

REPUBLIC OF GUATEMALA |
SECOND PROFILE 2022

MIGRATION GOVERNANCE INDICATORS



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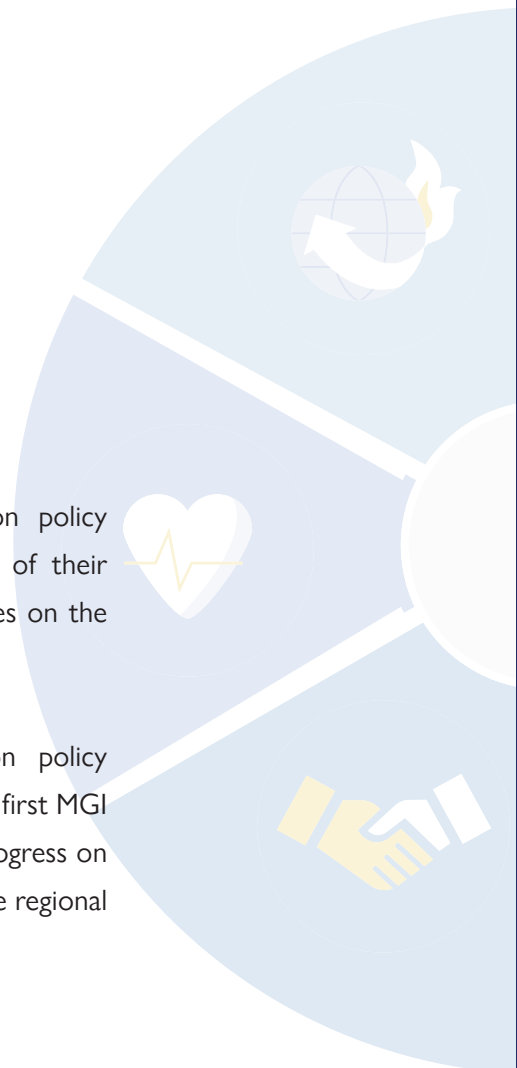
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OBJECTIVE

The MGI aims to support well-managed migration policy by helping countries assess the comprehensiveness of their migration governance structures and identify priorities on the way forward.

MGI follow-up assessments identify the migration policy developments that have occurred since the countries' first MGI assessments, thus helping governments track their progress on national priorities as well as commitments taken at the regional and international levels.



The MGI can be used to spark a discussion with governments and other relevant stakeholders in the country on existing migration policy structures. It can help assess whether these structures, which have often been in place for several years, still address the main challenges and opportunities of today's reality.

INTRODUCTION

This is an era of unprecedented mobility, and the need to facilitate orderly, safe, regular and responsible migration and mobility is becoming increasingly relevant.¹ The need to face the challenges and to maximize the opportunities that this mobility brings has been recognized with the inclusion of migration in the 2030 Agenda for Sustainable Development, which highlights the positive contribution of migrants to inclusive growth and sustainable development. Migration is integrated in a number of Sustainable Development Goal (SDG) targets, such as those aimed at ending modern slavery and addressing the vulnerability of migrant workers. However, the central reference to migration in the SDGs is target 10.7 on facilitating “orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies”.²

The incorporation of target 10.7 into the 2030 Agenda created the need to define “planned and well-managed migration policies”. This is why, in 2015, the International Organization for Migration (IOM) developed the Migration Governance Framework (MiGOF). This Framework offers a concise view of an ideal approach that allows a State to determine what it might need to govern migration well and in a way that suits its circumstances.³ The Framework was welcomed by IOM Member States in the same year.

In an effort to operationalize the MiGOF, IOM worked with Economist Impact to develop the Migration Governance Indicators (MGI), a standard set of approximately 90 indicators to assist countries in assessing their migration policies and advance the conversation on what well-governed migration might look like in practice.

The MGI helps countries identify good practices as well as areas with potential for further development and can offer insights on the policy levers that countries can use to develop their migration governance structures. However, the MGI recognizes that all countries have different realities, challenges and opportunities that relate to migration. Therefore, the MGI does not rank countries on the design or implementation of their migration policies. Finally, the MGI does not measure migration policy outcomes or institutional effectiveness. Instead, it takes stock of the migration-related policies in place and operates as a benchmarking framework that provides insights on policy measures that countries might want to consider as they progress towards good migration governance.

MGI follow-up assessments aim to show the progress that countries have made in their migration governance policies since their first MGI assessment.⁴ Besides, local MGI reports were prepared in 2020 and 2021⁵ in the Municipalities of San Marcos⁶ and Tacaná,⁷ both in the Department of San Marcos.

