



**International Convention on the  
Protection of the Rights of  
All Migrant Workers and  
Members of Their Families**

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**Committee on the Protection of the Rights of All  
Migrant Workers and Members of Their Families**

**Second periodic report of Guatemala due in 2016  
under article 73 of the Convention pursuant to the  
simplified reporting procedure<sup>\*</sup>, <sup>\*\*</sup>**

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\* The present document is being issued without formal editing.  
\*\* The annexes can be consulted in the files of the secretariat.



## List of acronyms

|        |   |
|--------|---|
| ILO    | International Labour Organization                                       |
| IOM    | International Organization for Migration                                |
| LGBTI  | Lesbian, gay, bisexual, transsexual and intersex                        |
| MSME   | Micro, small and medium-sized enterprise                                |
| OAS    | Organization of American States   |
| OHCHR  | Office of the United Nations High Commissioner for Human Rights         |
| RENAP  | National Registry Office  |
| SBS    | Social Welfare Secretariat of the Office of the President               |
| SOSEP  | Social Welfare Secretariat of the Office of the First Lady              |
| SVET   | Secretariat on Sexual Violence, Exploitation and Trafficking in Persons |
| UNHCR  | Office of the United Nations High Commissioner for Refugees             |
| UNICEF | United Nations Children's Fund  |

## **I. Introduction**

1. This report provides replies to the list of issues (CMW/C/GTM/QPR/2) and constitutes the second periodic report of Guatemala on the implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. To prepare the report, the Presidential Commission for the Coordination of Executive Policy on Human Rights (hereinafter the Presidential Human Rights Commission) employed a participatory methodology, involving various governmental institutions and forums for collective analysis, in order to raise awareness of the Convention and the recommendations issued by the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, the aim being to encourage institutions to fulfil the commitments assumed by the Government.

## **II. Replies to the list of issues**

### **Section I**

#### **A. General information**

##### **Progress on bilateral and multilateral agreements**

2. As part of its efforts to implement the Convention, Guatemala is continuously seeking to conclude bilateral and multilateral agreements to guarantee the rights of migrant workers and members of their families. In October 2017, the Public Criminal Defence Institute, the Ministry of Foreign Affairs and the Consulate of Honduras jointly prepared a draft memorandum of understanding between Honduras and Guatemala on assistance to migrants in criminal matters.

3. As a follow-up to the preparation of the draft, in early 2018 details of the most appropriate topics to be addressed in the memorandum were fine-tuned and the objective of providing assistance in criminal matters to low-income migrants from both States was given prominence. The document is expected to be signed in the last quarter of 2018.

4. The Institute's Migrant Care Section provides technical-legal and professional assistance to trade unionists detained in Guatemala as national or foreign migrants in order to ensure compliance with minimum international human rights standards and thus guarantee due process, access to justice and respect for their human dignity. Monthly reports are prepared for embassies to update them on those of their nationals who are being cared for by the Institute.

5. Protection for migrant workers is assured through information campaigns organized by the Labour Mobility Department of the General Directorate of Employment of the Ministry of Labour. These campaigns disseminate information on the rights of migrants and their families and on their obligations once they leave the country and are designed to reduce the number of labour abuses stemming from ignorance.

6. Binational agreements have been signed with Mexico and Belize to promote orderly and regular migration in which the labour rights of Guatemalans are fully respected. The agreement between Guatemala and Mexico was signed in May 2018 and is pending ratification by Guatemala. The agreement between Guatemala and Belize was signed in 2016 and ratified by both countries in December 2017.

7. Prior to implementing the Guatemala-Belize agreement, the Ministry of Labour will draw up a work plan in conjunction with the Belize-Guatemala Joint Commission.

**Rights of migrant workers and members of their families**

8. The Labour Mobility Department has conducted information campaigns on the rights and obligations of migrant workers once they leave the country in order to reduce the number of labour abuses stemming from ignorance.

9. In coordination with the Directorate of Migration of the Ministry of Foreign Affairs, the Department prepared an information booklet for recruitment agencies to distribute to Guatemalan workers who travel to Canada seeking temporary employment. It printed 6,000 copies of the booklet in the second half of 2018.

10. The booklet is a manual for Guatemalan workers on the rights and obligations of both workers and employers and contains the telephone numbers and addresses of the public service offices that provide assistance to Guatemalans once they reach Canada. It is currently distributed through the recruitment agencies that report to the Ministry of Labour and that are in charge of transporting temporary workers to Canada.

11. With regard to workers travelling to southern Mexico in search of work, the Ministry of Labour draws on information material from the campaign on “How to work in southern Mexico with your labour rights protected”. The campaign was launched in May 2018 and 2,500 posters, brochures, flyers and other materials were printed. The material was printed in coordination with the Ministry of Foreign Affairs, with financial support from the International Labour Organization (ILO).

12. The Ministry of Foreign Affairs has expanded and strengthened the consular network and the General Directorate of Consular and Migration Affairs. There are currently 41 embassies, each with a consular section; 32 consulates; and 90 honorary consulates, all of which provide a better quality of assistance, care and protection to Guatemalans without distinction as to race, sex, ethnicity or migration status.

13. Through the consular network abroad, and primarily in Canada and Mexico, periodic visits are made to companies that employ temporary migrant workers from Guatemala in order to make sure that the human and labour rights of these workers are respected. The network undertakes the following actions and activities, among others, for migrant workers:

- (a) Actions in the judicial sphere:
  - Provision of legal advice
  - Explanation of legal proceedings
  - Free translation of documents
  - Prison visits
- (b) Actions on migration-related matters:
  - Provision of information and assistance with the migration procedure
- (c) Actions on labour matters:
  - The Ministry of Foreign Affairs offers information on labour rights and working conditions, including minimum wage, overtime, contracts and wage deductions.
- (d) Visits to Guatemalans:
  - For visits to the homes or workplaces of Guatemalans, the individuals concerned must make a request; visits to their workplaces require the authorization and availability of the employer. Guatemalans are also assisted with proceedings before labour authorities.
- (e) Actions in the occupational safety field:
  - Informing workers about the safety regulations governing specific activities. In the event of workplace accidents, advice is offered on the suspension of work with the right to payment of compensation, where applicable.
- (f) Actions related to the health plan:

- Informing workers of their rights and benefits under the social security scheme
- Assistance and translation during medical visits, and visits to hospitals
- (g) Consular actions in the event of death:
  - Coordination of decent repatriation of the body
  - Continuous communication with family, insurance and funeral services, among others
  - Payment of the costs of repatriation, in special cases

#### **Plan of the Alliance for Prosperity in the Northern Triangle**

14. The Counsel General's Office restructured the Office of the Advocate for Children and Adolescents, creating the n Migrant Children and Adolescents and International Abduction Unit, pursuant to Agreement No. 056-2018. Its main functions are to:

- (a) Coordinate at both the institutional and inter-agency level the reception of child or adolescent returnees who enter through any border;
- (b) Assist with the transfer of adolescents to special shelters or courts;
- (c) Support coordinated action to contact the family of the returned child or adolescent;
- (d) Coordinate institutional and inter-agency efforts to place the returnee in a family environment;
- (e) Determine whether the child or adolescent should be reunited with his/her family member or whether a protection process should be initiated, based on the information available to the Social Welfare Secretariat of the Office of the President (SBS);
- (f) Refer cases of returned children or adolescents to other offices or bodies for monitoring of special cases;
- (g) Help care for unaccompanied foreign migrant children and adolescents in Guatemalan territory;
- (h) Process repatriation orders issued by a court;
- (i) Cooperate with consular authorities on the repatriation of children and adolescents;
- (j) Accompany and transfer children and adolescents to borders, airports, embassies or consulates while they are under the responsibility of the counterpart from the Counsel General's Office;
- (k) Represent children and adolescents who file applications for refugee status with the International Migration Office;
- (l) Inform the courts of actions undertaken to repatriate unaccompanied foreign migrant children and adolescents in Guatemalan territory to their country of origin;
- (m) Verify the existence of international child abduction cases based on the complaints filed and in accordance with the Convention on the Civil Aspects of International Child Abduction or refer cases to the competent authorities, where appropriate;
- (n) Offer specialized advice to parents who are in Guatemala for the processing of an international abduction complaint.

#### **Rights of children and adolescents and family reunification procedures**

15. Work has been undertaken by the Expert Committee of the Commission for the Comprehensive Care of Migrant Children and Adolescents to optimize processes and identify areas for improvement. Proposed amendments to the Protocol for the Reception and Care of Migrant Children and Adolescents have been drafted and the text is currently being reviewed by a consultant with the United Nations Children's Fund (UNICEF).

16. Several family protection and preservation programmes are being carried out by the Social Welfare Secretariat of the Office of the President. Early childhood care is provided for foreign migrant children and adolescents by the Comprehensive Care Centre, and for children over 12 years of age and families there are programmes, such as those run by youth clubs and the “Quédate” (Stay) Training Centre. Care for children and adolescents is comprehensive and is provided regardless of migration status.

17. In addition, from January to 15 June 2018, the Department for Unaccompanied Migrant Children and Adolescents of the Social Welfare Secretariat of the Office of the First Lady (SOSEP) assisted 2,615 such individuals, and in 367 of those cases, family reunification was identified as the reason for migration.

18. Since 2014, the SOSEP Social Services Programme has been assisting migrant family units repatriated from Mexico and the United States. A family unit comprises an adult and a related minor.

**Short- and long-term policies and programmes in the field of migration to facilitate the return of and to assist returning migrant workers and members of their families in resettlement and reintegration into the economic and social life of the State party**

19. Under article 162 of the Migration Code, the Council for Assistance and Protection is the State institutional framework responsible for consolidating all proposals, and in particular proposals to address the prevention of, and information on the risks of, migration and on the rights of people who migrate, in order to avoid duplication of functions and to coordinate activities and projects to prevent migration at the inter-agency level.

20. Area 1 (Employment Generation) of Priority Action 2 (National Programme on Migration for Development) of the National Policy on Decent Employment 2017–2032 of the Ministry of Labour focuses on regularizing employment by creating decent jobs for Guatemalans who spend long periods of time abroad, which can contribute to national development and productive investment. There is also the “Huella del Migrante” (Migrant’s footprint) strategy, which is intended to identify returned Guatemalans who can enter the labour market.

