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R086 - Recomendación sobre los trabajadores migrantes (revisada), 1949 (núm. 86)

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Preámbulo

La Conferencia General de la Organización Internacional del Trabajo,

Convocada en Ginebra por el Consejo de Administración de la Oficina Internacional del Trabajo, y celebrada en su trigésima segunda reunión el 8 junio 1949,

Habiendo decidido adoptar diversas proposiciones relativas a la revisión de la Recomendación sobre los trabajadores migrantes, 1939, y de la Recomendación sobre los trabajadores migrantes (Cooperación entre los Estados), 1939, adoptadas por la Conferencia en su 25.^a reunión, que figuran en el undécimo punto del orden del día de la reunión, y

Habiendo decidido que dichas propuestas revistan la forma de una Recomendación,

adopta, con fecha primero de julio de mil novecientos cuarenta y nueve, la siguiente Recomendación, que podrá ser citada como la Recomendación sobre los trabajadores migrantes (revisada), 1949:

La Conferencia,

Habiendo adoptado el Convenio sobre los trabajadores migrantes (revisado), 1949, y

Deseando complementar sus disposiciones con una Recomendación;

Recomienda lo siguiente:

I

1. A los efectos de la presente Recomendación:

a) el término **migrante con fines de empleo** significa una persona que migra de un país a otro con el fin de ser empleada por una razón distinta a la suya propia e incluye a toda persona admitida regularmente como migrante con fines de empleo;

(b) el término **reclutamiento** significa:

(i) la contratación de una persona en un territorio por cuenta de un empleador en otro territorio, o

(ii) la concesión a una persona de un compromiso de proporcionarle empleo en otro territorio, junto con la realización de cualesquiera arreglos relacionados con las operaciones mencionadas en (i) y (ii), incluidas la búsqueda y selección de emigrantes y la preparación para la partida de éstos;

c) el término **introducción** significa cualquier operación encaminada a asegurar o facilitar la llegada o la admisión en un territorio de personas que hayan sido reclutadas en el sentido del apartado b);

d) el término **colocación** significa cualquier operación que tenga por objeto asegurar o facilitar el empleo de personas que hayan sido introducidas en el sentido del apartado c).

2. A los efectos de la presente Recomendación, las referencias al Gobierno o a la autoridad competente de un territorio de emigración deberán interpretarse como una referencia, en el caso de migrantes que sean refugiados o personas desplazadas, a cualquier organismo establecido de conformidad con los términos de un instrumento internacional que pueda ser responsable de la protección de los refugiados y de las personas desplazadas que no se beneficien de la protección de ningún gobierno.

3. La presente Recomendación no se aplica a:

- a) los trabajadores fronterizos;
- b) la entrada a corto plazo de miembros de profesiones liberales y artistas; y
- (c) marineros.

II

4.

(1) La política general de los Miembros debería ser desarrollar y utilizar todas las posibilidades de empleo y, con este fin, facilitar la distribución internacional de la mano de obra y, en particular, el movimiento de mano de obra desde los países que tienen un excedente de mano de obra hacia aquellos países que tienen un déficit de ella.

(2) Las medidas que adopte cada Miembro deberían tener debidamente en cuenta la situación de la mano de obra en el país y el Gobierno debería consultar a las organizaciones apropiadas de empleadores y de trabajadores sobre todas las cuestiones generales relativas a la migración para el empleo.

III

5.

(1) El servicio gratuito prestado en cada país para ayudar a los migrantes y a sus familias y, en particular, para proporcionarles información exacta, debería realizarse:

- a) por las autoridades públicas; o
- b) por una o más organizaciones voluntarias sin ánimo de lucro, aprobadas para tal fin por las autoridades públicas y sujetas a la supervisión de dichas autoridades; o
- c) en parte por las autoridades públicas y en parte por una o más organizaciones voluntarias que cumplan las condiciones establecidas en el apartado b) del presente apartado.

(2) The service should advise migrants and their families, in their languages or dialects or at least in a language which they can understand, on matters relating to emigration, immigration, employment and living conditions, including health conditions in the place of destination, return to the country of origin or of emigration, and generally speaking any other question which may be of interest to them in their capacity as migrants.

