Building a Better Future*
- *ILO Strategy on Extending Social Protection to Migrant Workers, Refugees and Their Families*
- *Extending Social Protection to Migrant Workers, Refugees, and their Families: Guide for Policymakers and Practitioners*
- *"Intervention Model: Extending Social Protection to Migrant Workers in an Irregular Situation"*
- *"Intervention Model: For Extending Social Protection to Migrant Fishers"*
- *"Intervention Model: Extending Social Protection to Migrant Domestic Workers"*
- *ASEAN Guidelines on Portability of Social Security Benefits for Migrant Workers*

3.4.1. Work injuries

Migrant workers may be more likely to be employed in sectors such as agriculture, construction, fishing and mining, as well as domestic work, with higher workplace hazards and risks and poorer workplace protection. They may thus be at higher risk of suffering employment injury. Migrant workers, in particular those in irregular situations, may not enjoy adequate coverage for work injuries.[123]

Under the ILO standards on **labour migration**, equal treatment between migrant workers lawfully in the territory and nationals in respect of social security covers, in particular, work injuries (C.097, Art. 6(1)(b)). Employment injury benefits include cash benefits, medical care and allied benefits, as well as vocational rehabilitation services, in cases of work-related accidents and occupational diseases.[124]

However, ILO standards on labour migration also recommend that any migrant worker, irrespective of legal status, who leaves the country of employment should still be entitled to benefits for any employment injuries suffered (C.143, Art. 9(1); R.151, Para. 34(1)(b)).

ILO standards on **social security** set out the minimum requirements for employment injury benefits, indicating quantitative and qualitative benchmarks for these benefits, such as the duration of payment, the levels and types of benefits, and the qualifying conditions.[125]

ILO standards on **work injury** compensation provide that nationals of ratifying Member States who suffer personal injury owing to work accidents be accorded the same treatment in respect of worker compensation as that granted to the nationals of the country of employment, without any condition of residence (C.019, Art. 1).

The **ILO's Committee of Experts on the Application of Conventions and Recommendations** has underlined that employment injury protection schemes should be based on compulsory coverage of workers, sound financing and proper administration to ensure the provision of a comprehensive range of employment injury benefits regardless of whether there is fault on the part of the worker or the employer. The CEACR has also recalled that the State – and not the employer – should be directly responsible for providing employment injury benefits. The Committee has furthermore underscored the importance of providing employment injury benefits in a timely manner, achieving at least the minimum level of protection prescribed by Convention No. 102 (Part VI) and/or Convention No. 121. [126]

123 See: ILO, General Survey on Achieving Comprehensive Employment Injury Protection 2025. See ILO, *Achieving Comprehensive Employment Injury Protection*, ILC.113/Report III(1B), 2025, paras. 123 and 142.
124 ILO, General Survey on Achieving Comprehensive Employment Injury Protection 2025, para. 4.
125 See: ILO, General Survey on Achieving Comprehensive Employment Injury Protection 2025.
126 See: ILO, General Survey on Achieving Comprehensive Employment Injury Protection 2025, para. 38.

Spotlight on regional and national contexts

In **Malaysia**, as of 2019, employment injury protection for foreign workers has been moved from the Foreign Workers' Compensation Scheme, which involves employer liability, to the Employees' Social Security Scheme, which covers national employees and offers better protection.[1]

Colombia has established a procedure to regularize the status of migrants with a view to reducing informal work and allowing Venezuelan citizens in an irregular migration situation to access work with insurance coverage (Decree No. 117 of 2020). Moreover, the Ministry of Health and Social Protection has adopted the temporary protection permit (PPT) as a valid identity document for Venezuelan migrants, with which they can register with the General Social Security System and the General Occupational Risks Scheme, through which they benefit from relevant protections and benefits for employment injuries (Decision No. 1178 of 2021 and Decision No. 572 of 2022).[2]

In **Thailand**, the Workers' Compensation Fund directly provides benefits to undocumented workers, regardless of their nationality and legal status, if they suffer employment injury, and their employers are obliged to pay contributions.[3]

[1] ILO, General Survey on Achieving Comprehensive Employment Injury Protection 2025, para. 147.
[2] CEACR, Direct Request – Convention Nos 12, 17, 18, 19, 24 and 25 – Colombia, adopted 2023.
[3] CEACR, Observation –Convention No.19 – Thailand, adopted 2019.

Employment injury protection schemes must provide benefits in relation to at least the following contingencies:

- ✓ a morbid condition;
- ✓ temporary or initial incapacity for work resulting from a morbid condition and involving suspension of earnings;
- ✓ total or partial loss of earning capacity, likely to be permanent, or corresponding loss of faculty; and
- ✓ loss of support resulting from the death of the breadwinner (C.102, Art. 32; C.121, Art. 6).

The **ILO's Committee of Experts on the Application of Conventions and Recommendations** has noted that foreign workers often face obstacles to accessing the social security system due to complex and time-consuming administrative procedures, lack of information in appropriate languages on existing social security rights and benefits, lack of contributory capacity and other financial challenges, discrimination, cultural barriers and stereotypes, and lack of data on coverage of migrant workers and refugees by social protection schemes. The Committee has indicated that such constraints could be alleviated with measures to ensure:

- ✓ accessible information in languages that are understood by foreign workers;
- ✓ simplified administrative procedures;
- ✓ outreach units, regularization campaigns and formalization strategies;
- ✓ mobilization and reallocation of fiscal resources; and
- ✓ effective complaint and appeal mechanisms.[127]

Under the ILO standards on **violence and harassment** recommend that, victims of violence and harassment in the world of work should have access to compensation in cases of psychosocial, physical or any other injury or illness which results in incapacity to work (R.206, Para.15). The support, services and remedies for victims of gender-based violence and harassment should include measures such as medical care and treatment and psychological support (R.206, Para. 17(e)).

127 ILO, General Survey on Achieving Comprehensive Employment Injury Protection 2025, para. 150.

Specific provisions on work injury protection are also contained in the labour standards concerning **work on plantations** and **work in fishing.**

Main ILO standards of reference

Standards on migrant workers

- Migration for Employment Convention (Revised), 1949 (No. 97), Article 6(1)(b)
- Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), Articles 9(1) and 10
- Migrant Workers Recommendation, 1975 (No. 151), Paragraphs 2 and 34

Other relevant standards

- Social Security (Minimum Standards) Convention, 1952 (No. 102), Part VI
- Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19), Article 1
- Equality of Treatment (Accident Compensation) Recommendation, 1925 (No. 25)
- Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121)
- Employment Injury Benefits Recommendation, 1964 (No. 121)
- Workmen's Compensation (Agriculture) Convention, 1921 (No. 12)
- Plantations Convention, 1958 (No. 110), Articles 51–53
- Work in Fishing Convention, 2007 (No. 188), Articles 38–39
- Violence and Harassment Recommendation, 2019 (No. 206, Paragraphs

Further reading:

- *General Survey concerning the Migrant Workers Instruments 2016*
- *General Survey on Achieving Comprehensive Employment Injury Protection 2025*

3.4.2. Maternity protection

Equality of treatment in respect of social protection – including maternity protection – is prescribed under the ILO standards on **labour migration**.

In addition, ILO standards concerning **maternity protection** apply to all employed women, including those in atypical forms of dependent work (C.183, Art. 2(1)). These standards provide for a period of maternity leave of not less than 14 weeks,[128] as well as for cash benefits of at least two-thirds of previous earnings (or a comparable amount), which should be provided to ensure that women can maintain themselves and their children in proper conditions of health and with a suitable standard of living.

Women and children should receive medical benefits, including prenatal, childbirth and postnatal care and, where necessary, hospitalization (C.183, Arts 4–7). Additionally, women shall be provided with the right to one or more daily breaks or a daily reduction of hours of work to breastfeed their children. These breaks or the reduction of daily hours of work are to be counted as working time and remunerated accordingly (C.183, Art. 10).

ILO standards on **domestic workers** require that States take appropriate measures, in accordance with national laws and regulations and with due regard for the specific characteristics of domestic work, to ensure that domestic workers enjoy conditions that are not less favourable than those applicable to workers generally in respect of social security protection, including with respect to maternity protection (C.189, Art. 14).

Concerning **plantation workers**, the related ILO standards also provide for maternity leave (of not less than 12 weeks) as well as cash and medical benefits. Moreover, interruptions of work for the purpose of nursing are to be counted as working hours and remunerated accordingly (C.110, Arts 47–49).

128 Recommendation No. 191 calls for at least 18 weeks of maternity leave.

Main ILO standards of reference

Standards on migrant workers

- Migration for Employment Convention (Revised), 1949 (No. 97), Article 6(1)(b)
- Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), Articles 9(1) and 10
- Migrant Workers Recommendation, 1975 (No. 151), Paragraphs 2 and 34

Other relevant standards

- Maternity Protection Convention, 2000 (No. 183)
- Maternity Protection Recommendation, 2000 (No. 191)
- Domestic Workers Convention, 2011 (No. 189), Article 14
- Plantations Convention, 1958 (No. 110), Articles 46–50

Further reading:

- *General Survey concerning the Migrant Workers Instruments 2016*
- *General survey on Achieving Gender Equality at Work 2023*

3.5. Access to vocational training and guidance

Under the ILO **labour migration**, migrant workers lawfully in the country shall enjoy equality of opportunity and treatment with nationals in respect of access to vocational guidance and job placement services, and also in respect of access to vocational training of their own choice on the basis of individual suitability for such training (C.143, Art. 10; R.151, Para. 2(a) and (b)).

Countries of destination must consider whether men and women migrant workers have special needs as regards access to education, training and lifelong learning.

ILO standards on **human resources development** call upon countries to promote access to education, training and lifelong learning for people with nationally identified special needs, including migrants (R.195, Para. 5(h)). States should also cooperate to strengthen the capacity of the social partners to contribute to dynamic lifelong learning policies, particularly in relation to regional economic integration, migration and the emerging multicultural society (R.195, Para. 21(e)).

The ILO standards on **employment and decent work for peace and resilience** also encourage countries to promote the access of refugees to technical and vocational training, particularly through programmes by the ILO and other relevant stakeholders, in order to enhance their skills and enable them to undergo further retraining, taking into account possible voluntary repatriation (R.205, Para. 33(a));

Main ILO standards of reference

Standards on migrant workers

- Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), Article 10
- Migrant Workers Recommendation, 1975 (No. 151), Paragraphs 2 and 24

Other relevant standards

- Human Resources Development Recommendation, 2004 (No. 195), Paras 5(h) and 21(e)
- Quality Apprenticeships Recommendation, 2023 (No. 208)
- Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), Paragraph 33

3.6. Housing

The ILO standards on **labour migration** require, at a minimum, the repeal of any legal provisions or administrative practices discriminating between national workers and migrant workers lawfully in the host country in respect of accommodation (C.097, Art. 6(1)(a)(iii)). They also recommend that migrant workers lawfully in the host country shall enjoy effective equality of opportunity and treatment with nationals in respect of housing (R.151, Para. 2(i)) (see also under section 2.3).

According to the ILO standards on **workers' housing**, it is generally not desirable that employers should provide housing for their workers directly, except when circumstances necessitate it (R.115, Para. 12(2)). However, it is a widespread practice, particularly for migrant workers taking up temporary employment in such sectors as agriculture, construction or the garment industry, as well as live-in domestic workers. Adequate and decent housing accommodation should not cost more than a reasonable proportion of the workers' income (R.115, Para. 4). In cases where housing is provided by the employer, profits should not be made on the rent and the rent should not be part of payment for work (R.115, Para. 12(3)). These standards aim to prevent coercive recruitment practices whereby an obligation to rent accommodation from the employer – in addition to perhaps food, clothing and equipment – creates a debt that the migrant must work to pay off.