21. Area 2 (Human Capital Development) of the policy calls for equal opportunities in the promotion of technical and professional training for the labour force so as to give workers the skills they will need to access decent employment. The area targets socioeconomically vulnerable population groups.

22. The policy also enumerates the responsibilities and functions of the General Directorate of Employment of the Ministry of Labour. The Directorate is in charge of the programme on technical training and education for employment, which offers training to young people over 16 years of age and adults under 65 years of age in all of the country’s departments and municipalities, particularly to those belonging to vulnerable groups. The objective is to create or strengthen the skills and competencies required for appropriate integration into the labour market by providing scholarships for technical courses developed by the Technical Institute of Training and Productivity.

23. In addition, the National Council for Assistance to Guatemalan Migrants has signed an agreement with the Institute to offer training courses to these returnees and their families in all the departments in order to help them reintegrate into the country’s economic and social life.

**Information on the cooperation and interaction of Guatemala with civil society organizations and other entities working on the rights of migrant workers**

24. The Ministry of Labour participates in the inter-agency technical committee created by the Avina Foundation on the “Guate te Incluye” (Guatemala includes you) project, which is intended to help integrate deported migrants into the Guatemalan labour market and local economy. More than 27 governmental and civil society organizations are part of the committee.

25. The Ministry of Labour works with several civil society organizations, including the Local Development Research and Support Centre; Association of Guatemalan Returnees;

Casa Migrante; Fundación Avina; Tecún Umán Casa del Migrante; Central American Institute for Social and Development Studies; Historical, Anthropological and Archaeological Research Institute of the University of San Carlos of Guatemala; National Board on Migration in Guatemala; Latin American Faculty of Social Sciences (FLACSO); and Pastoral de Movilidad Humana (ministry for the pastoral care of migrants) of the Episcopal Conference of Guatemala, along with other entities working on the protection of migrant rights, including ILO, the International Organization for Migration (IOM) and Justice in Motion.

**Information on the existence of private employment agencies in Guatemala that recruit Guatemalan migrant workers, particularly women, to work abroad, especially in Canada, the United States and Mexico**

26. The Ministry of Labour is in the process of adopting regulations on the registration, authorization and operation of recruiters, recruitment agencies and placement agencies of Guatemalan workers inside and outside Guatemala in order to register recruitment agencies. Two recruitment agencies are currently recognized, which report to the Ministry each month on the flow of workers who have employment opportunities abroad.

27. Guatemalan workers who travel to Canada under a job offer do so through private recruitment agencies, which liaise with employers and assist the workers throughout the process, from their recruitment to their return to the country of origin. There were a reported 25,404 Guatemalan migrant workers in Canada between 2014 and the first half of 2018.

**Information on foreign migrant workers recruited to work in Guatemala, especially from El Salvador and Honduras**

28. In 2013, 1,877 foreign migrant workers were recruited to work in Guatemala, especially from El Salvador and Honduras; of these, 161 were Salvadoran nationals and 111, Honduran nationals. A total of 1,542 work permits were issued in 2014, of which only 136 were granted to Salvadorans and none to Hondurans.

29. In 2015, a total of 1,950 work permits were issued, 269 of them to Salvadorans and 146 to Hondurans. In 2017 there were 2,088 work permits issued, 353 of them to Salvadorans and 137 to Hondurans. From January to June 2018, a total of 1,048 work permits were issued, including 110 to Salvadorans and 35 to Hondurans, with the rest going to individuals of other nationalities.

**Information on the laws, rules and regulations pertaining to private recruitment, in particular on:**

**(a) The contents of bilateral or multilateral agreements on migrant workers' programmes with countries of destination and their compliance with the Convention**

30. The Ministry of Labour drafted an agreement between Guatemala and Belize on a seasonal workers programme, which is currently in force and which is intended to establish a general framework for the development of a seasonal workers programme. The agreement was signed on 17 December 2014 in Palencia, Belize, and entered into force in December 2017.

31. A new agreement was also signed on cooperation in labour matters between Guatemala and Mexico. Its founding principles are cooperation and absolute respect for the respective powers, regulations, institutional directives and applicable national legislation of the competent authorities concerned.

**(b) General and specific laws applicable to private recruitment agencies**

32. Pursuant to national and international legal instruments, Guatemala is under an obligation to comply with articles 1, 2, 26, 43, 44, 46, 69, 101, 102 and 106 of the Constitution; articles 4, 5, 14, 16, 34, 35, 36 and 141 of the Labour Code; and the international labour conventions ratified by Guatemala, which are: the ILO Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96), the ILO Migration for

Employment Convention (Revised), 1949 (No. 97), the ILO Recruiting of Indigenous Workers Convention, 1936 (No. 50) and the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

**Measures taken by the State party to evaluate, audit and sanction private employment agencies and to avoid situations in which such agencies act as intermediaries for abusive foreign recruiters**

33. In order to evaluate, audit and sanction private employment agencies and to avoid situations in which such agencies act as intermediaries for abusive foreign recruiters, the Ministry of Labour, as the governing body responsible for ensuring and promoting efficient and effective compliance with legislation, policies and programmes relating to labour and social security for the benefit of society, is drafting a regulation for the registration, authorization and operation of recruiters and agencies that handle the recruitment, selection and placement of workers within and outside the national territory. The purpose is to manage, appropriately and deliberately, the recruitment, selection and placement of workers and to register the labour contracts of Guatemalans who work abroad.

**Returning migrant beneficiaries in 2017**

34. The “Quédate” (Stay) programme of the Ministry of Labour has trained unaccompanied young returning migrants from the Department of Sololá in the following fields: electricity, basic English, computer systems management and support, and local tourism. In addition, adults have been trained in coordination with the Association of Guatemalan Returnees in the following fields: basic computing, Christmas cookery and Mexican cookery. A total of 203 people were enrolled in the 2018 “Quédate” programme between January and October, and 49 people in the Association’s programme between January and October 2018.

35. The Ministry of Economic Affairs has opened Promotion and Support Centres for Micro, Small and Medium-sized Enterprises (PROMIPYME) to create partnerships between the public sector, private sector and academia. The partnerships are expected to promote Guatemalan business initiatives and generate value added for them by creating new jobs and maintaining existing jobs, as well as to improve sales, primarily with a view to making the beneficiary firms more competitive. These centres are currently located in the Departments of Quetzaltenango, Chiquimula, San Marcos, Alta Verapaz, Retalhuleu, Sacatepéquez and the Metropolitan Region.

36. The Ministry is also promoting the “Emprende Migrante” (Migrant, Become an Entrepreneur) programme, which is currently rolling out the protocol for the provision of assistance to migrants and the methodology guide, both of which draw on the model for helping entrepreneurs.

37. Guatemala also has an inter-agency coordination mechanism for the reception of migrants who have been forced to return. Coordination is provided by the General Directorate of Migration in order to offer a decent reception service. It undertakes joint actions with the following ministries: Ministry of Foreign Affairs, Ministry of Labour, Ministry of Health and Social Welfare, SOSEP, National Council for Assistance to Guatemalan Migrants, National Civilian Police, Casa del Migrante and the Association of Guatemalan Returnees. As a result of the coordinated reception process, each institution undertakes the registration, care and protection of deported migrants in its respective sphere of competence with a view to avoiding their revictimization.

38. With respect to unaccompanied Guatemalan children and adolescents who are returned by land from Mexico and by air from the United States and Mexico, SBS has two shelters, where it provides psychosocial support, food, lodging and personal hygiene supplies. In so doing it follows the protocol for psychosocial support in the reception of unaccompanied migrant children and adolescents, which has been implemented since 2015.

39. The national protocol for the reception and care of migrant children and adolescents has been implemented since 2017, heeding in particular the principle of the best interests of the child. This is the basis of coordination between the Ministry of Foreign Affairs, the General Directorate of Migration, the Counsel General’s Office and SBS.

### **Efforts to counter the various forms of violence prevailing in the region, poverty, discrimination based on gender**

40. The Working Women's Section of the Ministry of Labour has adopted a preventive measure involving dissemination of information and guidance to employers and working women on the rights and obligations of working women under the Labour Code (Congressional Decree No. 1441), the internal regulations and collective agreements of the various entities, and the provisions of both the ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and the ILO Equal Remuneration Convention, 1951 (No. 100). The objective is the empowerment of women workers with respect to their rights and obligations in the workplace, which must be recognized and respected without distinction of any kind. Between 2015 and August 2018, 11,479 people were reached, 7,060 of them women and 4,419 of them men.

### **Qualitative information on labour migration movements to and from the State party**

41. The profile of migrant adolescents between 18 and 25 years of age is highly diverse and complex, reflecting key aspects of their background: they come from rural, indigenous families, mostly from the Mam and Kiché ethnic groups, from the Departments of San Marcos, Huehuetenango and Quetzaltenango.

42. The Labour Mobility Department of the Ministry of Labour also has records of Guatemalans who have left for Mexico and Canada in the past three years. In 2015, 14,119 persons were registered, of whom 4,539 left for Canada and 9,580 for Mexico. In 2016, 14,853 persons were registered, of whom 5,151 left for Canada and 9,697 for Mexico. In 2017, 13,227 persons were registered, of whom 3,956 left for Canada and 6,503 for Mexico. In the first half of 2018, 8,080 persons were registered, of whom 3,956 left for Canada and 4,124 for Mexico.

### **Legislation prohibiting border rejection and refoulement of persons in possible need of international protection**

43. Pursuant to the 1951 Convention relating to the Status of Refugees (art. 33 (1)). Prohibition of expulsion or return ("refoulement"), the representatives of the General Directorate of Migration who are located at the borders are trained to allow entry to persons in need of international protection in keeping with the principle of non-refoulement.

44. As to whether Guatemala guarantees access to procedures for recognition of refugee status, the country is a signatory to the main international human rights treaties, having ratified in 1983 the two major legal frameworks for the international protection of refugees: the 1951 Convention relating to the Status of Refugees, and its 1967 Protocol. In addition, Guatemala adopted the Cartagena Declaration in 1984 and, on the thirtieth anniversary of that Declaration in 2014, adopted the Brazil Declaration and Plan of Action, together with 28 other Latin American countries.

