

Ὁ περί τῆς Συμβάσεως περί τῶν Μεταναστῶν Ἑργατῶν (Συμπληρωματικαὶ Διατάξεις) (Κυρωτικὸς) Νόμος τοῦ 1977 ἐκδίδεται διὰ δημοσίευσέως εἰς τὴν ἐπίσημον ἐφημερίδα τῆς Κυπριακῆς Δημοκρατίας συμφώνως τῷ ἄρθρῳ 52 τοῦ Συντάγματος.

Ἄριθμὸς 36 τοῦ 1977

ΝΟΜΟΣ ΚΥΡΩΝ ΤΗΝ ΣΥΜΒΑΣΙΝ ΠΕΡΙ ΤΩΝ ΜΕΤΑΝΑΣΤΩΝ
ΕΡΓΑΤΩΝ ΣΥΜΠΛΗΡΩΜΑΤΙΚΑΙ ΔΙΑΤΑΞΕΙΣ ΤΟΥ 1975

Ἡ Βουλὴ τῶν Ἀντιπροσώπων ψηφίζει ὡς ἀκολούθως :

1. Ὁ παρῶν Νόμος θὰ ἀναφέρηται ὡς ὁ περί τῆς Συμβάσεως Συνοπτικὸς
περί τῶν Μεταναστῶν Ἑργατῶν (Συμπληρωματικαὶ Διατάξεις) τίτλος.
(Κυρωτικὸς) Νόμος τοῦ 1977.

2. Ἐν τῷ παρόντι Νόμῳ, ἐκτὸς ἐὰν ἐκ τοῦ κειμένου προκύπτῃ Ἑρμηνεία.
διάφορος ἔννοια—

«Σύμβασις» σημαίνει τὴν Σύμβασιν περί τῶν Μεταναστῶν
Ἑργατῶν (Συμπληρωματικαὶ Διατάξεις) τοῦ 1975 τῆς ὁποίας
τὸ κείμενον ἐν τῷ ἀγγλικῷ πρωτοτύπῳ ἐκτίθεται εἰς τὸ Πρῶτον
Μέρος τοῦ Πίνακος καὶ ἐν μεταφράσει εἰς τὴν Ἑλληνικὴν εἰς τὸ
Δεύτερον Μέρος τοῦ Πίνακος :

Πίναξ.

Νοεῖται ὅτι ἐν περιπτώσει ἀντιθέσεως μεταξύ τῶν δύο κειμένων
ὑπερισχύει τὸ εἰς τὸ Πρῶτον Μέρος τοῦ Πίνακος ἐκτιθέμενον
κείμενον.

3. Διὰ τοῦ παρόντος Νόμου κυροῦται ἡ Σύμβασις.

Κύρωσις
Συμβάσεως.

ΠΙΝΑΞ

(Ἄρθρον 2)

ΠΡΩΤΟΝ ΜΕΡΟΣ

CONVENTION 143 CONCERNING MIGRATIONS IN ABUSIVE
CONDITIONS AND THE PROMOTION OF EQUALITY
OF OPPORTUNITY AND TREATMENT OF MIGRANT WORKERS

The General Conference of the International Labour Organisation,
Having been convened at Geneva by the Governing Body of the International
Labour Office, and having met in its Sixtieth Session on 4 June, 1975, and
Considering that the Preamble of the Constitution of the International Labour
Organisation assigns to it the task of protecting "the interests of workers
when employed in countries other than their own", and
Considering that the Declaration of Philadelphia reaffirms, among the principles
on which the Organisation is based, that "labour is not a commodity",
and that "poverty anywhere constitutes a danger to prosperity everywhere",

and recognises the solemn obligation of the ILO to further programmes which will achieve in particular full employment through "the transfer of labour, including for employment ...".

