COUNCIL OF EUROPE CONSEIL DE L'EUROPE

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EUROPEAN CONVENTION ON THE LEGAL STATUS OF MIGRANT WORKERS

Strasbourg, 24.XI.1977

The member States of the Council of Europe, signatory hereto,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and facilitating their economic and social progress while respecting human rights and fundamental freedoms;

Considering that the legal status of migrant workers who are nationals of Council of Europe member States should be regulated so as to ensure that as far as possible they are treated no less favourably than workers who are nationals of the receiving State in all aspects of living and working conditions;

Being resolved to facilitate the social advancement of migrant workers and members of their families;

Affirming that the rights and privileges which they grant to each other's nationals are conceded by virtue of the close association uniting the member States of the Council of Europe by means of its Statute,

Have agreed as follows:

Chapter I

Article 1 – Definition

1 For the purpose of this Convention, the term "migrant worker" shall mean a national of a Contracting Party who has been authorised by another Contracting Party to reside in its territory in order to take up paid employment.

2 This Convention shall not apply to:

a frontier workers;

b artists, other entertainers and sportsmen engaged for a short period and members of a liberal profession;

c seamen;

d persons undergoing training;

e seasonal workers; seasonal migrant workers are those who, being nationals of a Contracting Party, are employed on the territory of another Contracting Party in an activity dependent on the rhythm of the seasons, on the basis of a contract for a specified period or for specified employment;

f workers, who are nationals of a Contracting Party, carrying out specific work in the territory of another Contracting Party on behalf of an undertaking having its registered office outside the territory of that Contracting Party.

Chapter II

Article 2 – Forms of recruitment

1 The recruitment of prospective migrant workers may be carried out either by named or by unnamed request and in the latter case shall be effected through the intermediary of the official authority in the State of origin if such an authority exists and, where appropriate, through the intermediary of the official authority of the receiving State.

2 The administrative costs of recruitment, introduction and placing, when these operations are carried out by an official authority, shall not be borne by the prospective migrant worker.

Article 3 – Medical examinations and vocational test

1 Recruitment of prospective migrant workers may be preceded by a medical examination and a vocational test.

2 The medical examination and the vocational test are intended to establish whether the prospective migrant worker is physically and mentally fit and technically qualified for the job offered to him and to make certain that his state of health does not endanger public health.

3 Arrangements for the reimbursement of expenses connected with medical examination and vocational test shall be laid down when appropriate by bilateral agreements, so as to ensure that such expenses do not fall upon the prospective migrant worker.

4 A migrant worker to whom an individual offer of employment is made shall not be required, otherwise than on grounds of fraud, to undergo a vocational test except at the employer's request.

Article 4 – Right of exit – Right to admission – Administrative formalities

1 Each Contracting Party shall guarantee the following rights to migrant workers:

- the right to leave the territory of the Contracting Party of which they are nationals;
- the right to admission to the territory of a Contracting Party in order to take up paid employment after being authorised to do so and obtaining the necessary papers.

2 These rights shall be subject to such limitations as are prescribed by legislation and are necessary for the protection of national security, public order, public health or morals.

3 The papers required of the migrant worker for emigration and immigration shall be issued as expeditiously as possible free of charge or on payment of an amount not exceeding their administrative cost.

Article 5 – Formalities and procedure relating to the work contract

Every migrant worker accepted for employment shall be provided prior to departure for the receiving State with a contract of employment or a definite offer of employment, either of which may be drawn up in one or more of the languages in use in the State of origin and in one or more of the languages in use in the receiving State. The use of at least one language of the State of origin and one language of the receiving State shall be compulsory in the case of recruitment by an official authority or an officially recognised employment bureau.

Article 6 – Information

1 The Contracting Parties shall exchange and provide for prospective migrants appropriate information on their residence, conditions of and opportunities for family reunion, the nature of the job, the possibility of a new work contract being concluded after the first has lapsed, the qualifications required, working and living conditions (including the cost of living), remuneration, social security, housing, food, the transfer of savings, travel, and on deductions made from wages in respect of contributions for social protection and social security, taxes and other charges. Information may also be provided on the cultural and religious conditions in the receiving State.