45. In a clear demonstration of its commitment to ensuring refugee protection through a regional approach, Guatemala participated in regional forums on international protection, such as the high-level roundtable on "Call to Action: Protection Needs in the Northern Triangle of Central America", in 2016, in San José, Costa Rica.

46. The active participation of Guatemala resulted in specific commitments being made to the protection of persons in transit and returnees with specific protection needs, among other activities in which the country has engaged to support the vulnerable population in this context. The Ministry of Labour is involved with respect to recognition as a member of the National Commission for Refugees. In addition, specifically in the Foreign Nationals Work Permits Department, the process of approving applications for refugee status is quick and streamlined.

47. As a result of the commitments undertaken within the framework of the New York Declaration for Refugees and Migrants, and pursuant to the Migration Code (Congressional Decree No. 44-2016), the Foreign National Work Permits Department was established in the General Directorate of Labour. This will speed up the granting of work permits for

refugees, to which end eight national meetings and two international meetings have been held.

48. Of the eight national meetings coordinated by the Ministry of Labour, the information contained in the matrix of the comprehensive regional framework for protection and solutions has been compiled and adapted to the situation in Guatemala. These meetings were attended by representatives of the Office of the United Nations High Commissioner for Refugees (UNHCR), the committees of the National Commission for Refugees, the Labour Mobility Committee and the Commission for the Comprehensive Care of Migrant Children and Adolescents and Civil Society, among others. The support of the planners and financial backers was solicited for each institution so that their respective commitments could be included in the annual operational plan.

49. The following information concerns the two international meetings:

- First Meeting (Workshop, held in Panama): with a view to sharing good practices, describing challenges and achievements and agreeing on follow-up material, such as a report (in a stop-light format) and a narrative detailing the progress made
- Second Meeting (Roundtable, held in Washington, DC): was held as a technical meeting of the national technical teams to prepare the Meeting of Ministers or Deputy Ministers of the participating States, cooperating States and Permanent Observers to the Organization of American States (OAS).

#### **Conditions of migrant detention in Guatemala in the light of international and inter-American human rights standards**

50. Foreigners who violate the Migration Code are transferred to the shelters of the General Directorate of Migration, which has areas set aside for men and women where they are given food, general medical care, psychological support and a personal hygiene kit; food is provided in keeping with their religion and culture. Access to telephones, cable television and consular advice is available as well.

#### **Progress in the implementation of the Recommendation Monitoring System**

51. In 2016, the Presidential Human Rights Commission was invited by Paraguay to participate in the presentation of the Paraguay Recommendations Monitoring System, created by that country as part of the cooperation programme proposed under resolution A/HRC/RES/30/25 of the Human Rights Council, which promotes international cooperation to support national systems and processes for monitoring human rights.

52. In January 2017 Guatemala expressed its interest in being part of that cooperation programme. It met the requirements for its implementation, having already established the Inter-Agency Human Rights Forum and a database that can be adapted to the platform of the Recommendations Monitoring System.

53. A technical cooperation programme was accordingly put together, consisting of an inter-agency agreement between the Ministry of Foreign Affairs of Paraguay and the Presidential Human Rights Commission, with the latter responsible for the implementation and sustainability of the programme's output.

54. The technical cooperation activities are intended for the public officials participating in the Inter-Agency Human Rights Forum who will be responsible for following up on international recommendations on human rights.

55. The Government of Paraguay developed the cooperation programme in two training stages:

(a) First stage: This was organized by the Commission in May 2017 for delegates of the Forum to provide a general introduction to the international system for the protection of human rights;

(b) Second stage: This took place between July and August 2018, with the support of the German Agency for International Cooperation (GIZ) in Guatemala. The

Paraguay prototype was disseminated and practical exercises conducted for Forum delegates on the Guatemala Recommendations Monitoring System.

56. The Commission is now in the final phase of classifying some 398 recommendations issued by treaty bodies (the Committee on the Elimination of All Forms of Discrimination against Women, the Committee on the Rights of the Child, the Human Rights Committee and the universal periodic review mechanism, with the support of UNHCR in the form of:

- (a) Analysis of the recommendations contained in 11 thematic booklets:
  - Children and adolescents
  - Women
  - Indigenous peoples and people of African descent
  - Migrants
  - Lesbian, gay, bisexual, transsexual and intersex (LGBTI) persons
  - Persons deprived of their liberty
  - The elderly
  - Persons with disabilities
  - Human rights defenders
  - Business and human rights
  - Inter-agency strengthening
- (b) Identification of the following criteria:
  - Institution responsible for compliance with the recommendation
  - Assigned right
  - Affected population

57. The Recommendations Monitoring System is expected by the end of 2018 to include all of the classified recommendations from the latest considerations of Guatemala by the different supervisory mechanisms:

- Human Rights Council (universal periodic review)
- Committee on the Elimination of All Forms of Discrimination against Women
- Committee on the Rights of the Child
- Human Rights Committee

58. It should be noted that the Recommendations Monitoring System is intended for use by the public in order to consult the recommendations made to Guatemala by the protection mechanisms of the United Nations; it will also include the commitments made in accordance with the rulings handed down on Guatemala by the Inter-American Court of Human Rights.

#### **Information on the measures taken to ensure the birth registration of foreign migrant children in the State party**

59. Article 1 of the National Registration Act (Congressional Decree No. 90-2005) stipulates that in order to carry out its functions, RENAP Office (RENAP) must open branches in all of the country's municipalities and may set up mobile units anywhere in the national territory and abroad, through consular offices. In addition, under article 104 of the Code of Private International Law (Bustamante Code), an official certified copy of any registration of a national of any of the contracting States which is made in the Civil Registry of another State must be sent free of charge and through diplomatic channels to the country concerned.

60. Decision No. 104-2015 of the Board of Directors of RENAP Office, on the regulation of registrations, sets out the criteria for the identification and registration of

foreign persons lacking personal identification documents, allowing the foreigners to be identified by means of a valid passport or identification document from their country of origin. It also considers the particular cases of Central Americans and Mexicans who can be identified by means of a basic personal details card or a certificate of presumed nationality. Refugees can also be identified by means of a refugee identification certificate issued by the General Directorate of Migration.

**Measures taken to ensure the right of children of Guatemalan migrant workers abroad, including children of migrant workers who are undocumented or in an irregular situation, to be registered at birth and to have their nationality of origin recognized in law and in practice**

61. RENAP has issued the following decisions to implement measures adopted with regard to the registration of children of migrant workers abroad who are undocumented or in an irregular situation:

(a) Decision No. 44-2013 of the Board of Directors of RENAP Office, creating a registration guide for the registration of births in border areas adjacent to Guatemala;

(b) Decision No. 48-2011 of the Board of Directors, mandating the collection of data for the issuance of personal identification documents to uprooted, displaced, returned or repatriated persons who were born abroad and who are the children of a Guatemalan father or mother. Only the presentation of a birth certificate issued by the Civil Registry is required for this purpose, and it is not necessary to present an attestation of Guatemalan origin issued by the Ministry of Foreign Affairs, as under article 144 of the Constitution such persons are considered to be of Guatemalan origin;

(c) Decision No. 144-2013 of the Board of Directors, Registration Criteria for Birth Registration of Children of Guatemalan Parents Born in Border Areas or Adjacent to the National Territory, with respect to the following countries: Mexico, Belize, El Salvador and Honduras.

62. RENAP is setting up working groups comprising the Network for Dialogue and Identification of the Guatemalan Population, which includes such actors as mayors, community leaders, development councils, the Ministry of Social Welfare and other social actors involved in birth registration.

63. RENAP, through the Guatemalan Air Force, also organizes mobile identification days to help Guatemalan returnees re-enter the country. Such days are also held for Guatemalan returnees who enter the country at the Tecún Umán border in the municipality of Ayutla, Department of San Marcos.

64. In addition, RENAP is implementing a pilot plan for the civil registrar to provide signature legalization services in the Departments of Quetzaltenango, Jutiapa and Huehuetenango. This will meet the need for signature legalization in the head offices where the Ministry of Foreign Affairs is represented through its delegations.

65. A total of 76,007 births to foreign mothers or fathers were reportedly registered as “consular” between 2011 and 30 June 2018 (see annex 1).

**Information on the measures taken to ensure the birth registration of foreign migrant children in the State party**

66. RENAP, in coordination with the National Reparations Commission, holds identification and registration days in the community of Tierra y Libertad in the municipality of Livingston, Department of Izabal, for repatriated persons who are the victims of the internal armed conflict in Guatemala. The population of the community in question consists of Guatemalan, Honduran and Bolivian persons of Guatemalan descent.

67. In coordination with the National Reparations Commission, RENAP has also held identification and registration days in the community of Yalcastán for victims of the internal armed conflict in Guatemala; this community is made up of Guatemalans with descendants born in Mexico, who have registered and enrolled.

68. RENAP held registration days in the community of Laguna Larga, in the municipality of San Benito, Department of Petén.

69. RENAP currently has 46 units in the national hospital network.

70. Within the framework of the inter-agency cooperation agreement between RENAP and the Ministry of Foreign Affairs, there is an identification service for Guatemalans residing abroad in 11 diplomatic missions in the United States and 1 diplomatic mission in Spain.

71. A special room providing services for domiciled foreigners was opened in the central headquarters of RENAP, which offers registration services, issues certificates for all registry events conducted by RENAP for foreigners and collects data for the issuance of personal identification documents to domiciled foreigners.

72. RENAP, in coordination with the Ministry of Foreign Affairs, has an Office for the Civil Registry of Persons on its premises for registering the foreign births of children of Guatemalan parents.

73. In coordination with the General Directorate of Migration, RENAP has a civil registry office on its premises for the identification of persons with legal migration status.

74. The civil registry unit in Aldea Ciudad Pedro de Alvarado, municipality of Moyuta, Department of Jutiapa, has been reopened for registering the births of children born to Guatemalan parents in border areas.

#### **Measures adopted to disseminate the Convention**

75. The Presidential Human Rights Commission, with the objective of strengthening institutional capacities, knowledge and familiarity with the State's obligation to protect, guarantee and make effective the human rights of migrants, as a country of origin, transit, destination and return, by providing the necessary tools to ensure the human rights approach in addressing the dynamics of migration and the factors inherent to it, has conducted a series of five workshops on migration in different departments of the Republic and has also offered a diploma course on Human Rights, Migration and Trafficking in Persons. Some 27 State institutions have participated.