It should be recalled that the right to adequate housing is a fundamental human right. Any differential treatment based on migrant status must be reasonable and proportional and must not compromise the protection of the right to adequate housing for all while ensuring conditions are consistent with human dignity.[129]

On provisions concerning housing contained in labour sectoral standards, see section 2.3 above.

Main ILO standards of reference

Standards on migrant workers

- Migration for Employment Convention (Revised), 1949 (No. 97), Article 6(1)(a)
- Migrant Workers Recommendation, 1975 (No. 151), Paragraph 2

Other relevant standards

- Workers' Housing Recommendation, 1961 (No. 115)
- Plantations Convention, 1958 (No. 110), Articles 27(3) and 85–88
- Domestic Workers Convention, 2011 (No. 189), Articles 6 and 7(h)
- Domestic Workers Recommendation, 2011 (No. 201), Articles 5(2), 6(2)(f), 14(c–d), and 17–18;
- Work in Fishing Convention, 2007 (No. 188), Articles 25–26 and 28
- Work in Fishing Recommendation, 2007 (No. 199), Articles 16–34 and 47(l)

3.7. Residence and loss of employment

Migrant workers who lose their job prematurely before the end of their contract period may face difficulties in relation to maintaining their residency status in the destination country. These difficulties are often more present for temporary migrant workers whose work permits are tied to a single employer, as residence and work permits are often linked. Consequently, their loss of employment may lead to the withdrawal of their work permit, which in turn leads to their residence permit also being revoked or cancelled. Migrant workers in such situations may face immediate repatriation or deportation.[130]

129 International Convention on Economic, Social and Cultural Rights, Art. 11(1); ICRMW, Art. 43(1)(d); See, among others: CERD, General Recommendation 30: Discrimination against Non-Citizens, CERD/C/64/Misc.11/rev.3, 2004.

130 ILO. General Survey concerning the migrant workers instruments 2026, paras. 428-434. ILO. Temporary labor migration

The ILO standards on **labour migration** provide important protections in respect of job security and loss of employment for migrant workers with permanent, long-term or short-term residence (C.143, Art. 8; R.151, Para. 2(d)). These standards aim to ensure that the mere loss of employment does not automatically imply the withdrawal of the residence permit; nor should it be a reason for considering a migrant worker to be in an irregular situation (C.143, Art. 8(1)).

Migrant workers in a regular situation should not be discriminated against if the workforce has to be reduced, for example, for reasons of redundancy. They should be allowed sufficient time to find an alternative job (R.151, Para. 30),[131] and enjoy equality of treatment with nationals in respect of guarantees of security of employment, the provision of alternative employment, relief work and retraining for the remaining period of their residence permit (C.143, Art. 8(2); R.151, Para.2(d)).

Spotlight on regional and national contexts

In **San Marino**, the Law No. 118 of 2010 on the Entry and Stay of Foreigners (section 18) provides that the loss of employment does not entail the immediate withdrawal of a migrant workers' residence permit, except in the event of resignation; (2) in the case of loss of employment, migrant workers are given the possibility to register in a special placement list at the Employment Office, within ten days of losing their job, in order to look for a new job in the same sector.; (3) the residence permit is withdrawn only if the worker does not find a new job within the duration of the remainder of his or her permit, or when the migrant worker fails to register in the placement list.

Furthermore, a migrant worker who has lodged an appeal against the termination of their employment should be also allowed sufficient time to obtain a final decision on this appeal (R.151, Para. 32).

In case of unfair termination, the migrant worker should, on the same terms as nationals, be entitled to reinstatement and compensation for loss of wages or other payments resulting from the unfair termination. If reinstatement is not possible, the migrant worker should be given sufficient time to find alternative employment.

Migrant workers regularly admitted into the country should, as far as possible, not be removed on the grounds of their lack of means or the state of the employment market (R.086, Para. 18; R.151, Para. 30).

Main ILO standards of reference

Standards on migrant workers

- Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), Article 8
- Migrant Workers Recommendation, 1975 (No. 151), Paragraphs 2 and 30–32
- Migration for Employment Recommendation (Revised), 1949 (No. 86), Paragraph 18

131 At least the time corresponding to that during which the migrant worker may be entitled to unemployment benefits. The authorization of residence should be extended accordingly. See Paragraph 31 of Recommendation No. 151.

4. Protection of migrant workers' wages[132]

Wages are among the working conditions that have the most tangible impact on the everyday lives of workers and employers. Wages can determine job choice and whether or not to migrate for employment. All workers, including migrant workers, to whom wages are being paid or payable entitled to wage protection (C.095, Art. 2(1)).

This is also applies to migrant workers in an irregular situation. The ILO standards on **labour migration** require that in such cases these workers are treated equally with regularly admitted and lawfully employed migrants in respect of of any outstanding remuneration arising out of their past employment.

Also, any migrant worker, irrespective of migration status, who needs to leave the country of destination, should be entitled to:

- any outstanding remuneration for work performed, including severance payments normally due, and compensation in lieu of any holiday entitlement acquired but not used (in accordance with national practice) (R.151, Para. 34).

Spotlight on regional and national contexts

At the **European Union** level, the "Employers' Sanctions Directive" of 2009 provides that employers shall be liable to pay to the third-country nationals in an irregular situation any outstanding remuneration for the work that they have undertaken and any outstanding taxes and social security contributions. If the level of remuneration cannot be determined, it should be presumed to be at least as high as the wage provided for by the applicable laws on minimum wages, by collective agreements or in accordance with established practice in the relevant occupational branches. Member States should further provide for a presumption of an employment relationship of at least three months' duration, unless the employer or the employee proves otherwise.

A majority of EU countries have transposed the provisions of the Directive into national legislation, but challenges remain in its implementation in practice. See: EU Agency for Fundamental Rights, Protecting Migrants in an Irregular Situation from Labour Exploitation: Role of the Employers' Sanctions Directive, 2021.

Source: EU Directive 2009/52/EC of the European Parliament and of the Council on providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals, articles 6(1)(a) and 6(3), and Preamble paragraphs 14 and 17))

Migrant workers are especially vulnerable to wage-related abuses, particularly non-payment of wages, underpayment, delayed payment, repatriation without receiving wages or end-of-service benefits, and unlawful deductions of wages from salaries. They may also face additional problems in collecting any owed wage amounts due to language or legal barriers.[133]

Unfair recruitment processes can increase migrant workers' vulnerability to wage-related abuses – for example, through unlaw deductions of recruitment fees and related costs from workers' wages (see box 15). A further factor can be discrimination, xenophobia and racism against migrant workers, which creates a social and political environment in which wage abuses against migrant workers are normalized and tolerated.

Certain categories of migrant workers are more vulnerable to wage-related abuses, such as:[134]

- Those working in subcontracted or labour outsource arrangements where responsibility for wage payments may be unclear or where there may be delayed payments from principal contractors to the immediate employer of the worker. This may be the case, for example, of workers in the construction sector.

132 ILO standards adopt a broad definition of "wages" as "remuneration or earnings, however designated or calculated, capable of being expressed in terms of money and fixed by mutual agreement or by national laws or regulations, which are payable in virtue of a written or unwritten contract of employment by an employer to an employed person for work done or to be done or for services rendered or to be rendered" (Convention No. 95, Article 1).

133 See also: ILO. Guidance Note: Wage protection for migrant workers (2023); ILO, Empowering Migrant Workers: Lessons Learned from ILO Migrant Worker Resource Centres in the ASEAN region, 2025.

134 Based on ILO. Guidance Note: Wage protection for migrant workers (2023)

- Migrant workers under temporary labour migration schemes (including sponsorship arrangements) or migrant workers for whom large recruitment costs have been paid by employers, as both scenarios create incentives for certain employers to withhold wages until the end of the contract period in order to prevent workers from resigning.
- Migrant workers in sectors that are excluded from the labour law and resulting wage protections, such as domestic workers, agricultural workers and fishing workers in some countries, or workers in disguised employment. In some cases, like in some cases concerning migrants engaged in fishing, they are considered to be contractors and thus entirely excluded from wage protection.

ILO standards on **wage protection** apply to all workers to whom wages are paid or payable. This also includes migrant workers, including those without formal employment permits or employment contracts (see below). According to the relevant ILO standards, wage protection encompasses:

- ✓ The right to payment in legal tender at regular intervals, directly to the worker or to the worker's chosen bank account (C.95, Arts 3(1) and 12(2)).
- ✓ The freedom of workers to dispose of their wages as they choose (C.095, Art.6).
- ✓ Protection with regards to payment in kind (which should be appropriate for the personal use and benefit of workers and their families and that the value attributed to such payments should be fair and reasonable (C.095, Art. 4(2)).
- ✓ Protection with regard to unlawful deductions of wages (including prohibiting payments to intermediaries, such as labour contractors or recruiters, for obtaining or retaining employment (C.095, Art. 9)).
- ✓ Privileged treatment of worker wage claims in the enterprise insolvency procedure (C.095, Art. 11(1).
- ✓ Upon the termination of the employment contract, the right of workers to a swift and final settlement of wages they may be owed (C.095, Art. 12(2)).
- ✓ The right of workers to be informed of their wages before they enter employment and at the time of each payment of wages (for example, via a written employment contract and wage payment slips or statements) (C.095, Art. 14)).

The **ILO's Committee of Experts on the Application of Conventions and Recommendations** notes that in cases where migrant workers are deported or have to leave the country rapidly – regardless of the reasons for the departure – the government of the country of destination is responsible for ensuring that wages are paid regularly and in full and that any claims in respect of existing wage debts are promptly settled. This right extends to migrant workers without formal employment permits and employment contracts.[135] With regard to the remittances sent by migrant workers, the CEACR recalled that the system of compulsory remittance occasionally imposed on workers employed abroad serves as a vivid reminder of the real risk of abuse to which the most vulnerable categories of workers may be subjected, and of the need to forcefully reaffirm the inalienable character of the right of workers to receive their wages directly and in full, and to spend them as they please.[136]

Concerning **domestic workers**, the related ILO standards also include provisions to protect wages, and these provisions also apply to migrant domestic workers. Domestic workers shall:

- be informed of their terms and conditions of employment, including the remuneration, method of calculation and periodicity of payments (C.189, Art. 7 (e));
- be paid directly in cash at regular intervals at least once a month, and
- receive payment via bank transfer or similar means, with the consent of the worker (C.189, Art. 12(1)).

135 See, for example: CEACR, Observation – Convention No 95 – Kazakhstan, adopted 2024; CEACR, Observation – Convention No. 95 – Libya, adopted 2013 and 2022; See also CEACR, Observation – Convention No. 95 – Iraq, adopted 2009.
136 See, for example, CEACR, Direct Request – Convention No. 95 – Philippines, adopted 2023.

A limited proportion of remuneration can be paid in the form of payments in kind that are not less favourable than those generally applicable to other categories of workers. Countries should also ensure that such payments in kind:

- are agreed to by the domestic worker;
- for the personal use and benefit of the worker; and
- the monetary value attributed to them is fair and reasonable (C.189, Art. 12(2)).

Migrant domestic workers may face salary deductions for provision of accommodation and food, or they can be asked to pay for items needed to undertake their work. However, when a domestic worker is required to live in accommodation provided by the household, Members should consider ensuring that no deductions from remuneration are made with respect to that accommodation, unless otherwise agreed to by the worker (R.201, Para. 14(d)).