Considering the ILO World Employment Programme and the Employment Policy Convention and Recommendation, 1964, and emphasising the need to avoid the excessive and uncontrolled or unassisted increase of migratory movement because of their negative social and human consequences, and

Considering that in order to overcome underdevelopment and structural and chronic unemployment, the governments of many countries increasingly stress the desirability of encouraging the transfer of capital and technology rather than the transfer of workers in accordance with the needs and request of these countries in the reciprocal interest of the countries of origin and the countries of employment, and

Considering the right of everyone to leave any country, including his own, and to enter his own country, as set forth in the Universal Declaration of Human Rights and the International Covenant of Civil and Political Rights, and

Recalling the provisions contained in the Migration for Employment Convention and Recommendation (Revised), 1949, in the Protection of Migrant Workers (Underdeveloped Countries) Recommendation, 1955, in the Employment Policy Convention and Recommendation, 1964, in the Employment Service Convention and Recommendation, 1948, and in the Fee-Charging Employment Agencies Convention (Revised), 1949, which deal with such matters as the regulation of recruitment, introduction and placing of migrant workers, the provision of accurate information relating to migration, the minimum conditions to be enjoyed by migrants in transit and on arrival, the adoption of an active employment policy and international collaboration in these matters, and

Considering that the emigration of workers due to conditions in labour markets should take place under the responsibility of official agencies for employment or in accordance with the relevant bilateral or multilateral agreements, in particular those permitting free circulation of workers, and

Considering that evidence of the existence of illicit and clandestine trafficking in labour calls for further standards specifically aimed at eliminating these abuses, and

Recalling the provisions of the Migration for Employment Convention (Revised), 1949, which require ratifying Members to apply to immigrants lawfully within their territory treatment not less favourable than that which they apply to their nationals in respect of a variety of matters which it enumerates, in so far as these are regulated by laws or regulations or subject to the control of administrative authorities, and

Recalling that the definition of the term "discrimination" in the Discrimination (Employment and Occupation) Convention, 1958, does not mandatorily include distinctions on the basis of nationality, and

Considering that further standards, covering also social security, are desirable in order to promote equality of opportunity and treatment of migrant workers and, with regard to matters regulated by laws or regulations or subject to the control of administrative authorities, ensure treatment at least equal to that of nationals, and

Noting that, for the full success of action regarding the very varied problems of migrant workers, it is essential that there be close co-operation with the United Nations and other specialised agencies, and

Noting that, in the framing of the following standards, account has been taken of the work of the United Nations and of other specialised agencies and that, with a view to avoiding duplication and to ensuring appropriate co-

ordination, there will be continuing co-operation in promoting and securing the application of the standards, and

Having decided upon the adoption of certain proposals with regard to migrant workers, which is the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention supplementing the Migration for Employment Convention (Revised), 1949, and the Discrimination (Employment and Occupation) Convention, 1958,

adopts this twenty-fourth day of June of the year one thousand nine hundred and seventy-five the following Convention, which may be cited as the Migrant Workers (Supplementary Provisions) Convention, 1975 :

Part I.—MIGRATIONS IN ABUSIVE CONDITIONS

Article 1

Each Member for which this Convention is in force undertakes to respect the basic human rights of all migrant workers.

Article 2

1. Each Member for which this Convention is in force shall systematically seek to determine whether there are illegally employed migrant workers on its territory and whether there depart from, pass through or arrive in its territory any movements of migrants for employment in which the migrants are subjected during their journey, on arrival or during their period of residence and employment to conditions contravening relevant international multilateral or bilateral instruments or agreements, or national laws or regulations.

2. The representative organisations of employers and workers shall be fully consulted and enabled to furnish any information in their possession on this subject.

Article 3

Each Member shall adopt all necessary and appropriate measures, both within its jurisdiction and in collaboration with other Members—

- (a) to suppress clandestine movements of migrants for employment and illegal employment of migrants, and
- (b) against the organisers of illicit or clandestine movements of migrants for employment departing from, passing through or arriving in its territory, and against those who employ workers who have immigrated in illegal conditions,

in order to prevent and to eliminate the abuses referred to in Article 2 of this Convention.

Article 4

In particular, Members shall take such measures as are necessary, at the national and the international level, for systematic contact and exchange of information on the subject with other States, in consultation with representative organisations of employers and workers.

Article 5

One of the purposes of the measures taken under Articles 3 and 4 of this Convention shall be that the authors of manpower trafficking can be prosecuted whatever the country from which they exercise their activities.