76. In order to provide comprehensive care for migrant family units repatriated from the United States and Mexico, SOSEP has coordinated various activities with the relevant State entities and organizations to strengthen the capacities of staff providing care to family groups, through the following measures:

(a) Signature of a letter of understanding between SOSEP and UNICEF and the Association of Missionaries of San Carlos Scalabrianos, on carrying out the following actions:

- Coordination of training to strengthen the capacities of Social Services Programme staff members who serve the migrant population
- Recruitment of staff to look after family units.

(b) Reproduction and distribution of information material on the four programmes administered by SOSEP (Community Day-Care, Social Services, "Growing Securely" and "My Golden Years"), as well as information material on government action on migration, which is distributed to repatriated migrant family units when they first receive immediate care;

(c) Since 2012, SOSEP has been part of a group of public institutions that initiate actions to guarantee comprehensive care for migrant children and adolescents. The group was formed in 2014 under Government Order No. 146-2014, which established the Commission for the Comprehensive Care of Migrant Children and Adolescents.

77. In 2017, 35 training sessions were conducted by SBS for child welfare officers and technical teams. Also in 2018, from January to June training was given to the child welfare officers and technical team of the "Casa Nuestras Raíces" shelters, located in Guatemala City and Quetzaltenango. A total of 11 training sessions have been held on migration issues.

78. Since 2010, the Migrant Care Programme of the Ministry of Health and Social Welfare has included the Convention in its guidelines on the comprehensive health-care standards for first- and second-level health care.

79. From 2010 to 2014, staff from 12 health areas received training as part of a diploma course on health-care standards, which includes guidelines from the Migrant Care Programme.

80. The Presidential Secretariat for Women currently manages the strategic agenda for addressing the human rights of migrant girls and women as part of the follow-up to the international commitments entered into by Guatemala. It also ensures that government institutions implement the action lines of the National Policy for the Advancement and Integral Development of Women in order to achieve equity between men and women.

81. RENAP implemented the National Plan to End Under-Registration during the period 2013–2016, registering 52,190 under-registered persons within the deadline.

82. An inter-agency letter of understanding was signed by the National Registry of Natural Persons of El Salvador, the National Registry Office of Guatemala and the National Registry of Persons of Honduras to promote best registration practices for ensuring timely, universal and free birth registration.

83. RENAP, in coordination with OAS, holds periodic inter-agency technical roundtable meetings with El Salvador and Honduras to implement strategies for promoting timely registration and improving the identification rate of persons in border areas, within the framework of the project on improving the registration and identification rates of persons in the border areas of the Northern Triangle of Central America, Phase II. A workshop on registration criteria in border areas was also held, with the support of OAS, for civil registrars closest to the Northern Triangle.

84. An inter-agency cooperation agreement was signed by RENAP, the Ministry of Foreign Affairs and the Ministry of the Interior on the documentation of Guatemalans residing abroad. Another such agreement was also signed by the General Directorate of Migration and RENAP on mechanisms, procedures and legal technical requirements for the identification of natural persons in keeping with the standards for legal certainty provided by the tools, systems and devices available to these institutions.

85. In addition, an inter-agency coordination agreement was signed by RENAP and the Ministry of Health and Social Welfare on joint efforts to end the under-registration of births and promote their timely registration.

86. All Guatemalans are informed of the services provided by RENAP both to Guatemalans residing abroad and to returning Guatemalans through the website [www.renap.gob.gt](http://www.renap.gob.gt).

87. RENAP participates in the Congressional Regional Integration Commission on drafting a law to regularize the migration of Central Americans who have not regularized their stay in Guatemala.

## **B. Information relating to the articles of the Convention**

### **Article 7**

#### **Political Constitution of Guatemala, regarding compliance with the Convention**

88. Article 44 of the Constitution stipulates that: “The rights and guarantees granted by the Constitution do not exclude others which, although not expressly included in it, are inherent to the human person”. Article 46 also states the following: “The general principle is established that in matters of human rights, treaties and conventions accepted and ratified by Guatemala take precedence over domestic law”.

89. In this regard, Guatemala, as a party not only to the Convention but also to a number of other international instruments that protect the human rights of the individual in every dimension, recognizes the rights and freedoms embodied therein and is under the obligation

to adopt the necessary measures and tools for protecting migrant workers, a vulnerable group, in an effort to guarantee the rights of each individual, especially with a view to strengthening the principle of equality and non-discrimination enshrined in article 4 of the Constitution.

**Amendment to the Electoral and Political Parties Act (Congressional Decree No. 1-85), and Voting abroad**

90. Guatemalans residing abroad were granted the right to vote under the Electoral and Political Parties Act (Congressional Decree No. 26-2016 [sic]), pursuant to which the Supreme Electoral Tribunal issued Decision No. 274-2016 containing the regulations on voting abroad, which regulates matters pertaining to that political right.

91. The voter registration of Guatemalans living abroad, which will contribute to the census, began in July 2018. In order to register or be registered, nationals are required to have personal identification documents. This may be done on the website [migrante.tse.org.gt](http://migrante.tse.org.gt), or at the offices of the Citizens' Registry in Guatemala. A more user-friendly registration form is under development.

92. With respect to the exercise of the right to vote of Guatemalans living abroad, the Supreme Electoral Tribunal makes no distinction as to whether they are residing in another country legally or illegally, since the political right to vote is constitutionally recognized; the only requirement is to be a citizen. Decisions on the matter have been taken with care, in such a way as to protect Guatemalan citizens from specific migration policies, which is why they are not asked for their specific address but only for such basic information as state, city, county or other that does not allow their precise location to be known. Software is being developed that will enable Guatemalans living abroad to vote without risk.

**Information on the new Migration Code (Congressional Decree No. 44-2016)**

93. With regard to the recent enactment of the Migration Code, various regulations are being drafted pursuant to the Code with respect to migration matters. In addition, the General Directorate of Migration is being turned into the National Institute of Migration.

94. The Migration Code provides for the establishment of the Council for Assistance and Protection, in order to consolidate all the proposals on prevention and information on the risks of migration and on the rights of migrants, with a view to avoiding the duplication of functions, activities and projects, achieving inter-agency coordination and taking action to prevent migration. Nominations are now being received for Council members.<sup>1</sup> The Council will have the following responsibilities:

- (a) Running prevention and information campaigns on the risks of migration and on the rights of migrants;
- (b) Executing awareness-raising programmes for the education sector on the topic of migration, especially for children and adolescents;
- (c) Encouraging people to report human rights violations;
- (d) Creating health-care programmes for deported or returned persons;
- (e) Caring for the families of migrants believed to have disappeared while in the process of migration, creating mechanisms for contacting foreign authorities;

<sup>1</sup> Pursuant to article 162 of the Migration Code (Congressional Decree No. 44-2016), the Council for Assistance and Protection shall comprise the following: the Director General of the Guatemalan Institute of Migration, who chairs it; the Executive Secretary of the Guatemalan National Council for the Care of Migrants; a Deputy Minister of the Ministry of Education; a Deputy Minister of the Ministry of Health and Social Welfare; a Deputy Minister of the Ministry of Labour and Social Welfare; a Deputy Minister of the Ministry of the Interior; a Deputy Minister of the Ministry of Foreign Affairs; a Deputy Minister of the Ministry of Economic Affairs; a Deputy Minister of the Ministry of Social Development; a representative of the Counsel General of the Nation; the Under-Secretary of the Office of the Under-Secretary for the Protection and Care of Children and Adolescents of the Social Welfare Secretariat of the Office of the President; and a representative of the Office of the Human Rights Advocate.

(f) Undertaking all measures necessary to inform people about the risks of migration, the care provided to deported or returned persons and how to meet families' needs for search and identification.

#### **Documentation of Guatemalans abroad**

95. RENAP implements programmes and actions to improve the identification of migrants. With respect to the provision of a legal identity to Guatemalans abroad, as a result of the inter-agency agreement between the Ministry of Foreign Affairs and the Ministry of the Interior on the documentation of Guatemalans abroad, 53,512 personal identification documents were delivered in 2018 to the Ministry of Foreign Affairs through the 12 accredited embassies and consulates abroad, in: Silver Spring, Maryland; Chicago, Illinois; Houston, Texas; Richmond, California; Denver, Colorado; Atlanta, Georgia; Phoenix, Arizona; San Bernardino, California; Miami, Florida; Los Angeles, California; and New York, New York, all in the United States, as well as in Madrid, Spain. Data are provided by quarter from January to September 2018 (see annex 2).

#### **Articles 8–15**

##### **Care of returnee Guatemalan migrants who are in an irregular situation at the time of their return to Guatemala**

96. As part of the support provided by SOSEP to migrant family units, with regard to returnee Guatemalan migrants who are in an irregular situation at the time of their return to Guatemala, the Secretariat, as part of the action lines of the Commission for the Comprehensive Care of Migrant Children and Adolescents, undertakes the following:

(a) Provides psychosocial care from the time of reception, including identification of the migrants' immediate needs, which makes it possible to determine their family situation and the conditions for their return to their communities. Families who are victims of violence, extortion or health problems, or who are afraid to return to their communities of origin, are provided with accommodation and specialized care prior to their return to their communities;

(b) In addition, families are monitored at the community level, through coordination and referrals within SOSEP, home visits to migrant families, their inclusion in SOSEP programmes, and coordination and referral to services provided by other institutions, in order to prevent them from becoming victims of any crime during the process of their return to their community and to prevent them from migrating.

##### **Provision of legal aid for migrants**

97. The Ministry of Labour is working with Justice in Motion, whose mission is to protect the labour rights of workers in Canada, Mexico and the United States. This organization receives various forms of support from community law centres in the three countries, enabling it to assist migrants in vulnerable situations or whose labour rights have been violated, as well as those subjected to forced labour or labour exploitation.

##### **Actions or measures with respect to migrants in transit through Guatemala**

98. The General Directorate of Migration has a shelter for migrants who are trying to resolve their migration status. The shelter provides, at the very least, food, medicine and a personal hygiene kit. The State has allocated financial resources for the shelter, but despite the demand it has proven difficult to set up at least two shelters on the borders with Honduras and El Salvador.