In addition, items directly related to the performance of domestic work, such as uniforms, tools or protective equipment, and their cleaning and maintenance, should not be considered as payment in kind, and their cost is not to be deducted from the remuneration of the migrant domestic worker (R.201, Para. 14(e)).

Domestic workers should also be given at the time of each payment an easily understandable written account of the total remuneration due to them and the specific amount and purpose of any deductions made (R.201, Para. 15(1)).

Concerning **work on plantations**, the related ILO standards also prescribe that wages payable in money shall be paid only in legal tender and shall be paid directly to the worker concerned (C.110, Arts 26 and 28). Employers shall be prohibited to limit the worker's freedom to dispose of his or her wages (C.100, Art. 29). In cases in which partial payment of wages in the form of allowances in kind is authorized, appropriate measures should be taken to ensure that such allowances are appropriate for the personal use and benefit of the worker and their family. (C.110, Art 27(2)).

Where food, housing, clothing and other essential supplies and services form part of remuneration, these should be adequate and their cash value properly assessed. The payment of wages in the form of liquor of high alcoholic content or of noxious drugs is not to be permitted in any circumstances (C.110, Art. 27(3)).

ILO standards concerning **work in fishing** stipulate that each State, after consultation, shall adopt laws, regulations or other measures providing that fishers who are paid a wage are ensured a monthly or other regular payment (C.188, Art. 23).

Spotlight on regional and national contexts

In **Thailand**, the Cabinet in 2018 approved the updated Ministerial Regulation on Labour Protection in Sea Fishing Work, which contained important amendments to the previous Ministerial Regulation on Labour Protection in Sea Fishing Work B.E. 2557 (2014). The revised Regulation requires that sea fishing workers be paid monthly wages via bank accounts, and that employers who own oversea fishing vessels shall provide communication devices for fishing workers to communicate with the authorities concerned or family members during their time at sea. In the previous regulation (2014), the method of wage payment for sea fishing workers varied according to each employer. However, the revised 2018 regulation requires the employers to pay workers on a monthly basis, and payment must not be less than the daily minimum wage rate multiplied by 30 days. Moreover, the payment must be paid via bank account transfer to ensure transparency and accountability, to prevent unfair wage deductions and to help solve the issues of delayed and inaccurate payments.

Source: Thailand, Ministry of Foreign Affairs, "Press Release on Thailand Approved Draft Regulation for Sea Fishing Workers to Receive Monthly Wages via Bank Transfer:, 30 March 2018.

Main ILO standards of reference

Standards on migrant workers

- Migration for Employment Convention (Revised), 1949 (No. 97), Article 6
- Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), Articles 9–10
- Migrant Workers Recommendation, 1975 (No. 151), Paragraphs 2, 8 and 34

Other relevant standards

- Protection of Wages Convention, 1949 (No. 95)
- Protection of Wages Recommendation, 1949 (No. 85)
- Domestic Workers Convention, 2011 (No. 189), Articles 7 and 12
- Domestic Workers Recommendation, 2011 (No. 201), Paragraphs 6 and 14–15.
- Plantations Convention, 1958 (No. 110), Part IV
- Work in Fishing Convention, 2007 (No. 188), Article 23

Further reading:

- *Guidance Note: Wage Protection for Migrant Workers*
- *ILO training module on wage protection*

5. Security of residence for permanent migrants and members of their families in case of ill health or injury

Under ILO standards on **labour migration**, migrant workers with permanent residence and the members of their families who have been authorized to accompany them shall not be returned to their countries of origin in the event that they are no longer able to work because of illness or injury suffered after their entry into the country of destination. However, if they so wish or an international agreement so provides, they may be returned.

In case of migrant workers admitted on a permanent basis upon arrival, the prohibition of repatriation on the grounds of ill health or injury may apply only after a reasonable period that shall in no case exceed five years from the date of admission of these migrants.

Main ILO standards of reference

Standards on migrant workers

- Migration for Employment Convention (Revised), 1949 (No. 97), Article 8

6. Return, repatriation and labour market reintegration

6.1. Grounds of repatriation

Repatriation of migrant workers admitted on a permanent basis and of the members of their family authorized to accompany them on the grounds of ill health or injury affecting their ability to work is prohibited (see section 5 above).

Repatriation on the grounds that the migrant worker concerned is suffering from an infection or illness of any kind that has no effect on the task for which the worker has been recruited is an unacceptable form of discrimination (see section 1.5 above).

Main ILO standards of reference

Standards on migrant workers

- Migration for Employment Convention (Revised), 1949 (No. 97), Article 8

6.2. Appeal against arbitrary decisions

ILO standards on **labour migration**, recommend that migrant workers should have the right to appeal against a decision to terminate their employment and should be allowed sufficient time to obtain a final decision on their appeal. Thus, any expulsion order, for example, should be put on hold (R.151, Para. 32(1)).

If their appeal against the termination of their employment is successful, migrant workers should be entitled, on the same terms as national workers, to reinstatement, to compensation for loss of wages or of other payment that results from unjustified termination, or to access to a new job with a right to indemnification.

If the worker is not reinstated, then they should be allowed sufficient time to find alternative employment (R.151, Para. 32(2)).

A migrant worker who has received an expulsion order should have a right of appeal before an administrative or judicial instance, according to conditions laid down in national laws or regulations. This appeal should stay the execution of the expulsion order, unless there are duly substantiated requirements of national security or public order (R.151, Para. 33).

Migrant workers have the same right to legal aid as national workers and, additionally, have the right to the assistance of an interpreter (R.151, Para. 33).

On expulsion costs see the next section.

Regarding **domestic workers** the related ILO standards prescribe that all domestic workers, either by themselves or through a representative, should have effective access to courts, tribunals or other dispute resolution mechanisms under conditions that are not less favourable than those available to workers generally (C.189, Art. 16).

Main ILO standards of reference

Standards on migrant workers

- Migrant Workers Recommendation, 1975 (No. 151), Paragraphs 32–33

Other relevant standards

- Domestic Workers Convention, 2011 (No. 189), Article 16

6.3. Costs of return

In cases of cross-border recruitment, travel and transportation for return upon termination of contract or contract completion are usually considered an employer expense.[137]

ILO standards on **labour migration** indicate that if migrant workers fail, for a reason they are not responsible for, to secure the employment for which they have been recruited, or other suitable employment, they should not have to pay the costs of the return travel of themselves, nor should they pay for the costs associated with the return of any family members authorized to accompany them. These costs include administrative fees, transport and maintenance charges to the final destination, and charges for the transport of household belongings (C.097, Annex II, Art. 9).

Expenses incurred for return or repatriation are considered recruitment-related costs if they are: initiated by the employer or the labour recruiter (or an agent acting on behalf of them); required to secure access to employment or placement; or imposed during the recruitment process.[138] They should not be collected from the migrant worker.[139]

Migrant workers in an irregular situation shall not bear the costs of expulsion – that is, the costs incurred by a State in ensuring that a worker in an irregular situation leaves the country. These costs might include the costs of the administrative or legal proceedings involved in issuing an expulsion order or in implementing the order, and escorting the worker from the country, including costs of surveillance (C.143, Art. 9(3)).[140]

The **ILO's Committee of Experts on the Application of Conventions and Recommendations** has stressed that a clear distinction should be made between:

(a) cases where migrant workers were in irregular situations for reasons that cannot be attributed to them (such as redundancy before the expected end of contract, or where the employer failed to fulfil the necessary formalities), in which case the cost of their return, as well as the return of family members, including transport costs, should not fall upon the migrant workers; and

(b) cases where migrant workers were in an irregular situation for reasons that can be attributed to them, in which case, only the actual costs of expulsion may not fall upon the migrant.[141]

In the case of **domestic workers**, the related ILO standards prescribe that States should specify – by means of laws, regulations or other measures – the conditions under which migrant domestic workers are entitled to repatriation on the expiry or termination of the employment contract for which they were recruited (C.189, Arts 7(j) and 8(4)).

Concerning **work in fishing**, the related ILO standards stipulate that fishers are entitled to repatriation in the event that the fisher's work agreement has expired or has been terminated for justified reasons by the fisher or by the fishing vessel owner, or in the event that the fisher is no longer able to carry out the duties required under the work agreement or cannot be expected to carry them out in the specific circumstances. The cost shall not be borne by the fisher, except where the fisher has been found, in accordance with national laws, regulations or other measures, to be in serious default of their work agreement obligations (C.188, Art. 21).

Spotlight on regional and national contexts

The bilateral agreement between **Guatemala** and the **United States** governing temporary employment opportunities, including in the agricultural sector, provides that the costs of return transportation to the recruitment location in Guatemala (including food expenses) shall be borne by the worker's last US employer if the worker is terminated by the employer without justifiable cause (that is, through no fault of the worker) or otherwise completes the work in accordance with the terms of their employment contract.

Source: ILO, Fair Recruitment Roadmap: A Guide for National Action, 2024.

137 See: ILO, *A Global Comparative Study on Defining Recruitment Fees and Related Costs: Interregional Research on Law, Policy and Practice*, 2020. See also the ILO General Principles and Operational Guidelines for Fair Recruitment, which state that no recruitment fees or related costs, including repatriation and return costs, should be charged to, or otherwise borne by, workers.

138 ILO, Definition of Recruitment Fees and Related Costs, 2019, para. 12(vi).

139 ILO, Definition of Recruitment Fees and Related Costs, 2019, para. 7.

140 See, for example: CEACR, Direct Request – Convention No. 143 – Albania, adopted 2023; CEACR, Direct Request Convention No. 143 – Bosnia and Herzegovina, adopted 2023.

141 See, for example: CEACR, Direct Request – Convention No. 143 – Bosnia and Herzegovina, adopted 2023.

Main ILO standards of reference

Standards on migrant workers

- Migration for Employment Convention (Revised), 1949 (No. 97), Appendix II, Article 9
- Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), Article 9(3)

Other relevant standards

- Domestic Workers Convention, 2011 (No. 189), Articles 7(j) and 8 (4)
- Work in Fishing Convention, 2007 (No. 188), Article 21

Further reading:

- *General Principles and Operational Guidelines for Fair Recruitment and Definition of Recruitment Fees and Related Costs*[142]
- *ILO Guidelines for fair labour marketservices for migrant fishers 2025*

6.4. Outstanding employment-related claims

Under the ILO standards on **labour migration** standards, all returning migrant workers, including those in an irregular situation, should be entitled to outstanding remuneration, severance pay, compensation for holidays not taken, as well as (in certain cases) the reimbursement of social security contributions (R.151, Para. 34(1); C.143, Art. 9(1)).

If any difficulty arises in obtaining these entitlements, the migrant workers involved should enjoy equal treatment with national workers regarding access to courts and legal assistance (R.151, Para. 34(2); see also C.097, Article 6(1)(d), concerning equality of treatment with nationals in legal proceedings, applicable to migrant workers in a regular situation).

Migrant workers should be given a reasonable period of time to remain in the country to seek and obtain a remedy for outstanding remuneration and benefits (see Part IV, section 2, of this Guide below).

Main ILO standards of reference

Standards on migrant workers

- Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), Article 9(1–2)
- Migrant Workers Recommendation, 1975 (No. 151), Paragraph 34

Further reading:

- *Justice Across Borders: Access to Labour Justice for Migrant Workers through Cross-border Litigation*

142 According to the ILO General Principles and Operational Guidelines for Fair Recruitment, recruitment fees or related costs should not be charged to, or otherwise borne by, workers or jobseekers. Related costs include repatriation and return costs.