Article 6

1. Provision shall be made under national laws or regulations for the effective detection of the illegal employment of migrant workers and for the definition and the application of administrative, civil and penal sanctions, which include imprisonment in their range, in respect of the illegal employment of

migrant workers, in respect of the organisation of movements of migrants for employment defined as involving the abuses referred to in Article 2 of this Convention, and in respect of knowing assistance to such movements, whether for profit or otherwise.

2. Where an employer is prosecuted by virtue of the provisions made in pursuance of this Article, he shall have the right to furnish proof of his good faith.

Article 7

The representative organisations of employers and workers shall be consulted in regard to the laws and regulations and other measures provided for in this Convention and designed to prevent and eliminate the abuses referred to above, and the possibility of their taking initiatives for this purpose shall be recognised.

Article 8

1. On condition that he has resided legally in the territory for the purpose of employment, the migrant worker shall not be regarded as in an illegal or irregular situation by the mere fact of the loss of his employment, which shall not in itself imply the withdrawal of his authorisation of residence or, as the case may be, work permit.

2. Accordingly, he shall enjoy equality of treatment with nationals in respect in particular of guarantees of security of employment, the provision of alternative employment, relief work and retraining.

Article 9

1. Without prejudice to measures designed to control movements of migrants for employment by ensuring that migrant workers enter national territory and are admitted to employment in conformity with the relevant laws and regulations, the migrant worker shall, in cases in which these laws and regulations have not been respected and in which his position cannot be regularised, enjoy equality of treatment for himself and his family in respect of rights arising out of past employment as regards remuneration, social security and other benefits.

2. In case of dispute about the rights referred to in the preceding paragraph, the worker shall have the possibility of presenting his case to a competent body, either himself or through a representative.

3. In case of expulsion of the worker or his family the cost shall not be borne by them.

4. Nothing in this Convention shall prevent Members from giving persons who are illegally residing or working within the country the right to stay and to take up legal employment.

Part II.—EQUALITY OF OPPORTUNITY AND TREATMENT

Article 10

Each Member for which the Convention is in force undertakes to declare and pursue a national policy designed to promote and to guarantee, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, of social security, of trade union and cultural rights and of individual and collective freedoms for persons who as migrant workers or as members of their families are lawfully within its territory.

Article 11

1. For the purpose of this Part of this Convention, the term "migrant worker" means 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 worker.

2. This Part of this Convention does not apply to—
- (a) frontier workers ;
 - (b) artistes and members of the liberal professions who have entered the country on a short - term basis ;
 - (c) seamen ;
 - (d) persons coming specifically for purposes of training or education ;
 - (e) employees of organisations or undertakings operating within the territory of a country who have been admitted to 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 assignments.

Article 12

Each Member shall, by methods appropriate to national conditions and practice—

- (a) seek the co-operation of employers and workers' organisations and other appropriate bodies in promoting the acceptance and observance of the policy provided for in Article 10 of this Convention ;
- (b) enact such legislation and promote such educational programmes as may be calculated to secure the acceptance and observance of the policy ;
- (c) take measures, encourage educational programmes and develop other activities aimed at acquainting migrant workers as fully as possible with the policy, with their rights and obligations and with activities designed to give effective assistance to migrant workers in the exercise of their rights and or their protection ;
- (d) repeal any statutory provisions and modify any administrative instructions or practices which are inconsistent with the policy ;
- (e) in consultation with representative organisations of employers and workers, formulate and apply a social policy appropriate to national conditions and practice which enables migrant workers and their families to share in advantages enjoyed by its nationals while taking account, without adversely affecting the principle of equality of opportunity and treatment, of such special needs as they may have until they are adapted to the society of the country of employment ;
- (f) take all 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 children to be given some knowledge of the mother tongue ;
- (g) guarantee equality of treatment, with regard to working conditions, for all migrant workers who perform the same activity whatever might be the particular conditions of the employment.

Article 13

1. A Member may take all necessary measures which fall within its competence and collaborate with other Members to facilitate the reunification of the families of all migrant workers legally residing in its territory.

2. The members of the family of the migrant worker to which this Article applies are the spouse and dependent children, father and mother.

Article 14

A Member may—

- (a) make the free choice of employment, while assuring migrant workers the right to geographical mobility, subject to the conditions that the migrant worker has resided lawfully in its territory for the purpose