99. SBS organizes, directs, coordinates, monitors and evaluates the services and care provided for unaccompanied children and adolescent migrants who are in transit through Guatemalan territory.

### **Actions or measures with respect to Guatemalan migrants in destination countries**

100. The Ministry of Foreign Affairs has 32 consulates abroad, of which 18 are in the United States, 10 in Mexico and the remainder in Belize, Canada and Honduras. In addition, consular services are offered through mobile consulates to all Guatemalans residing in the United States. Some 140 mobile consulates were expected to be set up in 2017. Honorary consulates are in place for the rest of the world, and consular services are also provided by embassies. The Consular and Migrant Care Services Programme of the Ministry provides Guatemalans abroad with assistance, care and consular protection, along with support on documentation.

101. In order to improve the assistance and communication provided to Guatemalans abroad by means of a helpline, a call centre, known as “Migrant Support”, was set up in the United States.

102. In addition, the Ministry of Foreign Affairs, the Ministry of the Interior and RENAP have an inter-agency agreement on the documentation of Guatemalans abroad to facilitate the issuance of personal identification documents through the consular network. According to the 2017 Social Development and Population Policy Report of the Presidential Secretariat for Women, between August 2015 (when the agreement was signed) and September 2017, 100,606 such documents were issued and delivered, most of them in Los Angeles, California; Houston, Texas; and Silver Spring, Maryland.

103. The Ministry of Foreign Affairs and the United States Committee for Refugees and Immigrants (USCRI) signed a memorandum of understanding to provide advisory services to unaccompanied Guatemalan children with cases pending before United States immigration courts.

### **Measures taken to inform migrant workers and members of their families about the remedies available to them for violations of their rights**

104. The Ministry of Labour has rolled out the “Ask, Note, Verify” (Pregunta, Apunta y Verifica) campaign to prevent scams involving job offers in Mexico, the United States and Canada, primarily at the recruitment stage where scams are very common.

105. There was also an information campaign on “How to work in southern Mexico with your labour rights protected”. The idea was to provide information on the rights of migrant workers and the type of documents that they need in order to work on the farms of southern Mexico, as well as on scams relating to promises of work in exchange for money.

106. The Ministry of Labour has developed regulations on the registration, authorization and operation of recruiters, recruitment agencies and placement agencies of Guatemalan workers inside and outside Guatemala that are in the final stages of approval. The goal is to establish procedures for the job brokering, recruitment, introduction or placement of Guatemalan workers and migrant workers in Guatemala and abroad and for monitoring such workers in order to protect the human and labour rights of job seekers, workers and employers, in support of the pro persona principle and the principles of decent work, free access, equality and non-discrimination, the elimination of the worst forms of child labour, solidarity and human dignity, and the advancement of human rights.

### **Cases of the exploitation of migrant workers and members of their families**

107. According to the General Labour Inspectorate of the Ministry of Labour, 3,731 cases involving migrant workers and members of their families were handled in the agricultural sector between 2011 and 2018; in the non-agricultural sector, there were 181,273 cases; and in private homes, there were 1,936 cases. This makes for a total of 186,940 cases.

108. The Inspectorate also conducts operations in the area of child labour, with the following statistics reported for the period 2015–2018:

(a) In 2015, the Inspectorate conducted 6,686 visits. Some 68 adolescent workers were found, including 33 males, 14 females and 21 children under 13 years of age, 17 boys and 4 girls. These cases were found, in the following sectors:

- Agriculture, and specifically the cultivation, harvesting, transport and processing of sugar cane and export of sugar
- Places where the worst forms of child labour were believed to exist
- Areas of African palm oil production
- Hotels and restaurants
- Places for the production and distribution of firecrackers and fireworks

(b) In 2016, the Inspectorate conducted five inspections in connection with child labour (in the Department of Guatemala City), the worst forms of child labour, and fireworks. This resulted in 5,734 visits in which 99 persons under 18 years of age were identified: adolescents (aged 14 to 17 years), 61 males and 27 females, and children (under 13 years of age), 7 boys and 4 girls;

(c) In 2017, inspections were held as part of the inspection plan targeting convenience stores, tortillerías, workshops and other kinds of trades and activities where children and adolescent workers or older persons have been observed to be working without fixed working hours, minimum wages or appropriate conditions and where there are indications or evidence of criminal offences related to trafficking in persons, especially in the form of forced labour and labour exploitation or the offence of employment of minors in activities harmful to their integrity and dignity. Implementation of the plan involved 3,495 inspections in which 37 persons were identified: 35 adolescents (aged 14 to 17 years), 23 males, 12 females, and 2 children (under 13 years of age), 1 boy and 1 girl;

(d) As to 2018, it saw 893 inspections conducted as part of the “Worst Forms of Child Labour” Plan and in which 13 adolescents (aged 14 to 17 years) were identified, 7 of them males and 6 females.

109. According to the Ministry of Labour, as part of the implementation of measures to prevent the exploitation of children, 20,858 adolescents, including 7,765 females and 6,267 males, were informed of their labour rights and of the minimum age for employment between 2015 and 2017.

#### **Information on mechanisms for searching for the disappeared and for identifying bodies, for supporting the families of the disappeared in carrying out such searches**

110. In order to document the human identification process, the National Institute of Forensic Sciences has prepared a manual for the identification of human remains, which helps standardize forensic practices for identifying corpses in a controlled, reliable and replicable manner. These practices are carried out by the Institute’s thanatology unit in its special facilities.

111. The manual is a tool for assembling a set of actions to ensure the effective and efficient handling of unidentified or tentatively identified bodies brought to the Institute’s special facilities in different locations. It should also help improve the quality of service provided to people looking for the body of a family member or for a disappeared person. The manual meets international standards for the collection of ante-mortem and post-mortem data necessary for the identification of corpses that may have been matched, for example, with persons reported missing in the course of regular and irregular migration, as established in article 203 of the Migration Code.

112. The Institute can draw on the necessary procedures, guidelines and forms for conducting its forensics, from which important information can be extracted to establish and standardize clear guidelines and workflows on human identification, in addition to establishing new procedures for people who go to the Institute in search of a disappeared person.

113. The compilation of the findings and the matching process for specific searches are considered the last stage of the process, the objective of which is to identify the corpses received by the Institute and marked as “XX”, XX or “presumed name”. Identification can be achieved using different forensic methods and disciplines. As part of the implementation of the Migration Code, from 2014 to date the Institute’s Forensic Genetics Laboratory

entered 747 genetic profiles of persons marked as “XX”, XX and/or “presumed name” into the database. This statistical data does not include natural disasters, such as the Volcán de Fuego, El Cambray, and Hogar Seguro.\*

114. Among the criteria to be considered for the burial of unidentified bodies, in the case of foreigners, is the frequent request by consular corps that they be held in refrigerated containers at the Institute for a longer time than otherwise allowed in order to complete the procedures for repatriation.

115. As part of the project on the reduction of trafficking in persons through forensic genetics in Central America, the company Gene Codes Forensics, with the support of the Bureau of International Narcotics and Law Enforcement Affairs of the United States Department of State, gave the Institute the licence for the current version of the M-FISys software, along with the computer and product key – the End User Licence Agreement for M-FISys.

116. The Agreement is useful to the Institute in handling genetic profiles for identifying the victims of trafficking in persons, for Guatemalans who have died abroad, for persons killed in Guatemalan territory and in special cases of major disasters.

117. In 2017 and 2018, the Bureau of International Narcotics and Law Enforcement Affairs delivered this database to each of the countries of the Northern Triangle. To date it has been installed in Guatemala, Honduras and El Salvador.

118. As part of the same project, from 9 to 20 April 2018 the Institute, together with experts from the University of North Texas, conducted training on reducing trafficking in persons through forensic genetics in order to strengthen systems for combating trafficking in persons and identifying missing persons in the countries of the Northern Triangle using forensic genetics. The training session was attended by 19 experts from the Institute’s serological and forensic genetics laboratories and other experts from El Salvador and Honduras.

## Articles 16–22

### **Initiatives to prevent child migration-related detention, particularly where children are separated from adults**

119. With regard to the care of unaccompanied children and adolescents, the SOSEP Department for Unaccompanied Migrant Children and Adolescents has drawn up the first-ever protocol for the care of unaccompanied migrant children and adolescents. The protocol was drafted with the support of UNICEF and the Pastoral de Movilidad Humana (ministry for the pastoral care of migrants) and has been implemented from January 2015 to date.

120. The protocol focuses on psychosocial care and human rights, in order to provide adequate care and protection for unaccompanied migrant children and adolescents and identify potential situations in which they may be vulnerable or require special support, primarily because they have survived or have witnessed acts of violence in Guatemala and countries of transit or destination.

121. SOSEP, in accordance with its mandate and the functions described in Government Order No. 146-2014 establishing the Commission for the Comprehensive Care of Migrant Children and Adolescents, helps to provide protection and care primarily to accompanied children and adolescents. In order to fulfil that role and provide comprehensive care, it adopted the protocol for comprehensive care to migrant families with a focus on rights and the psychosocial approach, with the support of UNICEF and the Scalabrian Missionaries Association.

122. The following statistics on unaccompanied migrant children and adolescents have been presented by SBS for the past three years, as of June 2018:

\* *Transl. note:* These are references to the Volcán de Fuego eruption of June 2018; the major landslide at El Cambray in October 2015; and the safe home where 40 girls died in a fire in March 2017.

Table 1  
**Statistics on unaccompanied migrant children and adolescents between 2015 and June 2018**

| Year                  | Gender     |              | Age group                     |                                   |           | Origin        |              | Total number of children and adolescents |
|-----------------------|------------|--------------|-------------------------------|-----------------------------------|-----------|---------------|--------------|--|
|                       | Female     | Male         | Children (aged 0 to 13 years) | Adolescents (aged 14 to 17 years) | Adults    | United States | Mexico       |  |
| 2015                  | 2 320      | 7 846        | 853                           | 8 929                             | 384       | 100           | 10 066       | 10 166                                   |
| 2016                  | 1 916      | 6 487        | 771                           | 7 317                             | 315       | 178           | 8 222        | 8 403                                    |
| 2017                  | 1 137      | 3 191        | 771                           | 7 315                             | 315       | 306           | 4 021        | 4 328                                    |
| <b>Jan.–Jun. 2018</b> | <b>607</b> | <b>2 079</b> | <b>282</b>                    | <b>2 321</b>                      | <b>83</b> | <b>289</b>    | <b>2 397</b> | <b>2 686</b>                             |

Source: Prepared by the Presidential Human Rights Commission based on information from the Social Welfare Secretariat, October 2018.