6.5. Rights of returning migrants in home country

ILO standards on **Labour migration** emphasize that migrant workers should receive assistance concerning their return, free of charge and in their own language or dialect (or at least in a language they can understand), including with regard to the fulfilment of administrative formalities and other steps to be taken in connection with the return (C.097, Art. 2; R.086, Para. 5(2–3)).

As in the case of arrival in the country of employment, migrant workers and their families should be exempt from customs duty on their personal possessions. The customs exemptions should also include hand tools and portable equipment that they have owned for an appreciable time and intend to use in the course of their occupation (C.097, Annex III, Art. 2).

Other relevant ILO standards, including those on **employment promotion and protection against unemployment**, recommend that host countries and countries of origin conclude bilateral and multilateral agreements addressing the issue of assistance to workers and members of their families wishing to return to their country of origin (R.169, Para. 44; R.176, Para. 9). Such agreements could also include explicit provisions for situations of crisis.[143]

Spotlight on regional and national contexts

In **Burkina Faso** measures are taken by the diplomatic missions and consular posts abroad, in coordination with the central administration of the Ministry of Foreign Affairs, Regional Cooperation and Burkina Faso Nationals Abroad (particularly its Department of Migration and Reintegration), to organize the return of migrants to Burkina Faso. These include the building of a reception and transit centre for migrants which should, in time, house a training centre.

Source: CEACR, Direct Request – Convention No. 97 – Burkina Faso, adopted 2023.

Other ILO standards provide that states should facilitate the voluntary return – in conditions of safety and dignity – of migrants and families who have been affected by crisis situations (R.205, Para. 26). States should also facilitate the safe – and preferably voluntary – repatriation of migrants subjected to forced or compulsory labour, irrespective of their legal status in the national territory (R.203, Para. 11).

143 ILO, *Protecting the Rights of Migrant Workers in Irregular Situations and Addressing Irregular Labour Migration*.

▶ Box 20. Return migrant worker victims of violence and harassment

There are some return migrant workers who may need more targeted interventions because they have experienced violence and harassment (including gender-based violence), exploitation, and abuse during their migration trajectory. These returnees may require special assistance to ensure their sustainable reintegration. Relevant services to be provided to these returnees may include:

- Shelters or crisis centres to protect the migrant workers victims of trafficking and prevent their re-trafficking.
- Livelihood assistance: some victims of violence and harassment might be without material resources. This assistance can be financial or in kind (for example, food, clothing and so on).
- Medical assistance: Many returnees, especially if they were victims of violence, may need healthcare, including sexual and reproductive health services, as well as mental health services.
- Psychological assistance is needed to help overcome trauma in order to achieve a successful reintegration. This important service could present challenges in countries with limited psychiatric and psychosocial support or a shortage of psychotherapists able to deal with trauma.
- Provision of counselling, information and legal assistance, including cross boarder litigation, for return migrant workers who wish to take action against former employers or recruitment agencies for abusive or discriminatory conditions and practices.

Source: ILO, *Manual for Training of Trainers on Labour Market Reintegration of Migrant Workers and Former Refugees upon Return in their Origin Countries*, 2023.

The **Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205)**, provides particular guidance concerning the voluntary repatriation and reintegration of returnees. It recommends that ILO Member States collaborate with the ILO and relevant stakeholders to develop specific programmes for returnees to facilitate their vocational training and reintegration into the labour market. The Recommendation also highlights that States should support countries of origin to strengthen their capacity and build resilience, including through development assistance, by investing in local communities in which returnees are reintegrated and by promoting full, productive, freely chosen employment and decent work (Paras 38–40).

Main ILO standards of reference

Standards on migrant workers

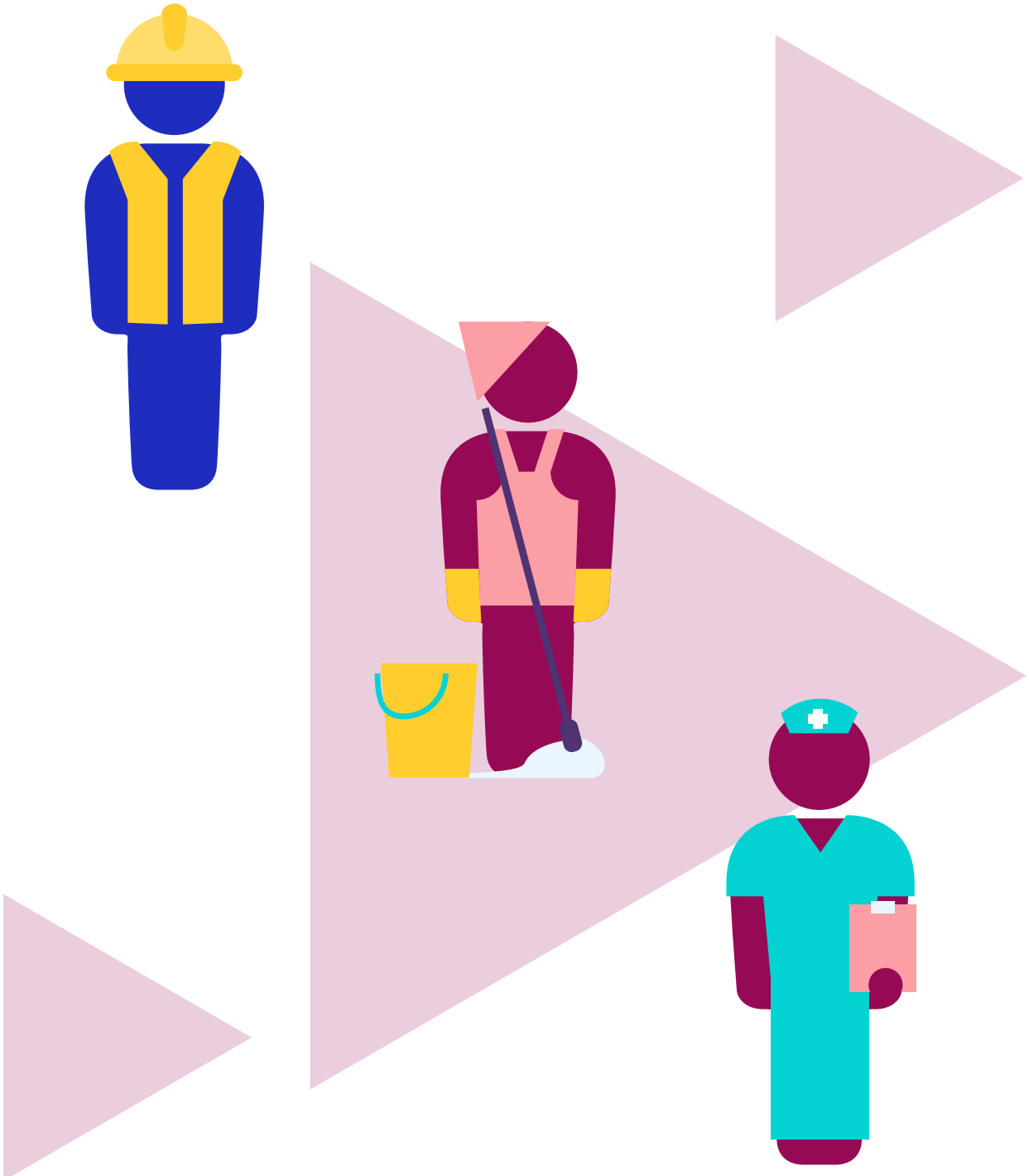
- Migration for Employment Convention (Revised), 1949 (No. 97), Article 2 and Appendix III, Article 2
- Migration for Employment Recommendation (Revised), 1949 (No. 86), Paragraph 5(2–3).

Other relevant standards

- Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169), Paragraph 44
- Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168), Article 26
- Employment Promotion and Protection against Unemployment Recommendation, 1988 (No. 176), Paragraph 9
- Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203), Paragraph 11
- Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), Paragraphs 26 and 37–40

Further reading:

- *Guidelines on Labour Market Reintegration upon Return in Origin Countries*
- *Labour Market Reintegration of Return Migrant Workers and Former Refugees in Origin Countries: Concepts and Definitions*



Part IV.
Monitoring, enforcement and access to justice

1. Monitoring and enforcement mechanisms

Monitoring and enforcement of relevant legislation and policy is crucial to ensure migrant workers' rights and to prevent abuses. All migrant workers, irrespective of their migration status, must be protected from violations of their human rights.

Migrant workers may not always be in a position to take the initiative to secure respect for the relevant legislation, and this can be due to a variety of reasons, including lack of awareness or fear of reprisals and deportation. Thus, mechanisms through which independent and institutionalized entities may take the initiative in investigating violations and enforcing the application of legislation, or mechanisms that have an explicit regard for the specific situations of migrant workers and the sectors in which they tend to be concentrated[144] are particularly important.

Moreover, migrant workers in an irregular situation should be enabled to claim, without fear of detection and deportation, their fundamental rights and other rights arising out of past employment. Thus, it is crucial that measures are adopted that, in cases of rights violations, allow irregular status or undocumented migrant workers to interact freely with public servants, such as the police, labour inspectors, social workers, school personnel and healthcare professionals, as well as courts, tribunals and national human rights institutions.[145]

The **ILO's Committee of Experts on the Application of Conventions and Recommendations** has underscored the importance of effective and dissuasive sanctions and effective enforcement of relevant laws in preventing abuses and ensuring equal treatment between foreign workers and nationals. The Committee has also emphasized that criminalization of migrants in an irregular situation should be avoided, given the serious impact on their enjoyment of basic human rights.[146]

1.1. National mechanisms

Monitoring and enforcement should be ensured through mechanisms recognized by the parties as authoritative, effective and impartial, such as labour inspection authorities; industrial relations bodies; courts (see section 2 below); and specialized bodies with advisory roles or responsibility for examining complaints

Such mechanisms should provide the means for detecting abusive employment relations; enable the submission and consideration of complaints; and allow for the application of sanctions against those found to be in breach of the relevant provisions.[147]

The **ILO's Committee of Experts on the Application of Conventions and Recommendations** has recommended the creation of competent bodies specific to migrant workers to which these workers can present complaints or access for advice and guidance.[148]

1.1.1. Labour inspection

Labour inspection is key for ensuring the implementation and enforcement of labour law and policies and providing feedback to employers and workers on application on the applicable national legislation. Labour inspectors can play an important role in monitoring and preventing labour rights violations of migrant workers. Labour inspectors need to secure the enforcement of the legal provisions relating to conditions of work and the protection of all workers while engaged in their work, in so far as such provisions as enforceable by labour inspectors. This also includes the conditions of migrant workers, irrespective of migration status.

The primary duty of labour inspectors is to protect workers and not to enforce immigration law.[149] Inspectors should be able to interview migrant workers in private and treat their stories and/or complaints confidentially, including those of migrant workers in an irregular situation.

144 Such as domestic work, work on plantations and work on board fishing vessels.
145 OHCHR, "Protecting the Rights of Migrants in Irregular Situations", 2017.
146 ILO, General Survey concerning the Migrant Workers Instruments 2016, paras 460 and 520.
147 ILO, General Survey concerning the Migrant Workers Instruments 2016, para 472.
148 ILO, General Survey concerning the Migrant Workers Instruments 2016, paras 460 ff.
149 ILO, General Survey concerning the Migrant Workers Instruments 2016, paras 480 ff.