2 In the case of recruitment through an official authority of the receiving State, such information shall be provided, before his departure, in a language which the prospective migrant worker can understand, to enable him to take a decision in full knowledge of the facts. The translation, where necessary, of such information into a language that the prospective migrant worker can understand shall be provided as a general rule by the State of origin.

3 Each Contracting Party undertakes to adopt the appropriate steps to prevent misleading propaganda relating to emigration and immigration.

Article 7 – Travel

1 Each Contracting Party undertakes to ensure, in the case of official collective recruitment, that the cost of travel to the receiving State shall never be borne by the migrant worker. The arrangements for payment shall be determined under bilateral agreements, which may also extend these measures to families and to workers recruited individually.

2 In the case of migrant workers and their families in transit through the territory of one Contracting Party en route to the receiving State, or on their return journey to the State of origin, all steps shall be taken by the competent authorities of the transit State to expedite their journey and prevent administrative delays and difficulties.

3 Each Contracting Party shall exempt from import duties and taxes at the time of entry into the receiving State and of the final return to the State of origin and in transit:

a the personal effects and movable property of migrant workers and members of their family belonging to their household;

b a reasonable quantity of hand-tools and portable equipment necessary for the occupation to be engaged in.

The exemptions referred to above shall be granted in accordance with the laws or regulations in force in the States concerned.

Chapter III

Article 8 – Work permit

1 Each Contracting Party which allows a migrant worker to enter its territory to take up paid employment shall issue or renew a work permit for him (unless he is exempt from this requirement), subject to the conditions laid down in its legislation.

2 However, a work permit issued for the first time may not as a rule bind the worker to the same employer or the same locality for a period longer than one year.

3 In case of renewal of the migrant worker's work permit, this should as a general rule be for a period of at least one year, in so far as the current state and development of the employment situation permits.

Article 9 – Residence permit

1 Where required by national legislation, each Contracting Party shall issue residence permits to migrant workers who have been authorised to take up paid employment on their territory under conditions laid down in this Convention.

2 The residence permit shall in accordance with the provisions of national legislation be issued and, if necessary, renewed for a period as a general rule at least as long as that of the work permit. When the work permit is valid indefinitely, the residence permit shall as a general rule be issued and, if necessary, renewed for a period of at least one year. It shall be issued and renewed free of charge or for a sum covering administrative costs only.

3 The provisions of this Article shall also apply to members of the migrant worker's family who are authorised to join him in accordance with Article 12 of this Convention.

4 If a migrant worker is no longer in employment, either because he is temporarily incapable of work as a result of illness or accident or because he is involuntarily unemployed, this being duly confirmed by the competent authorities, he shall be allowed for the purpose of the application of Article 25 of this Convention to remain on the territory of the receiving State for a period which should not be less than five months. Nevertheless, no Contracting Party shall be bound, in the case provided for in the above sub-paragraph, to allow a migrant worker to remain for a period exceeding the period of payment of the unemployment allowance.

5 The residence permit, issued in accordance with the provisions of paragraphs 1 to 3 of this Article, may be withdrawn:

a for reasons of national security, public policy or morals;

b if the holder refuses, after having been duly informed of the consequences of such refusal, to comply with the measures prescribed for him by an official medical authority with a view to the protection of public health;

c if a condition essential to its issue or validity is not fulfilled. Each Contracting Party nevertheless undertakes to grant to migrant workers whose residence permits have been withdrawn, an effective right to appeal, in accordance with the procedure for which provision is made in its legislation, to a judicial or administrative authority.

Article 10 – Reception

1 After arrival in the receiving State, migrant workers and members of their families shall be given all appropriate information and advice as well as all necessary assistance for their settlement and adaptation.

2 For this purpose, migrant workers and members of their families shall be entitled to help and assistance from the social services of the receiving State or from bodies working in the public interest in the receiving State and to help from the consular authorities of their State or origin. Moreover, migrant workers shall be entitled, on the same basis as national workers, to help and assistance from the employment services. However, each Contracting Party shall endeavour to ensure that special social services are available, whenever the situation so demands, to facilitate or co-ordinate the reception of migrant workers and their families.