### **Report on legislation in force concerning refugee and migrant children who are receiving complementary protection or protection for stateless persons**

123. The legislation in force concerning refugee and migrant children includes the following regulations:

- Act on the Comprehensive Protection of Children and Adolescents (Congressional Decree No. 27-2003)
- Migration Code (Congressional Decree No. 44-2016)
- Criminal Code (Congressional Decree No. 17-73)
- Civil and Commercial Code of Procedure (Decree-Law No. 107)
- Universal Declaration of Human Rights
- Declaration of the Rights of the Child
- Organic Act establishing the Public Prosecutor's Office (Decree No. 512)

124. There is also a public policy and action plan for the comprehensive protection of children and adolescents (2017–2032). It presents the migration issue in the context of Action Line III, on special protection, with respect to the problem of unaccompanied migrant children and adolescents.

125. The policy calls for the following actions:

- Implementation of the Migration Code and the mechanisms for the comprehensive protection of children and adolescents who migrate either to other countries or to Guatemala, thereby implementing the recommendation of the Committee on the Rights of the Child
- Establishment of the Guatemalan Institute of Migration
- Linkage of government social programmes on behalf of families who are considering migration because of their economic and social situation, in order to prevent the migration of children and adolescents and provide them with alternatives for comprehensive development
- Discussion and adoption of the proposed policy for the protection and comprehensive care of migrant children and adolescents
- Establishment of bilateral agreements with countries where migration is under way, in order to draw up specific mechanisms of protection and assistance for unaccompanied migrant children and adolescents
- Establishment of the Child and Adolescent Migrant Protection and Support Unit within the Counsel General's Office, which would help safeguard their safety, integrity and repatriation, as well as their integration into the family and community

- Strengthening of the SBS support centres for migrant children and adolescents, focusing on comprehensive protection
- Establishment of support centres for migrant children and adolescents in high-risk border areas, for foreign family units in border areas
- Strengthening of preventive socio-educational campaigns and spaces for dialogue on the problems and risks posed by the migration of children and adolescents to other countries

#### **Procedures to determine the best interests of the child in return and reintegration procedures**

126. SOSEP, in keeping with the protocol for comprehensive care to migrant families with a human rights and psychosocial approach, is planning to offer specialized care for accompanied children and adolescents – i.e., for migrant family units upon their return to the country. It also contributes to the social reintegration of migrant families into their communities with a holistic approach, through the four programmes managed by the Secretariat. Where there are no such programmes, any services necessary for the families' care and reintegration are coordinated with the relevant institutions.

127. Part of the services provided by the shelter of the General Directorate of Migration, once it has been determined through psychological interviews that there may be a case of trafficking in persons, are to refer the case to the Department against Violence, Exploitation and Trafficking in Persons for protection and follow-up (see annex 3).

#### **Information on border governance measures, particularly with respect to the functions of the National Civilian Police and the Armed Forces**

128. In accordance with its legal framework, the border security functions of the Guatemalan military are as follows:

(a) Under article 244 of the Act establishing the Armed Forces of Guatemala (Decree No. 72-90), the Armed Forces are an institution intended to maintain the independence, sovereignty and honour of Guatemala, territorial integrity, peace, and internal and external security;

(b) In accordance with the Evolution I Plan the Guatemalan Armed Forces shall conduct military and inter-agency support operations in the national territory, with a view to incorporating their operational strategy into the institutions responsible for public safety, so as to assist in creating the conditions of governance that will bring about the comprehensive development of citizens and to meet both permanent and current national strategic objectives;

(c) Security operations are conducted at the national level in border areas, with the following services provided:

- Support for security operations at the request of State institutions
- Patrols and operations involving task forces
- Foot and vehicle patrols in border areas and adjacency zones
- Patrols in contact with the Armed Forces of neighbouring countries
- Naval interdiction patrols
- Aerial reconnaissance patrols

#### **Article 23**

##### **Information on the policies and practices of embassies, consulates and consular agencies in assisting and protecting the rights and due process guarantees of migrant workers**

129. With respect to Guatemalan migrant workers in Mexico, there are two registry offices of the Ministry of Labour at the border areas of Tecún Umán and El Carmen, the

main objective of which is to register Guatemalan workers who are hired through a contractor or employer to work temporarily in the southern Mexican border states (Campeche, Chiapas, Tabasco and Quintana Roo). In order to stay in the destination state they must acquire the Visiting Frontier Worker Card issued by the National Migration Institute of Mexico, which allows them to work on a temporary and regular basis. Between 2011 and the first half of 2018, 36,427 Guatemalan migrants were reported to be working in Mexico.

### **Articles 25–30**

#### **Information on legal and labour protection to ensure that migrant workers, in both regular and irregular situations, enjoy the conditions of work set forth in the ILO Equal Remuneration Convention, 1951 (No. 100)**

130. The Ministry of Labour, with the support of the Office of the United Nations High Commissioner for Refugees (OHCHR) and the Structural Reform Fund of the German Agency for International Cooperation (GIZ), has implemented, printed and disseminated the single procedural protocol for the labour inspectorate system, which is intended to facilitate the steps to be followed by labour inspectors for the protection of workers. In that regard, on 3 November 2017, a presentation was held on the tools for strengthening the General Labour Inspectorate, which was distributed in two volumes containing the following information:

(a) Vol. I: Single procedural protocol for the labour inspectorate system, which contains the overall inspection procedures, together with specific instruments; and

(b) Vol. II: Procedure for the inspection and monitoring of the rights of agricultural workers.

131. The Ministry of Labour has also issued guidelines on the imposition of administrative sanctions by the General Labour Inspectorate for breaches of employment or social security provisions, which were published on 18 January 2018 in the Official Gazette under Ministerial Agreement No. 285-2017.

#### **Measures taken to ensure that the children of migrant workers have full access to education**

132. The Ministry of Education is taking a number of actions to enable access to the education system by both national and foreign migrants, through ministerial agreements and regulations governing equality of opportunities for study abroad. In 2017, the education system of Guatemala reported 8,530 students, 4,177 of them men and 4,353 of them women, who were registered as foreigners by the heads of educational establishments; in 2018, 9,372 students were registered, of whom 4,638 were men and 4,734, women. According to the information provided by the departmental directorates of education of the Ministry of Education, the students come from Paraguay, Mexico, Honduras, United States, Nicaragua, El Salvador, Colombia and Venezuela.

133. In order to guarantee the right to education of the children of migrants, the Ministry applies the following regulations nationwide:

(a) Ministerial Agreement No. 2474-2018, Regulations on equality of opportunities and equivalencies of studies at the preschool, primary and secondary levels of education and in the formal and informal education subsystems, which means that school authorities are obliged to ensure the registration and inclusion in the education system of all students who apply for study equivalencies with documentation that is either complete or incomplete;

(b) Ministerial Agreement No. 696-2017, which allows for the studies of Guatemalans deportees who will continue their training within the national education system to be validated;

(c) National Education Act (Congressional Decree No. 12-91);

- (d) Regulations of the National Education Act, Government Agreement Ministry of Education No. 13-77;
- (e) Regulations on Evaluation, Ministerial Agreement No. 1171-2010;
- (f) Ministerial Agreement No. 3052-2017, National Alternative Education Programme;
- (g) Ministerial Agreement No. 3590-2011, governing virtual and semi-onsite learning and educational service providers;
- (h) Ministerial Agreement No. 1007-2018, regulations governing the admission of students to the extramural education subsystem;
- (i) Ministerial Agreement No. 413-2009, establishing a primary education programme for over-age students.

134. In the monitoring of migrant families who have been integrated or reintegrated into the community, the SOSEP departmental headquarters coordinate with other institutions, such as the Ministry of Education, with respect to their inclusion in the (preschool and primary) education system and the granting of scholarships for students at the basic comprehensive (básico y diversificado) and comprehensive (diversificado) level.

**Disaggregated information on women, children, migrant workers in situations of sexual exploitation, domestic workers, lesbian, gay, bisexual, transgender and intersex persons and Guatemalan migrant workers and members of their families who have been deported, including those with disabilities**

135. In the period from 2015 to 2018 the General Directorate of Migration received 19 applications for refugee status from LGBTI persons of the following nationalities: Salvadoran, Venezuelan, Honduran and Nicaraguan, of which 6 were approved, 5 were rejected, 2 were withdrawn and 6 are pending.

136. During the same period, 120 applications were received from both accompanied and unaccompanied children, of which 88 were approved and 32 are pending. A total of 10 applications were received from unaccompanied migrant adolescents, and the National Commission for Refugees granted refugee status to 5 Salvadoran and Honduran adolescents, with 5 applications pending.

137. With regard to guaranteeing the exercise of the human rights of LGBTI persons, RENAP has drafted a protocol for Registry users (2016, version 3). Section 6 of the protocol comprises behavioural guidelines for users with disabilities, while section 7 consists of guidelines for LGBTI users.

138. The protocol is always included in the onsite and virtual course on user services and care for all civil registrars of persons throughout the country. The course is offered by the RENAP Training School and continuously updated.

139. The General Labour Inspectorate of the Ministry of Labour uses the single inspection protocol, which enumerates both the general and specific procedures for processing labour-related complaints. Personal complaints are handled with the same respect and treatment for all persons, especially LGBTI persons, as there are cases where such individuals omit their first name and add an alias, nickname or other name, always associated with their gender. The Inspectorate has accordingly expanded the fields used in its labour statistics system, adding a field for the name (registered, alias, other name and nickname), which appears on the screen of the operator processing the complaint.

140. The fields used in the labour statistics system were also expanded to include a field for LGBTI in order to indicate the person's gender while also creating a registry of LGBTI persons who file a complaint with the Inspectorate. The gender also appears on the screen of the operator processing the complaint.