(3) The service should provide facilities for migrants and their families with regard to the fulfilment of administrative formalities and other steps to be taken in connection with the return of the migrants to the country of origin or of emigration, should the case arise.

(4) With a view to facilitating the adaptation of migrants, preparatory courses should, where necessary, be organised to inform the migrants of the general conditions and the methods of work prevailing in the country of immigration, and to instruct them in the language of that country. The countries of emigration and immigration should mutually agree to organise such courses.

6. On request information should be made available by Members to the International Labour Office and to other Members concerning their emigration laws and regulations, including administrative provisions relating to restrictions on emigration and facilities granted to emigrants, and appropriate details concerning the categories of persons wishing to emigrate.

7. On request information should be made available by Members to the International Labour Office and to other Members concerning their immigration laws and regulations, including administrative provisions, entry permits where needed, number and occupational qualifications of immigrants desired, laws and regulations affecting admission of migrants to employment, and any

special facilities granted to migrants and measures to facilitate their adaptation to the economic and social organisation of the country of immigration.

8. There should, as far as possible, be a reasonable interval between the publication and the coming into force of any measure altering the conditions on which emigration or immigration or the employment of migrants is permitted in order that these conditions may be notified in good time to persons who are preparing to emigrate.

9. Provision should be made for adequate publicity to be given at appropriate stages to the principal measures referred to in the preceding Paragraph, such publicity to be in the languages most commonly known to the migrants.

10. Migration should be facilitated by such measures as may be appropriate--

- (a) to ensure that migrants for employment are provided in case of necessity with adequate accommodation, food and clothing on arrival in the country of immigration;
- (b) to ensure, where necessary, vocational training so as to enable the migrants for employment to acquire the qualifications required in the country of immigration;
- (c) to permit, taking into account the limits allowed by national laws and regulations concerning export and import of currency, the transfer of such part of the earnings and savings of migrants for employment as the migrants may desire;
- (d) to arrange, in the case of permanent migration, for the transfer, where desired, to the country of immigration, of the capital of migrants for employment, within the limits allowed by national laws and regulations concerning export and import of currency;
- (e) to provide access to schools for migrants and members of their families.

11. Migrants and the members of their families should be assisted in obtaining access to recreation and welfare facilities, and steps should be taken where necessary to ensure that special facilities are made available during the initial period of settlement in the country of immigration.

12. In the case of migrants under Government-sponsored arrangements for group transfer, medical assistance should be extended to such migrants in the same manner as provided for nationals.

IV

13.

- (1) Where necessary in the interest of the migrant, Members should require that any intermediary who undertakes the recruitment, introduction or placing of migrants for employment on behalf of an employer must obtain a written warrant from the employer, or some other document proving that he is acting on the employer's behalf.
- (2) This document should be drawn up in, or translated into, the official language of the country of emigration and should set forth all necessary particulars concerning the employer, concerning the nature and scope of the recruitment, introduction or placing which the intermediary is to undertake, and concerning the employment offered, including the remuneration.

14.

- (1) The technical selection of migrants for employment should be carried out in such a way as to restrict migration as little as possible while ensuring that the migrants are qualified to perform the required work.
- (2) Responsibility for such selection should be entrusted--
 - (a) to official bodies; or
 - (b) where appropriate, to private bodies of the territory of immigration duly authorised and, where necessary in the interest of the migrant, supervised by the competent authority of the territory of emigration.
- (3) The right to engage in selection should be subject to the prior authorisation of the competent authority of the territory where the said operation takes place, in such cases under such conditions as may be prescribed by the laws and regulations of that territory, or by agreement between the Government of the territory of emigration and the Government of the territory of immigration.

(4) As far as possible, intending migrants for employment should, before their departure from the territory of emigration, be examined for purposes of occupational and medical selection by a representative of the competent authority of the territory of immigration.

(5) If recruitment takes place on a sufficiently large scale there should be arrangements for close liaison and consultation between the competent authorities of the territories of emigration and immigration concerned.

(6) The operations referred to in the preceding subparagraphs of this Paragraph should be carried out as near as possible to the place where the intending migrant is recruited.

15.