3 Each Contracting Party undertakes to ensure that migrant workers and members of their families can worship freely, in accordance with their faith; each Contracting Party shall facilitate such worship, within the limit of available means.

Article 11 – Recovery of sums due in respect of maintenance

1 The status of migrant workers must not interfere with the recovery of sums due in respect of maintenance to persons in the State of origin to whom they have maintenance obligations arising from a family relationship, parentage, marriage or affinity, including a maintenance obligation in respect of a child who is not legitimate.

2 Each Contracting Party shall take the steps necessary to ensure the recovery of sums due in respect of such maintenance, making use as far as possible of the form adopted by the Committee of Ministers of the Council of Europe.

3 As far as possible, each Contracting Party shall take steps to appoint a single national or regional authority to receive and dispatch applications for sums due in respect of maintenance provided for in paragraph 1 above.

4 This Article shall not affect existing or future bilateral or multilateral agreements.

Article 12 – Family reunion

1 The spouse of a migrant worker who is lawfully employed in the territory of a Contracting Party and the unmarried children thereof, as long as they are considered to be minors by the relevant law of the receiving State, who are dependent on the migrant worker, are authorised on conditions analogous to those which this Convention applies to the admission of migrant workers and according to the admission procedure prescribed by such law or by international agreements to join the migrant worker in the territory of a Contracting Party, provided that the latter has available for the family housing considered as normal for national workers in the region where the migrant worker is employed. Each Contracting Party may make the giving of authorisation conditional upon a waiting period which shall not exceed twelve months.

2 Any State may, at any time, by declaration addressed to the Secretary General of the Council of Europe, which shall take effect one month after the date of receipt, make the family reunion referred to in paragraph 1 above further conditional upon the migrant worker having steady resources sufficient to meet the needs of his family.

3 Any State may, at any time, by declaration addressed to the Secretary General of the Council of Europe, which shall take effect one month after the date of its receipt, derogate temporarily from the obligation to give the authorisation provided for in paragraph 1 above, for one or more parts of its territory which it shall designate in its declaration, on the condition that these measures do not conflict with obligations under other international instruments. The declarations shall state the special reasons justifying the derogation with regard to receiving capacity.

Any State availing itself of this possibility of derogation shall keep the Secretary General of the Council of Europe fully informed of the measures which it has taken and shall ensure that these measures are published as soon as possible. It shall also inform the Secretary General of the Council of Europe when such measures cease to operate and the provisions of the Convention are again being fully executed.

The derogation shall not, as a general rule, affect requests for family reunion submitted to the competent authorities, before the declaration is addressed to the Secretary General, by migrant workers already established in the part of the territory concerned.

Article 13 – Housing

1 Each Contracting Party shall accord to migrant workers, with regard to access to housing and rents, treatment not less favourable than that accorded to its own nationals, insofar as this matter is covered by domestic laws and regulations.

2 Each Contracting Party shall ensure that the competent national authorities carry out inspections in appropriate cases in collaboration with the respective consular authorities, acting within their competence, to ensure that standards of fitness of accommodation are kept up for migrant workers as for its own nationals.

3 Each Contracting Party undertakes to protect migrant workers against exploitation in respect of rents, in accordance with its laws and regulations on the matter.

4 Each Contracting Party shall ensure, by the means available to the competent national authorities, that the housing of the migrant worker shall be suitable.

Article 14 – Pretraining – Schooling – Linguistic training – Vocational training and retraining

1 Migrant workers and members of their families officially admitted to the territory of a Contracting Party shall be entitled, on the same basis and under the same conditions as national workers, to general education and vocation training and retraining and shall be granted access to higher education according to the general regulations governing admission to respective institutions in the receiving State.

2 To promote access to general and vocational schools and to vocational training centres, the receiving State shall facilitate the teaching of its language or, if there are several, one of its languages to migrant workers and members of their families.

3 For the purpose of the application of paragraphs 1 and 2 above, the granting of scholarships shall be left to the discretion of each Contracting Party which shall make efforts to grant the children of migrant workers living with their families in the receiving State – in accordance with the provisions of Article 12 of this Convention – the same facilities in this respect as the receiving State's nationals.