Spotlight on regional and national contexts

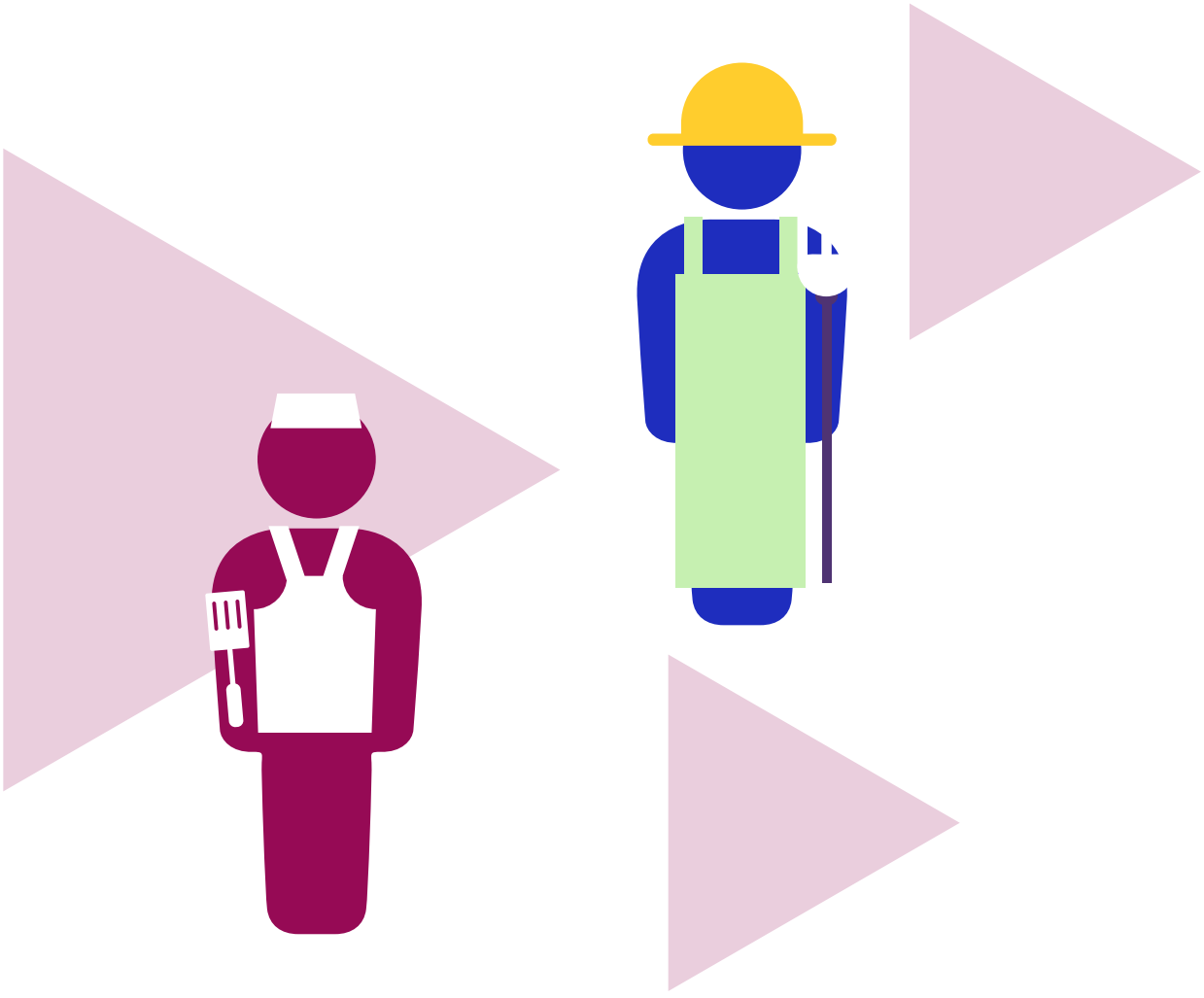
In **Italy**, cultural mediators with expertise in different languages have participated in labour inspections with a view to facilitating the exchange of information with foreign workers.

Source: CEACR, Observation – Convention No. 29 – Italy, adopted 2023.

According to ILO standards that exclusively deal with **labour inspection**, the functions of the labour inspection system are:

- to secure the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work;
- to supply technical information and advice to employers and workers concerning the most effective means of complying with the legal provisions; and
- to bring to the notice of the competent authority defects or abuses not specifically covered by existing legal provisions.

If labour inspectors are entrusted with further duties, these should not interfere with the effective discharge of their primary duties or to prejudice in any way their authority and impartiality, which are necessary to inspectors in their relations with employers and workers (C.081, Art. 3(1); C.129, Art. 6(1)).



▶ Box 21. The role of labour inspectorates in enforcing fair recruitment of migrant workers

Labour inspectorates can play a critical enforcement role in relation to fair recruitment, through the monitoring of private recruitment and placement agencies, detection of abusive recruitment practices, processing of complaints, and application of sanctions in both countries of origin and destination.

In practice, however, labour inspectorates tend to face a range of varying challenges. Some of these challenges are related to the overall context and characteristics of migration, which can make monitoring by labour inspectors particularly difficult. Examples of such contextual challenges in relation to monitoring fair recruitment include:

- the use of subcontracting arrangements in recruitment;
- operation of informal, nonregistered recruiters, especially in rural areas;
- recruitment for work in sectors not covered by labour legislation, such as agriculture and domestic work; and
- tied visa systems linking a worker to a particular employer.

Other challenges, however, are more directly linked to how the work of the labour inspectors is regulated and carried out, and these include the following:

- The mandate of the labour inspectorate with regard to fair recruitment may not be spelled out in regulations.
- Most inspectorates focus on inspecting conditions of work (including OSH, wages and working hours) in accordance with labour legislation, without paying attention to the recruitment process.
- In many countries of destination, labour inspectorates prioritize the checking of the legal status of migrant workers, rather than inspecting conditions of work (including possible recruitment-related abuses).
- Labour inspectorates may face linguistic, cultural and gender-related challenges that hinder effective communication with migrant workers.
- Migrant workers continue to face difficulties in accessing complaint mechanisms, thus depriving labour inspectors of important leads to recruitment-related irregularities.
- Minimal (or absent) licensing requirements and procedures for private recruitment agencies preclude the possibility of creating a minimum protection baseline for migrant workers against which labour inspectors may monitor recruitment agency performance.
- While a range of countries of origin and destination have concluded bilateral agreements (or MOUs) to regulate the recruitment and placement of migrant workers, very few such agreements, if any, offer a clear monitoring framework.

Source: ILO, "Labour Inspection and Monitoring of Recruitment of Migrant Workers", Technical Brief, 2022.

The ILO standards concerning **forced labour** call specifically for the strengthening of labour inspection services for the purpose of preventing forced or compulsory labour, including trafficking in persons (P029, Art. 2).

Other relevant ILO standards recommend that the mandate of national bodies responsible for labour inspection should cover **violence and harassment** in the world of work (R.206, Para. 21).

States should also develop and implement measures for labour inspection, enforcement and penalties with due regard for the special characteristics of **domestic work** (C.189, Art. 17).

Provisions specifically concerning inspection of working conditions are furthermore included in sector-specific ILO standards. For example, the ILO standards on **work in fishing** require the establishment of an effective system of inspection of living and working conditions on board of fishing vessels (C.188, Art. 42). Regarding work on plantations, the related ILO standards covering **work on plantations**, which recognizes the important number of migrant workers engaged and recruited in the sector (C.110, Part II, Arts 5-19), also include detailed provisions regarding the system of labour inspection that should be in place to monitor the working conditions of plantation workers, including migrant workers (C.110, Part XI).

Spotlight on regional and national contexts

Countries have adopted various measures to address some of the challenges faced by labour inspectors in enforcing fair recruitment of migrant workers. For example, countries like **Belgium** and the **Netherlands** have created teams of specially trained labour inspectors (in addition to their regular inspectorate) to spot severe cases of labour exploitation, such as of persons trafficked into work. These teams work with recruitment-related indicators of abuse such as deception/contract substitution, recruitment-related debt, abuse of vulnerability at the recruitment stage, prolonged retention of personal documents after the work permit has been issued, and threats and intimidation.

In **Indonesia**, the Provincial Government of North Kalimantan, with ILO support, officially launched its Joint Inspection Team for Labour Norms onboard Fishing Vessels in September 2025 (Governor's Decree No. 100.3.3.1/295/2025, 2 May 2025). The Interdisciplinary team operates under the direct supervision of the Governor and comprises officials from the Provincial Marine Affairs and Fisheries Office and the Provincial Manpower and Transmigration Office. The Inspection Team will strengthen labour regulations, conducting joint inspections, improving coordination between fisheries and labour inspectors and developing technology-based education and information systems.[1]

In **Tunisia**, the Law on the Organization of the Exercise of the Activities of Placement of Tunisians Abroad by Private Agencies (or Recruitment Law), was approved by the Council of Ministers in 2019, extending the State's authority to deliver sanctions against recruitment agencies that do not comply with defined operational and procedural standards. The Ministry of Labour then approved the formation of a new inspectorate to monitor and enforce the implementation of the Recruitment Law. A job description for these new inspectors was accordingly defined and validated by relevant ministries.[2]

The **European Agency for Fundamental Rights** has developed a comprehensive Manual for use by officials responsible for workplace inspections in the member States of the European Union to enforce EU standards safeguarding the rights of third-country nationals. The Manual refers, among others, to relevant international labour standards and provides guidance on the legal framework, how to engage with and to provide information to migrant workers (*third-country nationals*), how to support their access to justice, identify exploited workers, and overcoming obstacles for migrant workers in claiming backpay and promote adequate accommodation.[3]

[1] ILO, "Press Release on North Kalimantan Province in Indonesia launches a Joint Inspection Team to strengthen labour standards in the fishing sector", 9 September 2025.
[2] ILO, *Compendium of Promising Practices to Advance Fair Recruitment of (Migrant) Workers: 5 Years of the Fair Recruitment Initiative*, 2022.
[3] European Agency for Fundamental Rights (FRA), How workplace inspectors can protect third-country workers' rights — training manual, 2024.

Main ILO standards of reference

- Labour Inspection Convention, 1947 (No. 81)
- Labour Inspection (Agriculture) Convention, 1969 (No. 129)
- Protocol of 2014 to the Forced Labour Convention, 1930, Article 2
- Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203), Paragraph 13
- Violence and Harassment Convention, 2019 (No. 190)
- Violence and Harassment Recommendation, 2019 (No. 206)
- Domestic Workers Convention, 2011 (No. 189), Article 17
- Domestic Workers Recommendation, 2011 (No. 201), Paragraph 19
- Plantations Convention, 1958 (No. 110), Part XI
- Work in Fishing Convention, 2007 (No. 188), Articles 40 ff.

1.1.2. Specialized bodies and mechanisms

Bodies such as equality and human rights bodies, labour rights bodies, labour migration bodies, and specialized units in government departments or ministries may be attributed competence to receive and address complaints by migrant workers or to provide advice or assistance to migrant workers in enforcing their rights.[150]

1.2. Bilateral mechanisms

Bilateral agreements may contain provisions establishing monitoring and enforcement mechanisms with a view to ensuring the full implementation of the agreements. For example, several bilateral agreements refer to the establishment of joint committees through which authorities from countries of origin and destination cooperate to ensure the effectiveness of the agreements.[151]

The **Model Agreement on Migration for Employment annexed to Recommendation No 86** includes a provision that in case of a dispute with their employer, migrants shall have access to the appropriate courts or shall otherwise obtain redress for their grievances, in accordance with the laws and regulations of the territory of immigration (Art 16(1)).