This report presents a summary of the main changes and achievements that have taken place in the migration governance structures of the Republic of Guatemala (hereinafter referred to as Guatemala), as well as the areas with potential for further development, as assessed by the MGI.⁸

¹ IOM Standing Committee on Programmes and Finance, Seventeenth Session (S/17/4 of 29 September 2015), Article 2.

² IOM Council, 106th Session, Migration Governance Framework (C/106/40 of 4 November 2015), page 1, footnote 1. Available at <https://governingbodies.iom.int/system/files/en/council/106/C-106-40-Migration-Governance-Framework.pdf>.

³ Ibid.

⁴ The 2018 Migration Governance Profile for the Republic of Guatemala is available at www.migrationdataportal.org/overviews/mgi/guatemala.

⁵ More information is available at www.migrationdataportal.org/local-mgi.

⁶ The 2021 Migration Governance Profile for the Municipality of San Marcos is available at www.migrationdataportal.org/es/overviews/mgi/san-marcos-guatemala.

⁷ The 2021 Migration Governance Profile for the Municipality of Tacaná is available at www.migrationdataportal.org/es/overviews/mgi/tacana-guatemala.

⁸ The MGI initiative is a policy-benchmarking programme led by IOM and implemented with the support of Economist Impact. Funding is provided by IOM Member States.

CONCEPTUAL FRAMEWORK

MiGOF

The IOM MiGOF sets out the essential elements to support planned and well-managed migration. It seeks to present, in a consolidated, coherent and comprehensive way, a set of three principles and three objectives which, if respected and fulfilled, would ensure that migration is humane, orderly, and benefits migrants and society.

PRINCIPLES

1. **Adherence** to international standards and fulfilment of migrants' rights.
2. **Formulates** policy using evidence and "whole-of-government" approach.
3. **Engages** with partners to address migration and related issues.

OBJECTIVES

1. **Advance** the socioeconomic well-being of migrants and society.
2. **Effectively** address the mobility dimensions of crises.
3. **Ensure** that migration takes place in a safe, orderly and dignified manner.

At the basis of

MGI

WHAT IT IS



A set of indicators that offers insights on policy levers that countries can use to strengthen their migration governance structures



A tool that identifies good practices and areas that could be further developed



A consultative process that advances dialogues on migration governance by clarifying what "well-governed migration" might look like in the context of SDG target 10.7

Which supports the measurement of

WHAT IT IS NOT



Not a ranking of countries



Not assessing impacts of policies



Not prescriptive



TARGET 10.7

"Facilitate orderly, safe, regular and responsible migration and mobility of people, including through implementation of planned and **well-managed migration policies**."



KEY

FINDINGS

The MGI is composed of around 90 indicators grouped under the six different dimensions of migration governance that draw upon the MiGOF categories:



MIGRANTS'
RIGHTS
PAGE 14

Indicators in this domain look at the extent to which migrants have access to certain social services such as health, education and social security. It also looks at family reunification, access to work, and access to residency and citizenship. The international conventions signed and ratified are also included.



WHOLE-OF-GOVERNMENT
APPROACH
PAGE 17

Indicators in this area assess countries' institutional, legal and regulatory frameworks related to migration policies. This area also looks at the existence of national migration strategies that are in line with development objectives and overseas development efforts, as well as institutional transparency and coherence in relation to migration management.



PARTNERSHIPS
PAGE 19

This category focuses on countries' efforts to cooperate on migration-related issues with other States and with relevant non-governmental actors, including civil society organizations and the private sector.



WELL-BEING
OF MIGRANTS
PAGE 20

Indicators in this area assess countries' policies on the recognition of migrants' educational and professional qualifications, provisions regulating student migration and the existence of bilateral labour agreements between countries. Aspects of diaspora engagement in the country of origin and migrant remittances are also under this domain.



MOBILITY DIMENSION
OF CRISES
PAGE 23

This category looks at the type and level of preparedness of countries when they are faced with mobility dimensions of crises. The questions look at the processes in place for nationals and non-nationals both during and after disasters, including if humanitarian assistance is equally available to migrants as it is to citizens.



SAFE, ORDERLY AND
REGULAR MIGRATION
PAGE 25

This area looks at countries' approach to migration management in terms of border control and enforcement policies, admission criteria for migrants, preparedness and resilience in the case of significant and unexpected migration flows, as well as the fight against trafficking in persons.

