

## Article 19 - Right of migrant workers and their families to protection and assistance

### Paragraph 8 - Guarantees concerning deportation

The Committee takes note of the information contained in the report submitted by Cyprus.

The report states that deportations of migrant workers are governed by the Aliens and Immigration Act, Cap 105 as amended until 2014.

The Aliens and Immigration Act, as amended, provides that a third country national may enter and reside in the Republic of Cyprus for employment purposes, provided that he/she does not constitute a threat to public health (Article 18UST(i)). The only diseases that may justify the refusal of entering and residing of such persons in the Republic are those specified in the active rulings of the World Health Organisation, as well as other infectious or contagious parasitic diseases that may constitute a danger to public health (18KB(2)).

Section 18KST(4) of the Act provides that “until the third-country national with long- term resident status in the first Member State acquires the status of long-term resident in the Republic [...], the Minister may decide to expel a third-country national from the territory on serious grounds of public policy or public security. Paragraph (5) provides that the above decision is taken by the Minister after consultation with the competent authorities of the first Member State which provided all the necessary information on the implementation of the decision to expel that person.

Pursuant to Section 18IST of the Immigration Act, the competent Minister may decide to expel the long-term resident third country when he/she constitutes an actual and sufficiently serious threat to public policy or public security. The Minister must take into account the following factors:

1. the duration of residence in the Republic;
2. the age of the person concerned;
3. the consequences for the person concerned and family members;
4. links with the Republic or the absence of links with the country of origin.

The Committee further notes that under Section 18ID(1), the status of long term resident third country nationals will be withdrawn in case of: a. detection of fraudulent acquisition; b. adoption of an expulsion measure under the conditions provided for in Article 18IST of this Law; c. the long-term resident, in view of the seriousness of the offence he/she has committed, being a threat to the public interest.

The Committee recalls that Article 19§8 obliges States to prohibit by law the expulsion of migrants lawfully residing in their territory, except where they are a threat to national security, or offend against public interest or morality (Conclusions VI (1979), Cyprus). Where expulsion measures are taken they cannot be in conformity with the Charter unless they are ordered, in accordance with the law, by a court or a judicial authority, or an administrative body whose

decisions are subject to judicial review. Any such expulsion should only be ordered in situations where the individual concerned has been convicted of a serious criminal offence, or has been involved in activities which constitute a substantive threat to national security, the public interest or public morality. Such expulsion orders must be proportionate, taking into account all aspects of the non-nationals' behaviour as well as the circumstances and the length of time of his/her presence in the territory of the State. The individual's connection or ties with both the host state and the state of origin, as well as the strength of any family relationships that he/she may have formed during this period, must also be considered to determine whether expulsion is proportionate. All foreign migrants served with expulsion orders must have also a right of appeal to a court or other independent body (Interpretative statement on Article 19§8, Conclusions 2015).

The Committee understands that the relevant sections of the Aliens and Immigration Act referred to above permit the relevant Minister to expel a third country national from the territory on serious grounds of public policy or public security. It asks whether the Minister is required to consider the individual circumstances of the person when making a decision to expel a foreigner.

With regard to expulsion on the grounds of health, the Committee notes that a migrant may not be refused the renewal of his/her residence permit if they contracted a disease after the provision of the original permit.

The Committee notes that temporary work migrants are required to retain the same job and employer. In case their employment relationship is terminated due to the fault of the employer, the report states that they shall be allowed a limited time to search for another position. The Committee asks how long this period may be, and whether they can be expelled following the end of this period.

The Committee recalls that States must ensure that foreign nationals served with expulsion orders have a right of appeal to a court or other independent body, even in cases where national security, public order or morality are at stake (Conclusions V (1977), United Kingdom). It asks whether such an appeal exists and what is the procedure.

Conclusion [0]

Pending receipt of the information requested, the Committee defers its conclusion.