(1) Provision should be made by agreement for authorisation to be granted for a migrant for employment introduced on a permanent basis to be accompanied or joined by the members of his family.

(2) The movement of the members of the family of such a migrant authorised to accompany or join him should be specially facilitated by both the country of emigration and the country of immigration.

(3) For the purposes of this Paragraph, the members of the family of a migrant for employment should include his wife and minor children; favourable consideration should be given to requests for the inclusion of other members of the family dependent upon the migrant.

V

16.

(1) Migrants for employment authorised to reside in a territory and the members of their families authorised to accompany or join them should as far as possible be admitted to employment in the same conditions as nationals.

(2) In countries in which the employment of migrants is subject to restrictions, these restrictions should as far as possible--

(a) cease to be applied to migrants who have regularly resided in the country for a period, the length of which should not, as a rule, exceed five years; and

(b) cease to be applied to the wife and children of an age to work who have been authorised to accompany or join the migrant, at the same time as they cease to be applied to the migrant.

17. In countries where the number of migrants for employment is sufficiently large, the conditions of employment of such workers should be specially supervised, such supervision being undertaken according to circumstances either by a special inspection service or by labour inspectors or other officials specialising in this work.

VI

18.

(1) When a migrant for employment has been regularly admitted to the territory of a Member, the said Member should, as far as possible, refrain from removing such person or the members of his family from its territory on account of his lack of means or the state of the employment market, unless an agreement to this effect has been concluded between the competent authorities of the emigration and immigration territories concerned.

(2) Any such agreement should provide--

(a) that the length of time the said migrant has been in the territory of immigration shall be taken into account and that in principle no migrant shall be removed who has been there for more than five years;

(b) that the migrant must have exhausted his rights to unemployment insurance benefit;

(c) that the migrant must have been given reasonable notice so as to give him time, more particularly to dispose of his property;

(d) that suitable arrangements shall have been made for his transport and that of the members of his family;

(e) that the necessary arrangements shall have been made to ensure that he and the members of his family are treated in a humane manner; and

(f) that the costs of the return of the migrant and the members of his family and of the transport of their household belongings to their final destination shall not fall on him.

19. Appropriate steps should be taken by the authorities of the territories concerned to consult the employers' and workers' organisations concerning the operations of recruitment, introduction and placing of migrants for employment.

VII

20. When migrants for employment or members of their families who have retained the nationality of their State of origin return there, that country should admit such persons to the benefit of any measures in force for the granting of poor relief and unemployment relief, and for promoting the re-employment of the unemployed, by exempting them from the obligation to comply with any condition as to previous residence or employment in the country or place.

VIII

21.

(1) Members should in appropriate cases supplement the Migration for Employment Convention (Revised), 1949, and the preceding Paragraphs of the present Recommendation by bilateral agreements, which should specify the methods of applying the principles set forth in the Convention and in the Recommendation.

(2) In concluding such agreements, Members should take into account the provisions of the Model Agreement annexed to the present Recommendation in framing appropriate clauses for the organisation of migration for employment and the regulation of the conditions of transfer and employment of migrants, including refugees and displaced persons.

ANNEX

Model Agreement on Temporary and Permanent Migration for Employment, including Migration of Refugees and Displaced Persons (Note: The phrases and passages in *italics* refer primarily to permanent migration; those enclosed within square brackets refer solely to migration of refugees and displaced persons.)

ARTICLE 1. EXCHANGE OF INFORMATION

1. The competent authority of the territory of immigration shall periodically furnish appropriate information to the competent authority of the territory of emigration [or in the case of refugees and displaced persons, to any body established in accordance with the terms of an international instrument which may be responsible for the protection of refugees and displaced persons who do not benefit from the protection of any Government] concerning:

- (a) legislative and administrative provisions relating to entry, employment, residence and *settlement* of migrants *and of their families*;
- (b) the number, the categories and the occupational qualifications of the migrants desired;
- (c) the conditions of life and work for the migrants and, in particular, cost of living and minimum wages according to occupational categories and regions of employment, supplementary allowances, if any, nature of employments available, bonus on engagement, if any, social security systems and medical assistance, provisions concerning transport of migrants and of their tools and belongings, housing conditions and provisions for the supply of food and clothing, measures relating to the transfer of the migrants' savings and other sums due in virtue of this Agreement;
- (d) special facilities, if any, for migrants;
- (e) facilities for general education and vocational training for migrants;
- (f) *measures designed to promote rapid adaptation of migrants*;

(g) *procedure and formalities required for naturalisation.*

2. The competent authority of the territory of emigration [or in the case of refugees and displaced persons, any body established in accordance with the terms of an international instrument which may be responsible for the protection of refugees and displaced persons who do not benefit from the protection of any Government] shall bring this information to the attention of persons or bodies interested.