Spotlight on regional and national contexts

The Agreement on Labour Cooperation between **Canada** and **the Republic of Honduras** (2013) includes specific provisions aimed at ensuring its effective enforcement. Article 3(a) of the Agreement stipulates:

Each Party shall promote compliance with, and effectively enforce, its labour law by taking appropriate and timely government action, including:

(a) by establishing and maintaining labour inspection divisions, including by appointing and training labour inspectors or officers who monitor compliance and investigate suspected violations, including through on-site proactive inspections;

(b) by initiating proceedings to seek appropriate sanctions or remedies for those contraventions; and

(c) by encouraging or supporting mediation, conciliation and arbitration, as well as the establishment of worker-management committees to address labour regulation of the workplace

150 General Survey concerning the Migrant Workers Instruments 2016, para. 483.
151 ILO, General Survey concerning the Migrant Workers Instruments 2016, paras 473 ff.

2. Access to justice

Migrant workers – like all other workers – should enjoy the right to access justice and judicial remedies against violations of their rights, by having their complaints considered by independent mechanisms. They should be duly represented when bringing their case, especially when they are no longer in the territory, be protected against retaliation and have the right to appeal against decisions.

The ILO standards on **Labour migration** contain specific provisions regarding migrant workers' access to justice and remedies, in particular that:

- Migrant workers with regular status in the country of employment shall not be treated less favourably than nationals in respect of legal proceedings (C.097, Art. 6(1)(d)).
- Migrant workers should have the right to appeal against a decision to terminate their employment and should be allowed sufficient time to obtain a final decision on their appeal (R.151, Para. 32(1)).
- A migrant worker who has received an expulsion order should have a right of appeal before an administrative or judicial instance, according to conditions laid down in national laws or regulations. This appeal should stay the execution of the expulsion order, subject to the duly substantiated requirements of national security or public order (R.151, Para. 33).
- Migrant workers have the same right to legal aid as national workers and, additionally, should have the possibility to be assisted by an interpreter (R.151, Para. 33).
- All migrant workers, including those in an irregular situation, if facing any difficulties in obtaining entitlements arising out of past employment, should enjoy equal treatment with national workers regarding access to courts and legal assistance (C.143, Art 9(2), R.151, Para. 34(2)).

In practice, however, migrant workers may lack the ability to raise concerns about their working and living conditions, due to various obstacles, including legal, practical and language barriers, fear of reprisals, lack of awareness of or trust in the national legal system, inability to pay legal fees, the length of proceedings, insufficient time to stay in country to follow the outcome of proceedings, and live-in requirements for certain domestic workers.[152]

The **ILO's Committee of Experts on the Application of Conventions and Recommendations** has indicated that migrant workers should have effective access to legal aid, assistance and services, and to courts, where appropriate, without having to pay fees at a rate that impedes access to justice. They should also be given sufficient time to remain in the host country to pursue complaints and disputes brought to the attention of the competent authorities and to obtain redress. The right to bring legal proceedings, including the right to appeal, should not be illusory because of a fear on the part of migrant workers – founded or not – of expulsion from the country.[153]

Migrant workers in an irregular situation may also fear that any involvement with the authorities would result in deportation without the opportunity to claim outstanding entitlements. Legislative requirements for public officials to report criminal offences may prevent migrant workers in an irregular situation from requesting assistance from essential public services, filing complaints of violations of basic human rights or claiming rights from past employment.[154]

152 ILO, General Survey concerning the Migrant Workers Instruments, 2016, para. 461-471,
153 ILO, General Survey concerning the Migrant Workers Instruments 2016, para. 517
154 See also: ILO. Protecting the rights of migrant workers in an irregular situation and addressing irregular labour migration, pp. 42.48

▶ Box 22: Access to justice for migrant workers in an irregular situation

The ILO Compendium the protection of migrant workers in irregular situations and addressing irregular migration (2021) provides specific examples of measures to facilitate access to justice for migrant workers in irregular situations. These measures may include, for example:

- Recognizing legal validity of an employment relationship/contract of employment;
- adopting legal provisions allowing migrant workers to pursue claims regardless whether they leave the country;
- Avoiding requirements for service providers to report offences of migration status;
- Authorizing trade unions to represent claimants;
- Ensuring that migrant workers in an irregular situation are aware of their rights and receive advice and legal aid;
- Concluding cross-border trade union agreements to protect rights of migrant workers in irregular situation and assist in legal defence;
- Providing gender-responsive counsel and complaints procedures in administrative, quasi-judicial and judicial forums;
- Guaranteeing consular protection by notifying the consul of the country of the migrant worker concerned, thereby giving effect to a principle of due process;
- Ensuring effective and speedy dispute resolution with ability to obtain redress;
- Affording victims of trafficking in persons and forced labour special protection and a temporary or other residence permit to stay in the country pending resolution of their claim;
- Making available services by the country of origin in the country of destination, including through bilateral arrangements.

Source: adapted from ILO, *Protecting the rights of migrant workers in irregular situations and addressing irregular migration: A Compendium*, 2021, Box 9.

The **ILO's Committee of Experts on the Application of Conventions and Recommendations** has requested governments to ensure that migrant workers in an irregular situation can claim their rights in practice and have access to the courts in the context of expulsion orders, and has encouraged governments to examine obstacles faced by migrant workers in submitting claims in relation to rights derived from past employment. Expulsion orders, in general, should not have the effect of denying migrant workers the right to appeal those orders nor should they have the effect in practice of denying migrant workers the right to file complaints with regard to violations of other rights.[155]

155 ILO, General Survey concerning the Migrant Workers Instruments 2016, para. 498-499.

Spotlight on regional and national contexts

Effective July 2024, the **Australian** Migration Amendment (Strengthening Employer Compliance) Act 2024 Government introduced new laws to strengthen reporting protections for temporary visa holders and deter dishonest employers from using a person's temporary visa, or their unlawful immigration status, to exploit them in the workplace. The new laws apply to both direct employers, and others in the employment chain, such as labour recruitment companies, and introduce severe criminal and civil penalties for misusing visa rules to exploit temporary migrant workers. They covers both work and non-work related matters that might arise in the workplace, including workers being pressured to surrender their passport, accept inadequate housing or underpayment, perform sexual favours, or breach visa work restrictions.

A migrant labour hotline in **Malaysia** run by members of the 40 Malaysian affiliates of the UNI Global Union provides legal support in cases of withholding of wages and other violations of migrant workers' labour rights.[1]

The Inter-Union Committee for the Defence of Migrant Workers in **Honduras**, composed of three trade union centres – the General Workers' Central (CGT), the United Confederation of Honduran Workers (CUTH) and the Honduran Workers' Central (CTH) – is engaged in the promotion and defence of migrant workers' rights through access to justice and fair recruitment.[2]

In some regions, Migrant Resource Centers (MRCs) play a crucial role in supporting migrant workers in filing formal complaints regarding unpaid wages or of social security benefits, or unfair recruitment practices. Often, they provide information on proceedings and assist migrant workers with court cases. The Human Rights and Development Foundation (HRDF) in **Thailand**, for example, provides legal aid to migrant workers in Mae Sot, Chiang Mai and four coastal regions employing migrants in the fishing and seafood processing sectors and has their own in-house lawyers.[3]

[1] ILO, Protecting the Rights of Migrant Workers in Irregular Situations and Addressing Irregular Labour Migration: A Compendium, 2021.
[2] ILO, Fair Recruitment in El Salvador, Guatemala, Honduras and Mexico: Assessing Progress and Addressing Gaps, 2023.
[3] Empowering Migrant Workers: Lessons Learned from ILO Migrant Worker Resource Centres in the ASEAN region, 2025, page

ILO standards concerning **forced labour** prescribe that all victims of forced or compulsory labour, irrespective of their presence or legal status in the national territory, shall have access to other appropriate and effective remedies, such as compensation (P.029).

This should include measures:

- Ensuring that all victims, either by themselves or through representatives, have effective access to courts, tribunals and other dispute resolution mechanisms to pursue remedies such as compensation and damages;
- Providing information and advice regarding victims' legal rights and the services available, in a language that they can understand, as well as access to legal assistance, preferably free of charge; and
- Providing that all victims of forced or compulsory labour that occurred in the Member State – both nationals and non-nationals – can pursue appropriate remedies in that State, irrespective of their presence or legal status, under simplified procedural requirements, when appropriate. (R.203, Para. 12).

The **ILO's Committee of Experts on the Application of Conventions and Recommendations** has pointed out that systems for the employment of foreign workers that tie the employment permit to one employer or workplace might create a significant dependency on that employer, and accordingly indirectly prevent migrant workers from feeling able to file a complaint in case of violation of their rights (see also box 17 above on employer-tied permits).[156]

All **domestic workers**, including migrant domestic workers, either by themselves or through a representative, must have effective access to courts, tribunals or other dispute resolution mechanisms under conditions that are not less favourable than those available to workers generally (C.189, Art. 16). Additional measures should also be considered to ensure the effective protection of domestic workers and, in particular, migrant domestic workers, including, among others:

156 ILO, General Survey concerning the Migrant Workers Instruments 2016, para. 465.

- Establishing a national hotline with interpretation services for domestic workers who need assistance;
- Securing access of domestic workers to complaint mechanisms and securing their ability to pursue legal civil and criminal remedies, both during and after employment, irrespective of departure from the country concerned; and
- Providing for a public outreach service to inform domestic workers, in a language they understand, of their rights, available complaint mechanisms and legal remedies, legal protections against crimes such as violence, trafficking in persons and deprivation of liberty; and any other pertinent information they may require (R.201, Para. 21(1)(a)(e) and (f)).

Countries of origin of migrant domestic workers should inform these workers of their rights before departure, and establish legal assistance funds, social services and specialized consular services, and any other appropriate measures, to assist in the effective protection of their rights (R.201, Para. 21(2)).

Spotlight on regional and national contexts

Some countries have established mechanisms allowing for their nationals working abroad to submit complaints to government representatives in countries of destination, such as labour attachés and consular officials. These can provide judicial and other support services, including support during complaint cases, and legal assistance.

The Organic Law on Human Mobility of **Ecuador** provides that Ecuatorians abroad in destination or transit countries in a situation of vulnerability shall receive priority attention by Ecuatorian diplomatic and consular authorities. Victims of gender-based violence are considered to be in a position of "vulnerability" (Article 21). Moreover, Ecuatorian consular authorities abroad have, among others, the function of carrying out actions against discrimination, xenofobia and other forms of violence against the Ecuatorian community abroad (Article 24).

The **Philippines**' Migrant Workers Act provides that the Department of Foreign Affairs, pursuant to section 22 of the Act, is mandated to assess the "rights and avenues of redress under international and regional human rights systems that are available to Filipino migrant workers who are victims of abuse and violation and, as far as practicable and through the Legal Assistant for Migrant Workers Affairs created under this Act, pursue the same on behalf of the victim if it is legally impossible to file individual complaints". The Department should apprise Filipino migrant workers of the existence and effectiveness of complaints machinery available under international or regional systems.

ILO and the IGAD secretariat provided a five-day training for Labour Attachés and consular officials from **Djibouti, Ethiopia, Kenya, Somalia, South Sudan, Sudan** and **Uganda** based in the Middle East, including on their role in addressing labour migration practices, and providing support to migrant workers.

Recommendations adopted by the **ASEAN** Forum on Migrant Labour (AFML) recognize the important role of labour attachés in the protection of migrant workers. For example, Recommendation No. 13 adopted at the 6th AFML (2013) states that ASEAN Member States should "Ensure and strengthen the roles of labour attachés, embassies and consular officials to include support services on availing of complaint mechanisms for migrant workers".