4 The workers' previous attainments, as well as diplomas and vocational qualifications acquired in the State of origin, shall be recognised by each Contracting Party in accordance with arrangements laid down in bilateral and multilateral agreements.

5 The Contracting Parties concerned, acting in close co-operation shall endeavor to ensure that the vocational training and retraining schemes, within the meaning of this Article, cater as far as possible for the needs of migrant workers with a view to their return to their State of origin.

Article 15 – Teaching of the migrant worker's mother tongue

The Contracting Parties concerned shall take actions by common accord to arrange, so far as practicable, for the migrant worker's children, special courses for the teaching of the migrant worker's mother tongue, to facilitate, *inter alia*, their return to their State of origin.

Article 16 – Conditions of work

1 In the matter of conditions of work, migrant workers authorised to take up employment shall enjoy treatment not less favourable than that which applies to national workers by virtue of legislative or administrative provisions, collective labour agreement or custom.

2 It shall not be possible to derogate by individual contract from the principle of equal treatment referred to in the foregoing paragraph.

Article 17 – Transfer of savings

1 Each Contracting Party shall permit, according to the agreements laid down by its legislation, the transfer of all or such parts of the earnings and savings of migrant workers as the latter may wish to transfer.

This provision shall apply also to the transfer of sums due by migrant workers in respect of maintenance. The transfer of sums due by migrant workers in respect of maintenance shall on no account be hindered or prevented.

2 Each Contracting Party shall permit, under bilateral agreements or by other means, the transfer of such sums as remain due to migrant workers when they leave the territory of the receiving State.

Article 18 – Social Security

1 Each Contracting Party undertakes to grant within its territory, to migrant workers and members of their families, equality of treatment with its own nationals, in the matter of social security, subject to conditions required by national legislation and by bilateral or multilateral agreements already concluded or to be concluded between the Contracting Parties concerned.

2 The Contracting Parties shall moreover endeavour to secure to migrant workers and members of their families the conservation of rights in course of acquisition and acquired rights, as well as provision of benefits abroad, through bilateral and multilateral agreements.

Article 19 – Social and Medical Assistance

Each Contracting Party undertakes to grant within its territory, to migrant workers and members of their families who are lawfully present in its territory, social and medical assistance on the same basis as nationals in accordance with the obligations it has assumed by virtue of other international agreements and in particular of the European Convention on Social and Medical Assistance of 1953.

Article 20 – Industrial accidents and occupational diseases – Industrial hygiene

1 With regard to the prevention of industrial accidents and occupational diseases and to industrial hygiene, migrant workers shall enjoy the same rights and protection as national workers, in application of the laws of a Contracting Party and collective agreements and having regard to their particular situation.

2 A migrant worker who is victim of an industrial accident or who has contracted an occupational disease in the territory of the receiving State shall benefit from occupational rehabilitation on the same basis as national workers.

Article 21 – Inspection of working conditions

Each Contracting Party shall inspect or provide for inspection of the conditions of work of migrant workers in the same manner as for national workers. Such inspection shall be carried out by the competent bodies or institutions of the receiving State and by any other authority authorised by the receiving State.

Article 22 – Death

Each Contracting Party shall take care, within the framework of its laws and, if need be, within the framework of bilateral agreements, that steps are taken to provide all help and assistance necessary for the transport to the State of origin of the bodies of migrant workers deceased as the result of an industrial accident.

Article 23 – Taxation on earnings

1 In the matter of earnings and without prejudice to the provisions on double taxation contained in agreements already concluded or which may in future be concluded between Contracting Parties, migrant workers shall not be liable, in the territory of a Contracting Party, to duties, charges, taxes or contributions of any description whatsoever either higher or more burdensome than those imposed on nationals in similar circumstances. In particular, they shall be entitled to deductions or exemptions from taxes or charges and to all allowances, including allowance for dependants.

2 The Contracting Parties shall decide between themselves, by bilateral or multilateral agreements on double taxation, what measures might be taken to avoid double taxation on the earnings of migrant workers.