141. Information on both procedures was disseminated jointly to LGBTI persons and the Office of the Human Rights Advocate in order to implement the next stage. The training courses taught by LGBTI persons have added considerably to the new training module on LGBTI persons for the institution's staff, incorporating a conceptual framework on sexual

diversity. Workshops are held on the appropriate use of the terms describing sexual diversity, on the meaning of the term LGBTI and what it means to be “a lesbian, gay, bisexual, transsexual, transgender and intersex person”, on their labour rights, on how they are treated and on the legal procedures to be followed when they are the victims of violence.

142. A workshop was held in 2016 on support for members of the LGBT group in coordination with the Office of the Human Rights Advocate for 80 public officials of the General Labour Inspectorate, with the collaboration of LGBTI representatives, to provide proper guidance on the subject, how it should be handled within the Ministry of Labour and Social Welfare and the best way to support LGBTI individuals on a case-by-case basis.

143. The Inter-Agency Commission against Human Trafficking of the Secretariat on Sexual Violence, Exploitation and Trafficking in Persons (SVET) has worked with members of the Subcommission on Prosecution and Punishment, comprising the National Civilian Police, Public Prosecution Service, Ministry of the Interior, Ministry of Foreign Affairs and the judiciary. It has devised the following tools for the support and repatriation of victims of trafficking in persons: the protocol for inter-agency coordination in the repatriation of victims of human trafficking, the protocol for inter-agency coordination in the protection and care of victims of human trafficking, and basic guidelines for action by the rapid response team in assisting victims of trafficking.

### **Articles 37, 39 and 40**

#### **Information on protection shelters and programmes for victims**

144. With regard to shelters, as part of the assistance provided to repatriated migrant families, SOSEP acts in conjunction with other governmental and non-governmental institutions so that returnees can, if they are unable to travel, spend their first night back in Guatemala in a shelter. The following organizations have assisted SOSEP: Casa del Migrante, IOM and Fundación Sobrevivientes, which provides psychological support and medical care for female victims of domestic violence.

145. In addition, SBS runs outpatient programmes that offer psychological, social and physical support to children and adolescents and their families. The programmes help children of all ages, as do the programmes for children and adolescents with disabilities.

#### **Adequate training and capacity-building on human rights and the rights of migrants and their families for the National Civilian Police, judges, prosecutors, labour inspectors, service providers, teachers, diplomatic and consular staff and other officials**

146. From 2016 to date, SOSEP has worked with State agencies, such as the Presidential Human Rights Commission, SVET, the Office of the Human Rights Advocate and San Carlos University of Guatemala, as well as with non-governmental organizations, including IOM, on training courses, workshops and/or diploma courses to strengthen the capacity both of SOSEP staff members who deal with migrants and of strategic staff.

147. SOSEP is currently part of the following working groups: the expert committee of the Commission for the Comprehensive Care of Migrant Children and Adolescents, the childhood expert committee of the Institutional Group for Public Policy on Migration and the expert committee of the Council for the Assistance and Protection of Migrants.

148. In keeping with its mandate to raise public awareness of acts of discrimination, the Presidential Coordinating Commission against Discrimination and Racism has implemented the following actions:

(a) Postgraduate refresher training programme on human rights, the rights of indigenous peoples, racism and racial discrimination for justice officials, 2011–2016. In the period from 2011 to 2016, six classes have completed the postgraduate programme for justice officials, with the academic backing of the Postgraduate School of the Faculty of Law and Social Sciences of the University of San Carlos, for 278 persons in all, of whom 150 are women and 128 are men;

(b) Graduates: 2013–2018. During the period 2013–2018, 22 courses were offered on human rights, the rights of indigenous peoples, racism and racial discrimination and international mechanisms for the protection of the rights of indigenous peoples, among other topics. Academic credit for these courses was given by the National Institute of Public Administration through the Presidential Human Rights Commission. Since 2015, academic credit has also been given by the continuing education programme of the University of San Carlos;

(c) Training the Trainers course. In order to meet the demand from State institutions for training, workshops and lectures on the prevention of racism and discrimination, the Presidential Coordinating Commission against Discrimination and Racism offered the Training the Trainers Course. This course is intended for human resources practitioners, who are responsible for preparing the annual training plans of their institution's staff. It also targets those in charge of training and/or capacity-building for the institutions of the executive branch. There have been three graduating classes to date, for a total of 101 persons, including 71 women and 30 men.

### **Programmes to prevent irregular migration, particularly of women and unaccompanied children**

149. The Ministry of Health and Social Welfare participates in a number of inter-agency commissions that address such issues as sexual violence, gender and human trafficking, most of them coordinated by the Presidential Coordinating Commission. They include the Migrant Support Programme, the Inter-Agency Commission to Combat Trafficking in Persons and the expert committee of the Council for Assistance and Protection established under the new Migration Code.

150. In addition, the Ministry of Health and Social Welfare has set up specialized clinics in hospitals to treat victims of sexual violence and human trafficking. Staff working in the comprehensive care units receive ongoing training on how to identify potential victims and file the relevant reports.

151. Promotional and preventive materials are disseminated to individuals who work in the markets of the capital city, including materials on priority care in standards of care, including the issue of trafficking in persons. The Ministry also participates in the multisectoral unit of the Integrated Health-Care System for the identification of victims of trafficking in persons in its various forms.

### **National Programme for the Migrant Population of the Ministry of Health and Social Welfare**

152. The Ministry of Public Health and Social Welfare in 2006 established the National Programme for the Migrant Population, solely for seasonal agricultural migrants, i.e., all those men and women who were working on a temporary basis in a geographical area other than that of their origin. The programme offered immunization and treatment for acute diarrhoeal diseases, pesticide poisoning, acute respiratory infections, food and nutrition security, dengue fever, malaria, sexually transmitted infections, AIDS, tuberculosis and epidemiological surveillance.

153. However, in 2010 the Ministry extended the programme to provide care to all migrant workers and their families, including all agricultural migrant workers who move from their place of origin to different destinations depending on the growing seasons for coffee, sugar and melon, among other crops.

154. The new programme guidelines are about to be issued with a view to providing more specialized care and in new areas that will foster progress and improvements in the health system, with features tailored to persons in transit and returned or repatriated persons. It will also deal with the risk factors for migrants (see annex 6).

**Article 64****Efforts to reduce poverty and unemployment**

155. The Ministry of Economic Affairs coordinates the National Competitiveness Programme, which is a participatory national programme that promotes inter-agency efforts and alliances between the public sector, private sector, civil society and academia. The objective is to enhance the competitiveness of the human capital and business capital that generate investment, contribute to the decentralized development of the country, improve the quality of life of Guatemalans and create opportunities for formal employment, by means of the following:

(a) Loans granted to micro, small and medium-sized enterprises (MSMEs) through financial services bodies: cooperatives, banks and microfinance institutions. Trust funds: the MSME Development Fund and the MSME Global Credit Programme Trust provide access to credit for MSME entrepreneurs engaged in trade, services, manufacturing or industry, handicrafts and agro-industry in order to develop the MSME sector, secure and generate revenue sources, and help reduce poverty and improve the quality of life of the entrepreneurs, their employees and businesspeople involved in the sector;

(b) Business development services provided to MSMEs: The business development services component of the Vice-Ministry for MSME Development helps enable MSMEs to be more productive and competitive, contribute to local economic development and generate sources of employment. The strategic areas for business development services are:

- Entrepreneurship and microloans
- Entrepreneurship
- MSME State providers
- Regional MSME fairs, among others.

(c) Business development services provided to entrepreneurs/craftspeople who have been trained in production and marketing. This component enhances the productivity and competitiveness of entrepreneurs and MSMEs by offering business development and technical support services to women microentrepreneurs for economic empowerment, so as to help reduce poverty, generate employment and improve the quality of life of MSME entrepreneurs involved in handicraft production (see annex 4).

**Articles 67, 68 and 69****Measures taken to ensure the rights of migrant children and their protection from any kind of violence or exploitation**

156. SOSEP efforts to provide comprehensive care to migrant families who have returned to Guatemala are rooted in the implementation of existing national and international law on the rights of children and adolescents. The Community Homes Programme provides care for children of working mothers from 6 months to 6 years of age, supporting their comprehensive development by means of personalized day care in community homes and Child Care and Development Centres. This care is provided by trained mothers from the communities, under professional supervision.

157. SOSEP has also worked with the relevant institutions, such as SVET, to offer training for SOSEP staff on prevention, identification and treatment.

158. In addition, it has been a member of the Inter-Agency Commission against Trafficking in Persons since 2016. The Commission coordinates such activities as prevention campaigns and the dissemination of information materials.

159. The measures being implemented to protect children and adolescents from any kind of violence are carried out pursuant to the Act on Sexual Violence, Exploitation and Trafficking in Persons (Congressional Decree No. 9-2009).

160. The purpose of the Act is to prevent, suppress, punish and eradicate sexual violence, exploitation and trafficking in persons, as well as to provide care and protection for victims and compensate them for any damages and prejudice caused. It seeks to combat trafficking in persons in its various forms, such as commercial sexual exploitation, labour exploitation, servitude, slavery, forced marriage, trafficking in organs, begging or any other form of exploitation. These acts, considered to be transnational crimes, warrant the implementation of effective mechanisms in the judicial, policing and social spheres, with the participation of government agencies and public and private institutions.

161. With regard to expenditures on priority populations, the Ministry of Finance has developed a tool, the thematic classifier of childhood and youth, through which the executive institutions – SBS, SVET and the Counsel General’s Office, all of which have specific programmes in place for migrant children – report the relevant expenditures. Based on the classifier, these expenditures increased from Q18.3 million in 2014 to Q25 million in 2018 (see annex 5).

162. The integrated government accounting system of the Ministry of Economic Affairs compiled information for the period 2011–2018 on spending allocations to the National Council for Assistance to Guatemalan Migrants and to the Ministry of Foreign Affairs for consular services. There was a Q71.1-million increase in the annual budget allocated for 2011 and a Q85.1-million increase for 2018 (see annex 5).

163. With respect to policies on trafficking in persons, there is a State policy in place for 2014–2024 to combat trafficking in persons and provide comprehensive protection for victims, adopted under Government Order No. 306-2014, the implementation of which is monitored by SVET.