3. The competent authority of the territory of emigration [or in the case of refugees and displaced persons, any body established in accordance with the terms of an international instrument which may be responsible for the protection of refugees and displaced persons who do not benefit from the protection of any Government] shall periodically furnish appropriate information to the competent authority of the territory of immigration concerning :

- (a) legislative and administrative provisions relating to emigration;
- (b) the number and occupational qualifications of intending emigrants, *as well as the composition of their families*;
- (c) the social security system;
- (d) special facilities, if any, for migrants;
- (e) *the environment and living conditions to which migrants are accustomed*;
- (f) *the provisions in force regarding the export of capital.*

4. The competent authority of the territory of immigration shall bring this information to the attention of persons or bodies interested.

5. The information mentioned in paragraphs 1 to 4 above shall also be transmitted by the respective parties to the International Labour Office.

ARTICLE 2. ACTION AGAINST MISLEADING PROPAGANDA

1. The parties agree, with regard to their respective territories, to take all practical steps, so far as national laws and regulations permit, against misleading propaganda relating to emigration and immigration.

2. For this purpose the parties will, where appropriate, act in co-operation with the competent authorities of other countries concerned.

ARTICLE 3. ADMINISTRATIVE FORMALITIES

The parties agree to take measures with a view to accelerating and simplifying the carrying out of administrative formalities relating to departure, travel, entry, residence, *and settlement* of migrants and as far as possible for the members of their families. Such measures shall include the provision of an interpretation service, where necessary.

ARTICLE 4. VALIDITY OF DOCUMENTS

1. The parties shall determine the conditions to be met for purposes of recognition in the territory of immigration of any document issued by the competent authority of the territory of emigration in respect of migrants *and members of their families* [or in the case of refugees and displaced persons, by any body established in accordance with the terms of an international instrument which may be responsible for the protection of refugees and displaced persons who do not benefit from the protection of any Government] concerning--

- (a) civil status;
- (b) legal status;
- (c) occupational qualifications;
- (d) general education and vocational training; and
- (e) participation in social security systems.

2. The parties shall also determine the application of such recognition.

[3. In the case of refugees and displaced persons, the competent authority of the territory of immigration shall recognise the validity of any travel document issued in lieu of a national passport by the competent authority of the territory of emigration and, in particular, of travel documents issued in accordance with the terms of an international Agreement (e.g. the travel document established by the Agreement of 15 October 1946, and the Nansen passport).]

ARTICLE 5. CONDITIONS AND CRITERIA OF MIGRATION

1. The parties shall jointly determine :

- (a) the requirements for migrants *and members of their families*, as to age, physical aptitude and health, as well as the occupational qualifications for the various branches of economic activity and for the various occupational categories;
- (b) *the categories of the members of the migrants' families authorised to accompany or to join them.*

2. The parties shall also determine, in accordance with the provisions of Article 28 of this Agreement :

- (a) the numbers and occupational categories of migrants to be recruited in the course of a stated period;
- (b) the areas of recruitment and the areas of placing and settlement [except that in the case of refugees and displaced persons the determination of the areas of recruitment shall be reserved to any body established in accordance with the terms of an international instrument which may be responsible for the protection of refugees and displaced persons who do not benefit from the protection of any Government].

3. In order to recruit migrants required to meet the technical needs of the territory of immigration and who can adapt themselves easily to the conditions in the territory of immigration, the parties shall determine criteria to govern technical selection of the migrants.