Article 24 – Expiry of contract and discharge

1 On the expiry of a work contract concluded for a special period at the end of the period agreed on and on the case of anticipated cancellation of such a contract or cancellation of a work contract for an unspecified period, migrant workers shall be accorded treatment not less favourable than that accorded to national workers under the provisions of national legislation or collective labour agreements.

2 In the event of individual or collective dismissal, migrant workers shall receive the treatment applicable to national workers under national legislation or collective labour agreements, as regards the form and period of notice, the compensation provided for in legislation or agreements or such as may be due in cases of unwarranted cancellation of their work contracts.

Article 25 – Re-employment

1 If a migrant worker loses his job for reasons beyond his control, such as redundancy or prolonged illness, the competent authority of the receiving State shall facilitate his re-employment in accordance with the laws and regulations of that State.

2 To this end the receiving State shall promote the measures necessary to ensure, as far as possible, the vocational retraining and occupational rehabilitation of the migrant worker in question, provided that he intends to continue in employment in the State concerned afterwards.

Article 26 – Right of access to the courts and administrative authorities in the receiving State

1 Each Contracting Party shall secure to migrant workers treatment not less favourable than that of its own nationals in respect of legal proceedings. Migrant workers shall be entitled, under the same conditions as nationals, to full legal and judicial protection of their persons property and their right and interests; in particular, they shall have, in the same manner as nationals, the right of access to the competent courts and administrative authorities, in accordance with the law of the receiving State, and the right to obtain the assistance of any person of their choice who is qualified by the law of that State, for instance in disputes with employers, members of their families or third parties. The rules of private international law of the receiving State shall not be affected by this Article.

2 Each Contracting Party shall provide migrant workers with legal assistance on the same conditions as for their own nationals and, in the case of civil or criminal proceedings, the possibility of obtaining the assistance of an interpreter where they cannot understand or speak the language used in court.

Article 27 – Use of employment services

Each Contracting Party recognises the right of migrant workers and of the members of their families officially admitted to its territory to make use of employment services under the same conditions as national workers subject to the legal provisions and regulations and administrative practice, including conditions of access, in force in that State.

Article 28 – Exercise of the right to organise

Each Contracting Party shall allow to migrant workers the right to organise for the protection of their economic and social interests on the conditions provided for by national legislation for its own nationals.

Article 29 – Participation in the affairs of the undertaking

Each Contracting Party shall facilitate as far as possible the participation of migrant workers in the affairs of the undertaking on the same conditions as national workers.

Chapter IV

Article 30 – Return home

1 Each Contracting Party shall, as far as possible, take appropriate measures to assist migrant workers and their families on the occasion of their final return to their State of origin, and in particular the steps referred to in paragraphs 2 and 3 of Article 7 of this Convention. The provision of financial assistance shall be left to the discretion of each Contracting Party.

2 To enable migrant workers to know, before they set out on their return journey, the conditions on which they will be able to resettle in their State of origin, this State shall communicate to the receiving State, which shall keep available for those who request it, information regarding in particular:

- possibilities and conditions of employment in the State of origin;
- financial aid granted for economic reintegration;
- the maintenance of social security rights acquired abroad;
- steps to be taken to facilitate the finding of accommodation;
- equivalence accorded to occupational qualifications obtained abroad and any tests to be passed to secure their official recognition;
- equivalence accorded to educational qualification, so that migrant workers' children can be admitted to schools without down-grading.

Chapter V

Article 31 – Conservation of acquired rights

No provision of this Convention may be interpreted as justifying less favourable treatment than that enjoyed by migrant workers under the national legislation of the receiving State or under bilateral and multilateral agreements to which that State is a Contracting Party.

Article 32 – Relations between this Convention and the laws of the Contracting Parties or international agreements

The provisions of this Convention shall not prejudice the provisions of the laws of the Contracting Parties or of any bilateral or multilateral treaties, conventions, agreements or arrangements, as well as the steps taken to implement them, which are already in force, or may come into force, and under which more favourable treatment has been, or would be, accorded to the persons protected by the Convention.