**Establishment of shelters and protection centres to help victims rebuild their lives, including assistance with their physical, psychological and social recovery**

164. The SVET specialized temporary shelters are staffed by qualified personnel and are strategically located in Guatemala City, Alta Verapaz and Quetzaltenango, which are considered to have the highest incidence of sexual violence, exploitation and trafficking in persons.

165. The comprehensive care provided by SVET consists of a preliminary medical and psychological assessment, including findings and recommendations, together with a plan for physical and psychological care. Once the victims have been integrated into the shelter they receive information on schedules, daily activities, the family visiting day and so forth. They also participate in the following programmes: social and family care, medical care, psychological care, legal care, education, and nutritional care.

**Information on the Commission for the Comprehensive Care of Migrant Children and Adolescents**

166. SOSEP has been part of the group of public institutions that work to provide comprehensive care to migrant children and adolescents since 2012. The group was formally constituted in 2014 as the Commission for the Comprehensive Care of Migrant Children and Adolescents pursuant to Government Decision No. 146-2014.

167. The objective of the Commission is to coordinate, evaluate, promote and monitor implementation of institutional or inter-agency strategies, plans and programmes that provide migrant children and adolescents with protection, assistance and comprehensive care as well as ensuring respect for their fundamental rights. The Commission is composed of senior representatives of the Ministry of the Interior, the Ministry of Foreign Affairs, the Ministry of Education, SBS, the Counsel General’s Office and SOSEP.

168. SOSEP, as a member of the Commission’s Expert Committee, attends the monthly meetings convened by SBS to discuss the assistance provided by the respective institutions to migrant children and adolescents in coordination with the technical teams of the Commission’s member institutions.

**Policies, programmes and action plans covering migration, and their scope and financing**

169. The General Directorate of Migration will convene expert committees to make proposals for a comprehensive migration policy to address internal migration and that of Guatemalans abroad. The policy will cover the inter-agency and intergovernmental means of addressing the four types of Guatemalan migration: origin, transit, destination and return.

**Efforts made to adopt laws and policies to ensure the implementation of legislation to combat trafficking in persons**

170. The following legislation is in force in Guatemala to combat and prevent trafficking in persons:

(a) Congressional Decree No. 14-2005, adopting the amendment to article 194 of the Criminal Code (Congressional Decree No. 17-73) on trafficking in persons, which entered into force on 4 March 2018;

(b) Congressional Decree No. 40-2007, adopting the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, which was opened for signature at Lake Success, New York, on 21 March 1950, and its Protocol, which entered into force on 27 October 2007;

(c) Congressional Decree No. 9-2009, Act on Sexual Violence, Exploitation and Trafficking in Persons, which entered into force on 4 April 2009.

171. There are also three bills on human trafficking that are currently before the legislature:

(a) Bill No. 5280, providing for the adoption of amendments to Congressional Decree No. 9-2009, Act on Sexual Violence, Exploitation and Trafficking of Persons;

(b) Bill No. 5376, providing for the adoption of the Act on comprehensive protection, access to justice and decent and transformative reparations in cases of sexual violence, sexual exploitation and trafficking in persons involving girls and adolescents;

(c) Bill No. 5385, providing for the adoption of the Act establishing a procedure for dealing with crimes of sexual violence, exploitation and trafficking in persons. Amendment to the Code of Criminal Procedure (Congressional Decree No. 51-92) and amendment to the Criminal Code (Congressional Decree No. 17-73).

**Measures taken to address the allegations of serious abuses in the Virgen de la Asunción safe home for girls**

172. At the regional level, Guatemala is part of the Regional Initiative for Latin America and the Caribbean Free of Child Labour, an alliance of 28 countries which was created to meet the goals of eliminating the worst forms of child labour more quickly, complementing national agendas. It represents their commitment to the importance of joint efforts and mutual support in making the eradication of child labour an attainable goal.

173. The objective of the Initiative is to expedite the reduction of child labour in the region. Its 28 member countries have identified a number of factors underlying such reduction which, based on collective knowledge and experience, will help to achieve this goal. One of the priority factors is the prevention and eradication of child labour and the protection of migrant adolescents of working age.

174. Another measure is the 2016–2020 road map for making Guatemala a country free of child labour and its worst forms. Guatemala is a country of origin, transit, destination and return of migrants, and it has different migration flows composed of adult men and women who migrate internally and externally, primarily for economic reasons and to escape violence. The country has also witnessed a substantial increase in the migration of unaccompanied children and adolescents, who migrate in search of better living conditions and sometimes in order to be reunited with their families. While in transit or en route to their destination, many migrants fall victim to human rights violations and are exposed to countless risks, such as the worst forms of child labour, including trafficking in persons.

175. The six dimensions of the road map call for migration-related actions focused primarily on the care of children and adolescents, in such substantive areas as the fight against poverty, educational policies, health policies, comprehensive protection and its legislative framework, awareness-raising and public participation.

**On the care provided by the Counsel General's Office to the survivors of the fire who were burned or injured**

176. Inter-agency networks have been created to follow up on these cases so that, through their respective protection plans and programmes, these children's families can be fully supported and receive the appropriate monitoring.

177. With regard to the adolescent girl survivors who have been reunited with their families and given a protection plan, they have been referred to municipal offices for the protection of children and adolescents, municipal women's offices, SBS and Fundación Sobrevivientes. Some of them are living in households where they receive the necessary care for their recovery. A process of deinstitutionalization has also begun with a view to returning them to the appropriate family group, ensuring the restitution of their rights and providing them with the physical, psychological and social care best suited to their respective situation. One of the most recent measures is the drafting of reports on decent reparations for some of the girls and the families of deceased girls.

178. Between March 2017 and April 2018, protection plans have been prepared to ensure that the rights of children and adolescents are not violated and to provide family stability. Some 100 plans are being prepared in the cities and 150 in the departments, for a total of 250 protection plans, which will be monitored by SBS.

179. Inter-agency strategies have been implemented to strengthen the family reintegration programme for institutionalized Guatemalan children and adolescents, starting with those children and adolescents who had been staying at the Virgen de la Asunción safe home.

180. Yet another contribution was the implementation with the Ministry of Education of the roadmap for educational reintegration, which will allow children and adolescents to enrol in school regardless of the time of year. This will restore their right to education, enabling them to benefit from comprehensive development.

181. Other measures include the agreement between SBS and the Office of the Children's Advocate of the Counsel General's Office, which calls for the Secretariat to monitor each of the children and adolescents who had been staying at the Virgen de la Asunción safe home and who are in receipt of a protection plan. These plans were drawn up by the Office of the Children's Advocate and entrusted to the Secretariat for monitoring.

182. Arrangements were made with the Ministry of Social Development to allow pregnant girls or mothers under 14 years of age who have been the victims of sexual violence and whose cases may have come before the court to be covered by the subsidy programme.

183. The various private and public shelters where the children and adolescents were housed while under the care and protection of the safe home have been monitored to determine their psychological and social condition, and the relevant assessments conducted so as to begin the deinstitutionalization of the children and adolescents.

184. The action lines for implementing the protection plans have been drawn up by representatives of the different ministries of social protection in order to strengthen and optimize the care and monitoring of each child and adolescent and members of their families.

185. An expert committee is being established to create individual case files for the 600 children and adolescents, which will make it possible to consolidate information at the inter-agency level in the Counsel General's Office, SBS and the National Adoption Council.

## Section II

### Information on the following:

#### Bills or laws on migration matters, and their respective implementing regulations

186. Congress adopted the following legislation on migration in the period 2011–2018:
- Congressional Decree No. 10-2015, amendments to the Migration Act (Congressional Decree No. 95-98), which entered into force on 9 December 2015
  - Congressional Decree No. 44-2016, Migration Code
  - Congressional Decree No. 19-2017, providing for the adoption of an amendment to the Constitution of the International Organization for Migration, which entered into force on 7 November 2017
187. The following bills have been submitted to Congress with respect to migration:
- Bill No. 4388, providing for the adoption of amendments to Congressional Decree No. 46-2007, the Act on the National Council for Assistance to Guatemalan Migrants
  - Bill No. 4519, providing for the adoption of the Act on Support for Guatemalan Migrants
  - Bill No. 4557, providing for the adoption of amendments to Congressional Decree No. 46-2007, the Act on the National Council for Assistance to Guatemalan Migrants
  - Bill No. 4572, by which every 18 December is declared the National Day of the Migrant in Guatemala
  - Bill No. 4851, providing for the adoption of the Act on support for the regularization of the migration status of foreigners in Guatemala
  - Bill No. 4869, providing for the adoption of the Act on the protection of unaccompanied migrant children and adolescents who are separated from their family and on combating the smuggling of migrants
  - Bill No. 5287, providing for the adoption of amendments to Congressional Decree No. 46-2007, the Act on the National Council for Assistance to Guatemalan Migrants

#### Policies, programmes and action plans covering migration

188. The Ministry of Labour has a strategy known as the “Huella del Migrante” (Migrant’s footprint), which aims at identifying returned Guatemalans so as to reintegrate them into the labour market. The strategy is intended to benefit forcibly returned Guatemalan migrants, giving special attention and priority to migrants who are interested in entering the labour market and who may have had an opportunity to work in the United States, acquiring skills that would enable them to make an appropriate return to the workforce. The strategy has three main components:

- (a) A brief description of the employment situation in Guatemala so as to understand the root causes of the exodus of Guatemalans to work abroad;
- (b) A description of the profile of returned Guatemalan migrants;
- (c) The strategy itself, along with the tools for its implementation. The strategy is expected to strengthen institutionally the General Directorate of Labour and to generate information that will facilitate understanding of the labour-related dynamics and needs of returned migrants.

189. The Ministry of Labour has recently launched its customer service window for migrants, located on its premises, to offer personalized attention to returned migrants. Its role is to create a registry of returned migrants who are looking for work and to match their

professional profile with the best available job opportunity at the local, municipal, departmental and/or regional level.

190. The window provides job training, counselling and placement for Guatemalans seeking to re-enter the labour market. It is expected that by 2019, the window will work with departmental offices and municipalities in order to support more individuals throughout the country. There are also plans to open a window in the municipality of Tecún Umán in San Marcos.

### **Section III**

#### **Data, official estimates, statistics and other information, if available**

191. Six (6) annexes have been attached to the present report, containing official data on the records of Guatemalans with respect to migration, registration and budgetary matters.

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