4. In drawing up these criteria, the two parties shall take into consideration :

(a) with respect to medical selection:

- (i) the nature of the medical examination which migrants shall undergo (general medical examination, X-ray examination, laboratory examination, etc.) ;
- (ii) the drawing up of lists of diseases and physical defects which clearly constitute a disability for employment in certain occupations;
- (iii) minimum health provisions prescribed by international health conventions and relating to movement of population from one country to another;

(b) with respect to vocational selection:

- (i) qualifications required of migrants with respect to each occupation or groups of occupations;
- (ii) enumeration of alternative occupations requiring similar qualifications or capacities on the part of the workers in order to fulfil the needs of specified occupations for which it is difficult to recruit a sufficient number of qualified workers;
- (iii) development of psycho-technical testing;

(c) with respect to selection based on the age of migrants, flexibility to be given to the application of age criteria in order to take into consideration on the one hand the requirements of various occupations and, on the other, the varying capacities of different individuals at a given age.

ARTICLE 6. ORGANISATION OF RECRUITMENT, INTRODUCTION AND PLACING

1. The bodies or persons which engage in the operations of recruitment, introduction and placing of migrants *and of members of their families* shall be named by the competent authorities of the respective territories [or in the case of refugees and displaced persons, by any body established in accordance with the terms of an international instrument which may be responsible for the protection of refugees and displaced persons who do not benefit from the protection of any Government on the one hand and the competent authority of the territory of immigration on the other subject] to the approval of both parties.

2. Subject to the provisions of the following paragraphs, the right to engage in the operations of recruitment, introduction and placing shall be restricted to :

- (a) public employment offices or other public bodies of the territory in which the operations take place;
- (b) public bodies of a territory other than that in which the operations take place which are authorised to operate in that territory by an agreement between the parties;
- (c) any body established in accordance with the terms of an international instrument.

3. In addition, in so far as the national laws and regulations of the parties permit and subject to the approval and supervision of the competent authorities of the parties, the operations of recruitment, introduction and placing may be undertaken by :

- (a) the prospective employer or a person in his service acting on his behalf; and
- (b) private agencies.

4. The administrative costs of recruitment, introduction and placing shall not be borne by the migrants.

ARTICLE 7. SELECTION TESTING

1. An intending migrant shall undergo an appropriate examination in the territory of emigration; any such examination should inconvenience him as little as possible.

2. With respect to the organisation of the selection of migrants, the parties shall agree on :

- (a) recognition and composition of official agencies or private bodies authorised by the competent authority of the territory of immigration to carry out selection operations in the territory of emigration;
- (b) organisation of selection examinations, the centres where they are to be carried out, and allocation of expenses resulting from these examinations;
- (c) co-operation of the competent authorities of the two parties and in particular of their employment services in organising selection.

ARTICLE 8. INFORMATION AND ASSISTANCE OF MIGRANTS

1. The migrant accepted after medical and occupational examination in the assembly or selection centre shall receive, in a language that he understands, all information he may still require as to the nature of the work for which he has been engaged, the region of employment, the undertaking to which he is assigned, travel arrangements and the conditions of life and work including health and related matters in the country and region to which he is going.

2. On arrival in the country of destination, and at a reception centre if such exists, or at the place of residence, migrants *and the members of their families* shall receive all the documents which they need for their work, their residence *and their settlement* in the country, as well as information, instruction and advice regarding conditions of life and work, and any other assistance that they may need to adapt themselves to the conditions in the country of immigration.

ARTICLE 9. EDUCATION AND VOCATIONAL TRAINING

The parties shall co-ordinate their activities concerning the organisation of educational courses for migrants, which shall include general information on the country of immigration, instruction in the language of that country, and vocational training.

ARTICLE 10. EXCHANGE OF TRAINEES

The parties agree to further the exchange of trainees, and to determine in a separate agreement the conditions governing such exchanges.

ARTICLE 11. CONDITIONS OF TRANSPORT

1. During the journey from their place of residence to the assembly or selection centre, as well as during their stay in the said centre, migrants *and the members of their families* shall receive from the competent authority of the territory of immigration

[or in the case of refugees and displaced persons, from any body established in accordance with the terms of an international instrument which may be responsible for the protection of refugees and displaced persons who do not benefit from the protection of any Government] any assistance which they may require.