Source: ILO, General Survey concerning the Migrant Workers Instruments 2016, paras 495 ff.
See also: ILO, *El personal consular y su función en la protección de las personas trabajadoras migrantes*, 2023.

ILO standards concerning **violence and harassment** in the world of work call in particular for protection against victimization of or retaliation against complainants, victims, witnesses and whistle-blowers (C.190, Art. 10(b)(iv)). Victims of gender-based violence and harassment, including migrant workers, must also have effective access to gender-responsive, safe and effective complaint and dispute resolution mechanisms support, services and remedies (C.190, Art 10(e)). The standards recommend that the complaint and dispute resolution mechanisms should include measures such as:

- courts with expertise in cases of gender-based violence and harassment;
- timely and efficient processing;

- legal advice and assistance for complainants and victims;
- guides and other information resources available and accessible in languages that are widely spoken in the country; and
- shifting of the burden of proof, as appropriate, in proceedings other than criminal proceedings (R.206, Para. 16(a)-(e)).

Moreover, the support, services and remedies for victims of gender-based violence and harassment should include measures such as:

- support to help victims re-enter the labour market;
- counselling and information services, in as accessible a manner as appropriate;
- 24-hour hotlines;
- emergency services;
- medical care and treatment and psychological support;
- crisis centres, including shelters; and
- specialized police units or specially trained officers to support victims (R.206, Para. 17(a)-(g)).

▶ Box 23. Cross-border justice: Key factors to successful litigation

The difficulties that migrant workers experience in accessing justice in the country of employment, including the impossibility for workers to remain in the country of employment to pursue complaints upon leaving an abusive employer, have led to increased attention on cross-border or transnational access to justice for migrant workers.

Cross-border or transnational access to justice is understood to mean a worker's ability to file a claim or to continue with a claim in the country of employment after the worker has left (either back to their country of origin or to a third country) or to file a claim in the country of origin (for example, against the recruitment agency) for violations that occurred or are occurring in the country of employment.

Through the analysis of selected case studies, the ILO has identified several factors that contribute to successful cross-border litigation. The most critical factor is the need for legal assistance and support for migrant workers in relation to lodging and carrying through with their cross-border claims. The availability of legal aid and the help of a government-funded lawyer, trade union representative or advocate trained in the legal complaints framework of the country of employment is paramount to assisting migrant workers in navigating complex legal procedures – including the difficulty of working across two different legal systems.

Other main factors include:

- Collaboration and communication between trade unions and civil society organizations in the country of origin and the country of employment, who are available to aid and support a worker with their legal proceedings in both countries.
- The support of a trade union or civil society organization in the worker's country of origin in relation to conducting a fact-finding investigation and addressing the worker's emotional and logistical needs. Such support might include helping to collect evidence and swear affidavits,or assist with communication between the worker and their lawyer or representative in the country of employment.
- The existence of a legal framework and a labour complaints mechanism that permit migrant workers to pursue cases in the first place, and in particular, the ability for complaints to continue once the worker is no longer in the country of employment.

Source: ILO, Justice Across Borders: Access to Labour Justice for Migrant Workers through Cross-border Litigation, 2024.

Main ILO standards of reference

Standards on access to justice for migrant workers

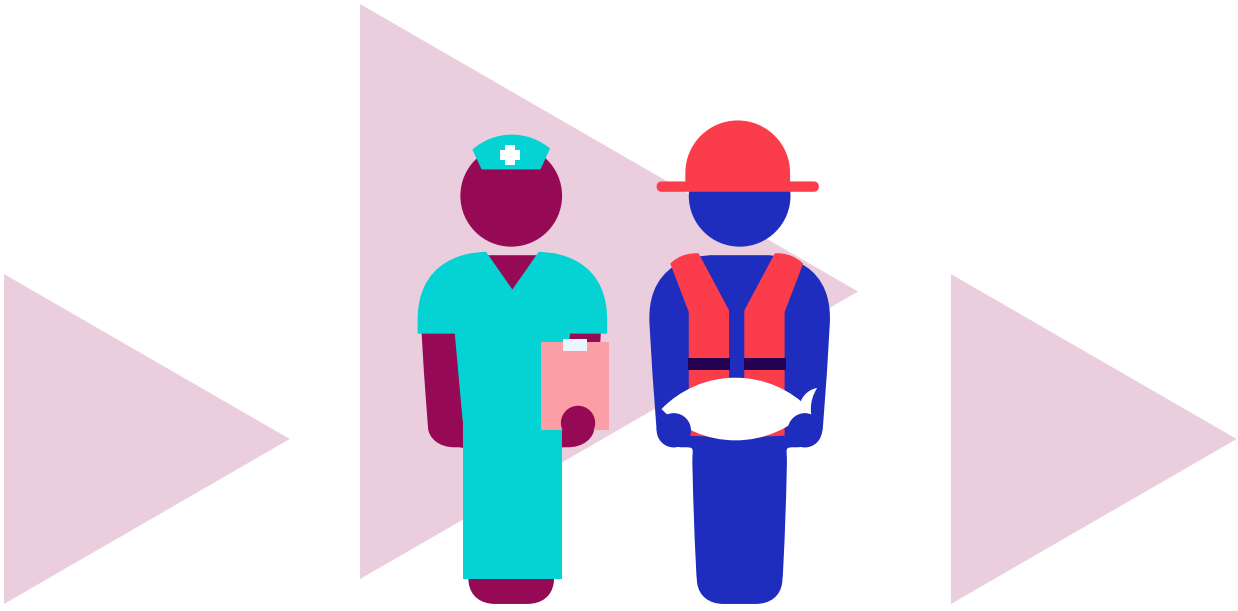
- Migration for Employment Convention (Revised), 1949 (No. 97), Article 6(1)(d) and Appendix II, Article 6(3)
- Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), Article 9(2)
- Migrant Workers Recommendation, 1975 (No. 151), Paragraphs 32–34

Other relevant standards

- Protocol of 2014 to the Forced Labour Convention, 1930, Article 4
- Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203), Paragraph 12
- Domestic Workers Convention, 2011 (No. 189), Article 16
- Domestic Workers Recommendation, 2011 (No. 201), Paragraph 21.
- Violence and Harassment Convention, 2019 (No. 190), Article 10
- Violence and Harassment Recommendation, 2019 (No. 206), Paragraphs 16–17

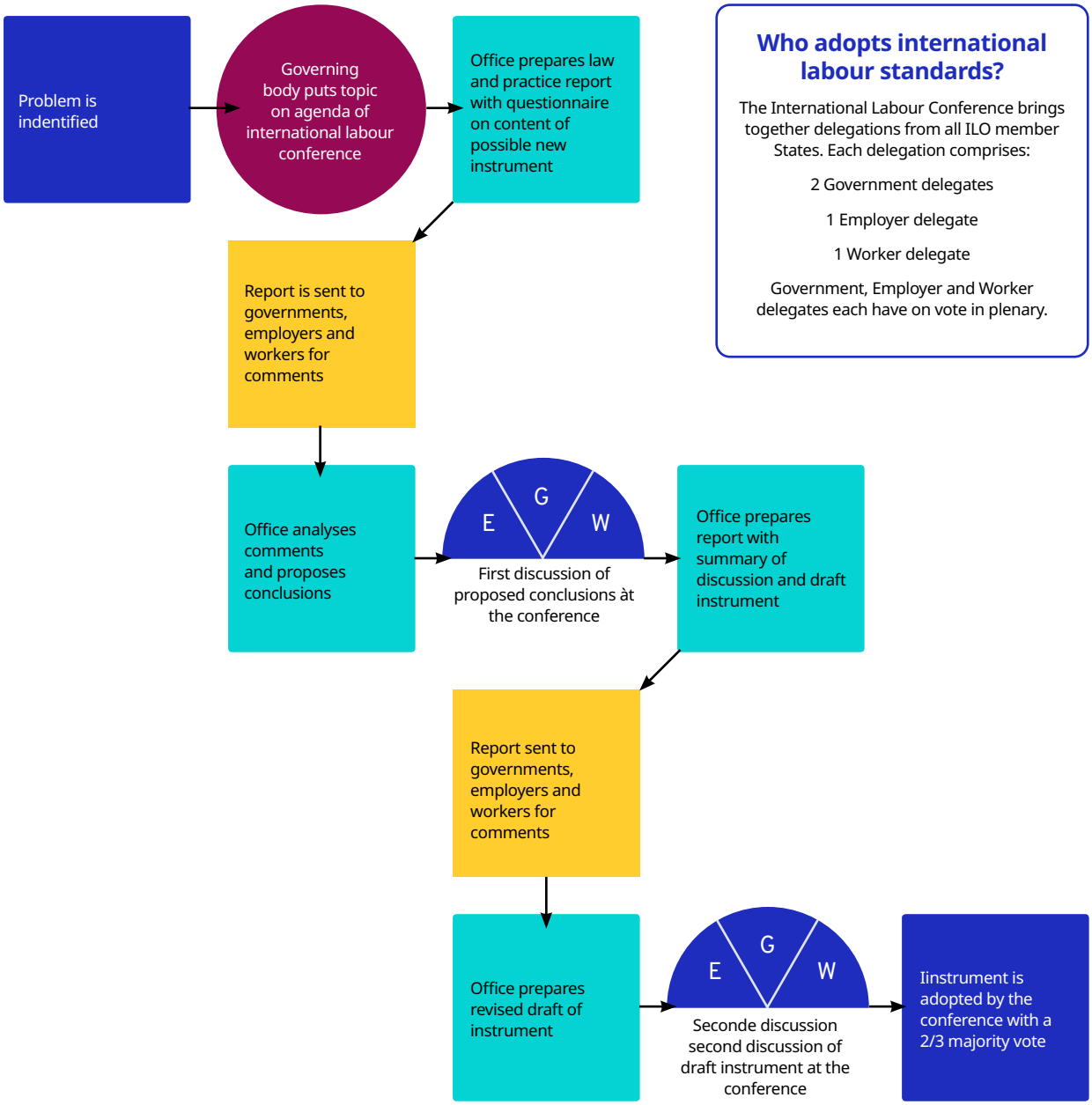
Further reading:

- *Access to Labour Justice for All: Prevention and Resolution of Labour Disputes*
- *Labour Inspection and Monitoring of Recruitment of Migrant Workers*
- *Justice across Borders: Access to Labour Justice for Migrant Workers through Cross-border Litigation*
- *Guide on the Role of Consular Staff in the Protection of Migrant Workers*
- *ILO Guidelines on general principles of labour inspection 2022*
- *Protecting migrant workers in an irregular situation and addressing irregular labour migration*
- *ILO Guidelines for fair labour market services for migrant fishers 2025*



Annex:
International labour standards and their supervision

A. Adoption of International Labour Standards



Who adopts international labour standards?