Article 33 – Application of the Convention

1 A Consultative Committee shall be set up within a year of the entry into force of this Convention.

2 Each Contracting Party shall appoint a representative to the Consultative Committee. Any other member State of the Council of Europe may be represented by an observer with the right to speak.

3 The Consultative Committee shall examine any proposals submitted to it by one of the Contracting Parties with a view to facilitating or improving the application of the Convention, as well as any proposal to amend it.

4 The opinions and recommendations of the Consultative Committee shall be adopted by a majority of the members of the Committee; however, proposals to amend the Convention shall be adopted unanimously by the members of the Committee.

5 The opinions, recommendations and proposals of the Consultative Committee referred to above shall be addressed to the Committee of Ministers of the Council of Europe, which shall decide on the action to be taken.

6 The Consultative Committee shall be convened by the Secretary General of the Council of Europe and shall meet, as a general rule, at least once every two years and, in addition, whenever at least two Contracting Parties or the Committee of Ministers so requests. The committee shall also meet at the request of one Contracting Party whenever the provisions of paragraph 3 of Article 12 are applied.

7 The Consultative Committee shall draw up periodically, for the attention of the Committee of Ministers, a report containing information regarding the laws and regulations in force in the territory of the Contracting Parties in respect of matters provided for in this Convention.

Chapter VI

Article 34 – Signature, ratification and entry into force

1 This Convention shall be open to signature by the member States of the Council of Europe. It shall be subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

2 This Convention shall enter into force on the first day of the third month following the date of the deposit of the fifth instrument of ratification, acceptance or approval.

3 In respect of a signatory State ratifying, approving or accepting subsequently, the Convention shall enter into force on the first day of the third month following the date of the deposit of its instrument of ratification, acceptance or approval.

Article 35 – Territorial scope

1 Any State may, at the time of signature or when depositing its instrument of ratification, acceptance or approval or at any later date, by declaration to the Secretary General of the Council of Europe, extend the application of this Convention to all or any of the territories for whose international relations it is responsible or on whose behalf it is authorised to give undertakings.

2 Any declaration made in pursuance of the preceding paragraph may, in respect of any territory mentioned in such declaration, be withdrawn. Such withdrawal shall take effect six months after receipt by the Secretary General of the Council of Europe of the declaration of withdrawal.

Article 36 – Reservations

1 Any Contracting Party may, at the time of signature or when depositing its instrument of ratification, acceptance or approval, make one or more reservations which may relate to no more than nine articles of Chapters II to IV inclusive, other than Articles 4, 8, 9, 12, 16, 17, 20, 25, 26.

2 Any Contracting Party may, at any time, wholly or partly withdraw a reservation it has made in accordance with the foregoing paragraph by means of a declaration addressed to the Secretary General of the Council of Europe, which shall become effective as from the date of its receipt.

Article 37 – Denunciation of the Convention

1 Each Contracting Party may denounce this Convention by notification addressed to the Secretary General of the Council of Europe, which shall take effect six months after the date of its receipt.

2 No denunciation may be made within five years of the date of the entry into force of the Convention in respect of the Contracting Party concerned.

3 Each Contracting Party which ceases to be a member of the Council of Europe shall cease to be a Party to this Convention six months after the date on which it loses its quality as a member of the Council of Europe.

Article 38 – Notifications

The Secretary General of the Council of Europe shall notify the member States of the Council of:

a any signature;

b the deposit of any instrument of ratification, acceptance or approval;

c any notification received in respect of paragraphs 2 and 3 of Article 12;

d any date of entry into force of this Convention in accordance with Article 34 thereof;

e any declaration received in pursuance of the provisions of Article 35;

f any reservation made in pursuance of the provisions of paragraph 1 of Article 36;

g withdrawal of any reservation carried out in pursuance of the provisions of paragraph 2 of Article 36;

h any notification received in pursuance of the provisions of Article 37 and the date on which denunciation takes place.

In witness whereof, the undersigned, being duly authorised thereto, have signed this Convention.

Done at Strasbourg, this 24th day of November 1977, in English and in French, both texts being equally authoritative, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each of the signatory States.