2. The competent authorities of the territories of emigration and immigration shall, each within its own jurisdiction, safeguard the health and welfare of, and render assistance to, migrants *and the members of their families* during the journey from the assembly or selection centre to the place of their employment, as well as during their stay in a reception centre if such exists.
3. Migrants *and members of their families* shall be transported in a manner appropriate for human beings and in conformity with the laws and regulations in force.
4. The parties shall agree upon the terms and conditions for the application of the provisions of this Article.

ARTICLE 12. TRAVEL AND MAINTENANCE EXPENSES

The parties shall agree upon the methods for meeting the cost of travel of the migrants *and the members of their families* from the place of their residence to the place of their destination, and the cost of their maintenance while travelling, sick or hospitalised, as well as the cost of transport of their personal belongings.

ARTICLE 13. TRANSFER OF FUNDS

1. The competent authority of the territory of emigration shall, as far as possible and in conformity with national laws and regulations concerning the import and export of foreign currency, authorise and provide facilities for migrants *and for members of their families* to withdraw from their country such sums as they may need for their initial settlement abroad.
2. The competent authority of the territory of immigration shall, as far as possible and in conformity with national laws and regulations concerning the import and export of foreign currency, authorise and provide facilities for the periodical transfer to the territory of emigration of migrants' savings and of any other sums due in virtue of this Agreement.
3. The transfers of funds mentioned in paragraphs 1 and 2 above shall be made at the prevailing official rate of exchange.
4. The parties shall take all measures necessary for the simplification and acceleration of administrative formalities regarding the transfer of funds so that such funds may be available with the least possible delay to those entitled to them.
5. The parties shall determine if and under what conditions a migrant may be required to remit part of his wages for the maintenance of his family remaining in his country or in the territory from which he emigrated.

ARTICLE 14. ADAPTATION AND NATURALISATION

The competent authority of the territory of immigration shall take measures to facilitate adaptation to national climatic, economic and social conditions and facilitate the procedure of naturalisation of migrants and of members of their families.

ARTICLE 15. SUPERVISION OF LIVING AND WORKING CONDITIONS

1. Provision shall be made for the supervision by the competent authority or duly authorised bodies of the territory of immigration of the living and working conditions, including hygienic conditions, to which the migrants are subject.
2. With respect to temporary migrants, the parties shall provide, where appropriate, for authorised representatives of the territory of emigration [or in the case of refugees and displaced persons, of any body established in accordance with the terms of an international instrument which may be responsible for the protection of refugees and displaced persons who do not benefit from the protection of any Government] to co-operate with the competent authority or duly authorised bodies of the territory of immigration in carrying out this supervision.
3. During a fixed period, the duration of which shall be determined by the parties, migrants shall receive special assistance in regard to matters concerning their conditions of employment.
4. Assistance with respect to the employment and living conditions of the migrants may be given either through the regular labour inspection service of the territory of immigration or through a special service for migrants, in co-operation where

appropriate with approved voluntary organisations.

5. Provision shall be made where appropriate for the co-operation of representatives of the territory of emigration [or in the case of refugees and displaced persons, of any body established in accordance with the terms of an international instrument which may be responsible for the protection of refugees and displaced persons who do not benefit from the protection of any Government] with such services.

ARTICLE 16. SETTLEMENT OF DISPUTES

1. In case of a dispute between a migrant and his employer, the migrant shall have access to the appropriate courts or shall otherwise obtain redress for his grievances, in accordance with the laws and regulations of the territory of immigration.
2. The authorities shall establish such other machinery as is necessary to settle disputes arising out of the Agreement.