The International Labour Conference brings together delegations from all ILO member States. Each delegation comprises:

2 Government delegates

1 Employer delegate

1 Worker delegate

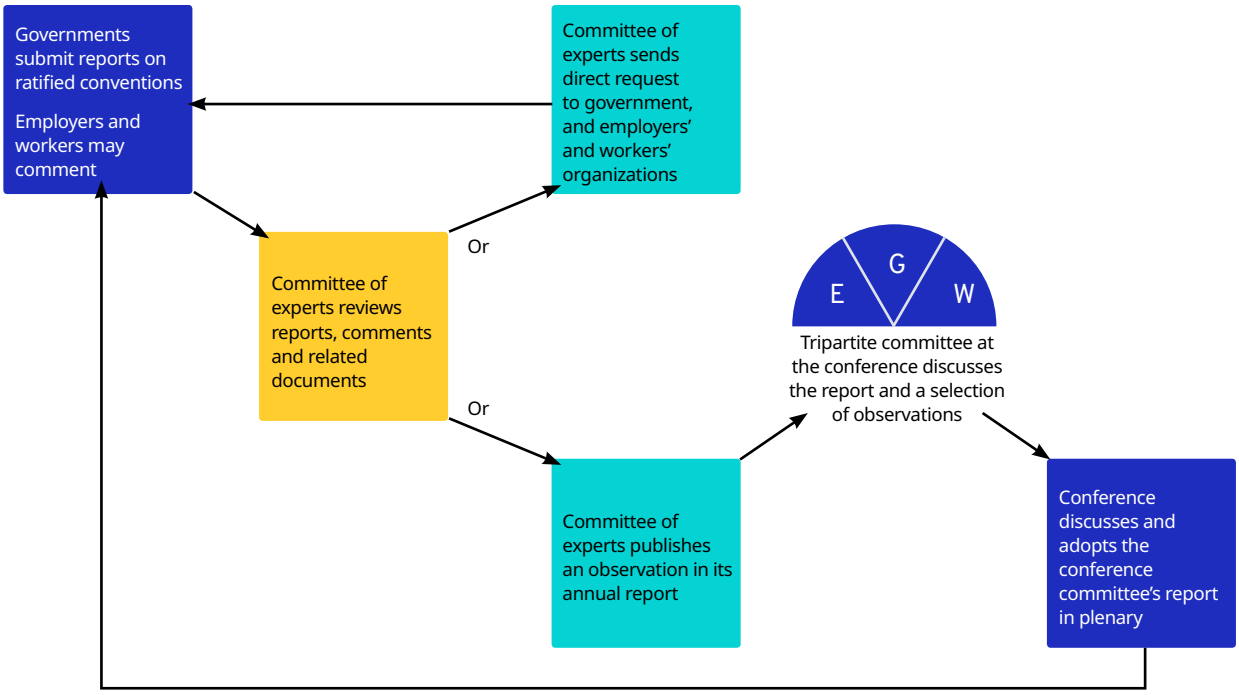
Government, Employer and Worker delegates each have on vote in plenary.

B. ILO supervisory mechanism

International labour standards are backed by a supervisory system supervisory system comprised of independent legal experts and tripartite bodies to help ensure that countries implement the Conventions they ratify. There are two kinds of supervisory procedures in the ILO: the regular system for supervising the application of standards and the special procedures

A. The regular supervisory procedure

The regular system of supervision: The ILO Committee of Experts on the Application of Conventions and Recommendations and the Conference Committee on the Application of Standards are the two ILO bodies that examine periodic reports submitted by Member States on the measures they have taken to implement the provisions of the ratified Conventions, and observations sent in this regard by workers' and employers' organisations.

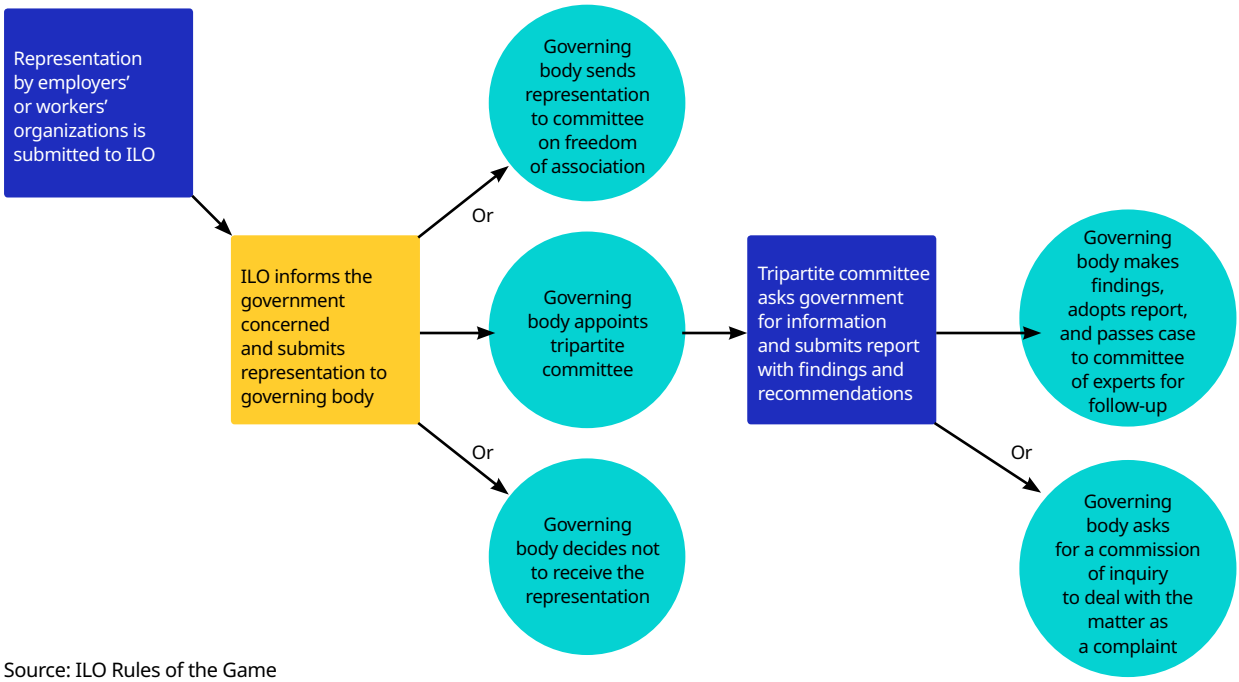


Source: ILO Rules of the Game

B. The Special procedures

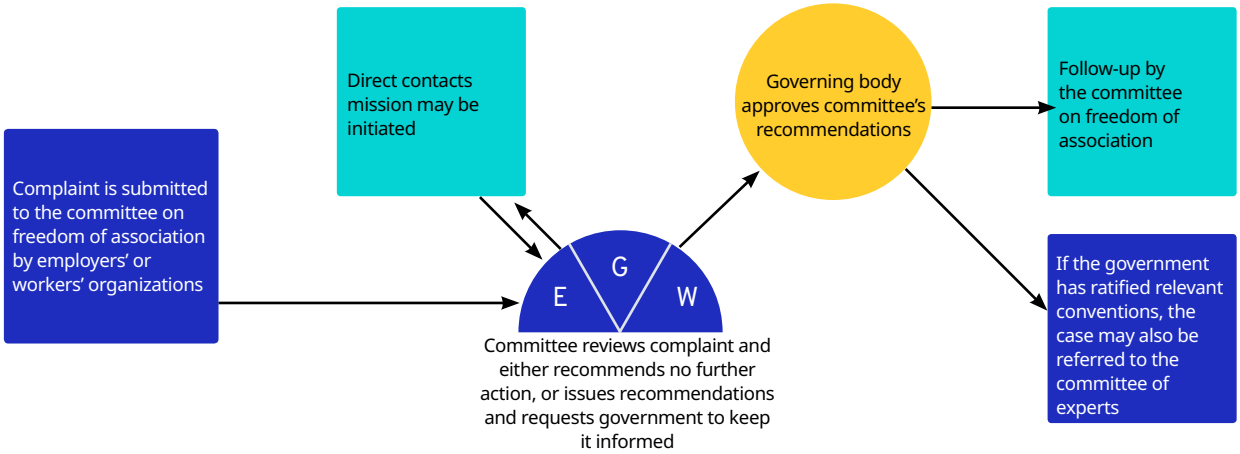
There are three special procedures: The procedure for representations on the application of ratified Conventions; The Procedure for complaints over the application of ratified Conventions, and the special procedure for complaints regarding freedom of association through the Committee on Freedom of Association.

1. The representation procedure (article 24 of the ILO Constitution)



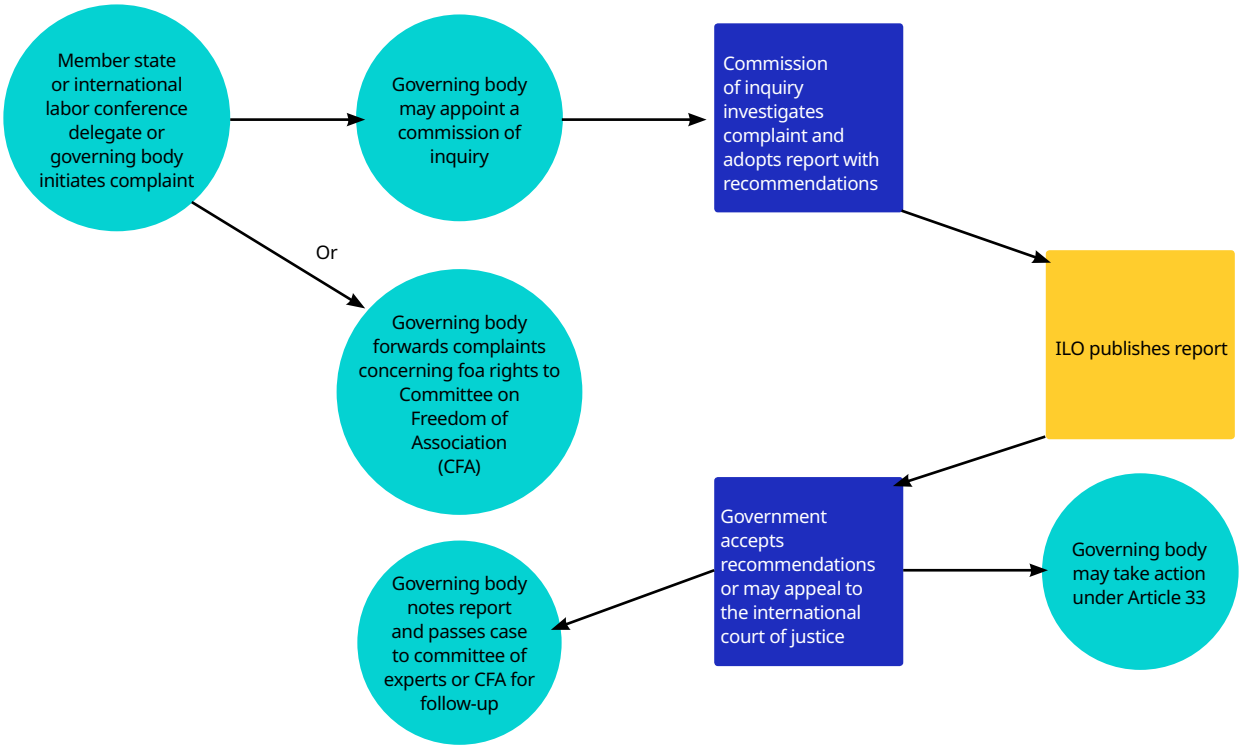
Source: ILO Rules of the Game

2. The Freedom of association procedure (Committee on Freedom of Association)



Source: ILO Rules of the Game

3. The Complaint procedure (article 26 of the ILO Constitution)



Source: ILO Rules of the Game

Further reading:

- *Rules of the Game: An introduction to the standards-related work of the International Labour Organization (Centenary edition 2019)*
- *Handbook of procedures relating to international labour Conventions and Recommendation (Centenary Edition 2019)*
- *NORMLEX - Information System on International Labour Standards*
- *ILO Web Portal on International Labour Standards*

International labour standards and migrant workers' rights

Guide for policymakers and practitioners

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