ARTICLE 17. EQUALITY OF TREATMENT

1. The competent authority of the territory of immigration shall grant to migrants *and to members of their families* with respect to employment in which they are eligible to engage treatment no less favourable than that applicable to its won nationals in virtue of legal or administrative provisions or collective labour agreements.
2. Such equality of treatment shall apply, without discrimination in respect of nationality, race, religion or sex, to immigrants lawfully within the territory of immigration in respect of the following matters:
 - (a) in so far as such matters are regulated by laws or regulations or are subject to the control of administrative authorities,
 - (i) remuneration, including family allowances where these form part of remuneration, hours of work, weekly rest days, overtime arrangements, holidays with pay and other regulations concerning employment, including limitations on home work, minimum age provisions, women's work, and the work of young persons;
 - (ii) membership of trade unions and enjoyment of the benefits of collective bargaining;
 - (iii) admission to schools, to apprenticeship and to courses or schools for vocational or technical training, provided that this does not prejudice nationals of the country of immigration;
 - (iv) recreation and welfare measures;
 - (b) employment taxes, dues or contributions payable in respect of the persons employed;
 - (c) hygiene, safety and medical assistance;
 - (d) legal proceedings relating to the matters referred to in this Agreement.

ARTICLE 18. ACCESS TO TRADES AND OCCUPATIONS AND THE RIGHT TO ACQUIRE PROPERTY

Equality of treatment shall also apply to :

- (a) *access to trades and occupations to the extent permitted under national laws and regulations;*
- (b) *acquisition, possession and transmission of urban or rural property.*

ARTICLE 19. SUPPLY OF FOOD

The treatment applied to migrants *and the members of their families* shall be the same as that applied to national workers in the same occupation as regards the supply of food.

ARTICLE 20. HOUSING CONDITIONS

The competent authority of the territory of immigration shall ensure that migrants *and the members of their families* have hygienic and suitable housing, in so far as the necessary housing is available.

ARTICLE 21. SOCIAL SECURITY

1. The two parties shall determine in a separate agreement the methods of applying a system of social security to migrants and their dependants.
2. *Such agreement shall provide that the competent authority of the territory of immigration shall take measures to ensure to the migrants and their dependants treatment not less favourable than that afforded by it to its nationals, except where particular residence qualifications apply to nationals.*
3. *The agreement shall embody appropriate arrangements for the maintenance of migrants' acquired rights and rights in course of acquisition framed with due regard to the principles of the Maintenance of Migrants' Pension Rights Convention, 1935, or of any revision of that Convention.*
4. The agreement shall provide that the competent authority of the territory of immigration shall take measures to grant to temporary migrants and their dependants treatment not less favourable than that afforded by it to its nationals, subject in the case of compulsory pension schemes to appropriate arrangements being made for the maintenance of migrants' acquired rights and rights in course of acquisition.

ARTICLE 22. CONTRACTS OF EMPLOYMENT

1. In countries where a system of model contracts is used, the individual contract of employment for migrants shall be based on a model contract drawn up by the parties for the principal branches of economic activity.
2. The individual contract of employment shall set forth the general conditions of engagement and of employment provided in the relevant model contract and shall be translated into a language which the migrant understands. A copy of the contract shall be delivered to the migrant before departure from the territory of emigration or, if it is agreed between the two parties concerned, in a reception centre on arrival in the territory of immigration. In the latter case before departure the migrant shall be informed in writing by a document which relates either to him individually or to a group of migrants of which he is a member, of the occupational category in which he is to be engaged and the other conditions of work, in particular the minimum wage which is guaranteed to him.
3. The individual contract of employment shall contain necessary information, such as :
 - (a) the full name of the worker as well as the date and place of birth, his family status, his place of residence and of recruitment;
 - (b) the nature of the work, and the place where it is to be performed;
 - (c) the occupational category in which he is placed;
 - (d) remuneration for ordinary hours of work, overtime, night work and holidays, and the medium for wage payment;
 - (e) bonuses, indemnities and allowances, if any;
 - (f) conditions under which and extent to which the employer may be authorised to make any deductions from remuneration;
 - (g) conditions regarding food if food is to be provided by the employer;
 - (h) the duration of the contract as well as the conditions of renewal and denunciation of the contract;
 - (i) the conditions under which entry and residence in the territory of immigration are permitted;
 - (j) the method of meeting the expenses of the journey of the migrant *and the members of his family*;
 - (k) in case of temporary migration, the method of meeting the expenses of return to the home country or the territory of migration, as appropriate;
 - (l) the grounds on which a contract may be prematurely terminated.

ARTICLE 23. CHANGE OF EMPLOYMENT

1. If the competent authority of the territory of immigration considers that the employment for which the migrant has been recruited does not correspond to his physical capacity or occupational qualifications, the said authority shall provide facilities for placing the said migrant in an employment corresponding to his capacity or qualifications, and in which he may be employed in accordance with national laws or regulations.
2. During periods of unemployment, if any, the method of maintaining the migrant *and the dependent members of his family authorised to accompany or join him* shall be determined by arrangements made under a separate agreement.

ARTICLE 24. EMPLOYMENT STABILITY

1. If before the expiration of the period of his contract the migrant for employment becomes redundant in the undertaking or branch of economic activity for which he was engaged, the competent authority of the territory of immigration shall, subject to the provisions of the contract, facilitate the placing of the said migrant in other suitable employment in which he may be employed in accordance with national laws or regulations.
2. If the migrant is not entitled to benefits under an unemployment insurance or assistance scheme, his maintenance, *as well as that of dependent members of his family* during any period in which he is unemployed shall be determined by a separate agreement in so far as this is not inconsistent with the terms of his contract.
3. The provisions of this Article shall not affect the right of the migrant to benefit from any provisions that may be included in his contract in case it is prematurely terminated by the employer.

ARTICLE 25. PROVISIONS CONCERNING COMPULSORY RETURN

1. The competent authority of the territory of immigration undertakes that a migrant *and the members of his family who have been authorised to accompany or join him* will not be returned to the territory from which he emigrated unless he so desires if, because of illness or injury, he is unable to follow his occupation.
2. The Government of the territory of immigration undertakes not to send refugees and displaced persons or migrants who do not wish to return to their country of origin for political reasons back to their territory of origin as distinct from the territory from which they were recruited, unless they formally express this desire by a request in writing addressed both to the competent authority of the territory of immigration and the representative of the body set up in accordance with the provisions of an international instrument which may be responsible for the protection of refugees and displaced persons who do not benefit from the protection of any Government.

ARTICLE 26. RETURN JOURNEY

1. The cost of the return journey of a migrant introduced under a plan sponsored by the Government of the territory of immigration, who is obliged to leave his employment for reasons for which he is not responsible, and who cannot, in virtue of national laws and regulations, be placed in an employment for which he is eligible, shall be regulated as follows:
 - (a) the cost of the return journey of the migrant, and persons dependent upon him, shall in no case fall on the migrant himself;
 - (b) supplementary bilateral agreements shall specify the method of meeting the cost of this return journey;
 - (c) in any case, even if no provision to this effect is included in a bilateral agreement, the information given to migrants at the time of their recruitment shall specify what person or agency is responsible for defraying the cost of return in the circumstances mentioned in this Article.
2. In accordance with the methods of co-operation and consultation agreed upon under Article 28 of this Agreement, the two parties shall determine the measures necessary to organise the return home of the said persons and to assure to them in the course of the journey the conditions of health and welfare and the assistance which they enjoyed during the outward journey.
3. The competent authority of the territory of emigration shall exempt from customs duties on their arrival :
 - (a) personal effects; and
 - (b) portable hand-tools and portable equipment of the kind normally owned by workers for the carrying out of their particular trades, which have been in possession and use of the said persons for an appreciable time and which are

intended to be used by them in the course of their occupation.

ARTICLE 27. DOUBLE TAXATION

The two parties shall determine in a separate agreement the measures to be taken to avoid double taxation on the earnings of a migrant for employment.

ARTICLE 28. METHODS OF CO-OPERATION

- 1. The two parties shall agree on the methods of consultation and co-operation necessary to carry out the terms of the Agreement.
- 2. Cuando así lo soliciten los representantes de ambas partes, la Oficina Internacional del Trabajo estará asociada a dicha consulta y cooperación.

ARTÍCULO 29. DISPOSICIONES FINALES

- 1. Las partes determinarán la duración del Contrato así como el plazo de preaviso para su terminación.
- 2. Las partes determinarán las disposiciones del presente Acuerdo que permanecerán en vigor después de su expiración.

Ver relacionados

Información clave

Recomendación sobre los trabajadores migrantes (revisada en 1949)

Adopción: Ginebra, 32ª sesión de la CDI (01 jul 1949)
Estado: Instrumento actualizado.

Véase también

Presentaciones a las autoridades competentes por país