SUMMARY OF UPDATES SINCE 2018

Migrants' rights (page 14)

the Comprehensive Health Care Standards for primary and secondary care, as updated by the Ministry of Public Health and Social Assistance in 2018, contains a specific clause on the care of migrants.

Reforms have been introduced to safeguard the political rights of Guatemalans residing abroad. In 2022, the Ministry of Foreign Affairs (*Ministerio de Relaciones Exteriores*, MINEX) together with the authorities of the Supreme Electoral Tribunal (*Tribunal Supremo Electoral*, TSE) signed the Inter-agency Cooperation Agreement between TSE and MINEX, which is designed to enable Guatemalans abroad to exercise their right to vote.⁹

Whole-of-government approach (page 17)

In August 2020, following a transition phase that began in 2017, the country completed the process of transferring to the Guatemalan Migration Institute (*Instituto Guatemalteco de Migración*, IGM) migration functions that had previously been discharged by the Directorate-General of Migration. IGM is therefore now tasked with coordinating specific migration-related activities with secretariats and ministries.

Guatemala adopted key plans containing provisions and guidelines for ensuring a whole-of-government approach to migration matters, including the Public Policy on Protection and Assistance to Migrants 2019–2032 (approved in 2019) and the General Government Policy 2020–2024 (approved in 2020).

Partnerships (page 19)

Guatemala became formally involved with the private sector and undertook activities to implement migration-related initiatives jointly with non-governmental institutions including Swisscontact Guatemala and the Guatemalan Chamber of Construction. They signed the Public–Private Partnership to Reduce Irregular Migration in Guatemala, which itself forms part of an inter-agency cooperation agreement.¹⁰

In 2019, Guatemala assumed the pro tempore presidency of the Regional Conference on Migration (RCM) or the Puebla Process, and in 2021, the pro tempore presidency of the Comprehensive Regional Protection and Solutions Framework. In addition, the IGM Director General chaired the Central American Commission of Migration Directors during the second half of 2021. In 2022, the Secretariat against Sexual Violence, Exploitation and Trafficking in Persons (*Secretaría Contra la Violencia Sexual, Explotación y Trata de Personas*, SVET) chaired the Regional Coalition against Trafficking in Persons and Smuggling of Migrants.

Well-being of migrants (page 20)

the Ministry of Education provides education programmes for returnees and foreign nationals in Guatemala through the General Directorate of Non-Formal Education. In 2018, Guatemala set up a system of accreditation for most professional occupations, the Skills Certification System (*Sistema de Certificación de Competencias*, SCC).

Since 2018, Guatemala has adopted mechanisms to safeguard the rights of its nationals working abroad. In 2022, it enacted Decree No. 10-2022 (Law for the Promotion of Work of the Guatemalan Merchant

⁹ More information is available at <https://prensa.gob.gt/comunicado/minex-y-tse-firman-convenio-de-cooperacion-para-facilitar-el-voto-en-el-extranjero>.

¹⁰ More information is available at <https://newsinamerica.com/pdccc/otrasnoticias/2021/anuncian-alianza-publico-privada-para-la-reduccion-de-migracion-irregular-en-guatemala/>.

Marine Abroad). In addition, the country issued Government Agreement No. 50-2022 (Regulations on the registration of recruiters of Guatemalan workers for the provision of services or the execution of work outside of the territory of the Republic of Guatemala).

Mobility dimension of crises (page 23)

Since the preceding MGI assessment in 2018, Guatemala has adopted the Guatemala National Disaster Risk Management Plan 2018–2022 (2018) and the National Response Plan (2019). These plans contain strategies for dealing with emergencies, disasters or risks.

The year 2019 witnessed the adoption of the Regulations on the Procedure for the Protection, Determination and Recognition of Refugee Status in the State of Guatemala.

Safe, orderly and regular migration (page 25)

In 2021, the Council for Assistance and Protection adopted the Inter-agency Protocol on the Reception and Care of Guatemalan Migrants Repatriated by Air, which lays out 10 steps determining the actions of each State institution involved in assisting and protecting migrants upon their return to the country.

In 2020, MINEX agreed to update the Inter-agency Coordination Protocol for the Repatriation of Victims of Human Trafficking, to include reception, support and accommodation mechanisms. These activities are coordinated from MINEX, in conjunction with the Office of the Attorney General, SVET and the Social Welfare Secretariat in the Office of the President, among other agencies.

The 2019–2029 Public Policy against Sexual Violence in Guatemala, approved in 2019, aims to reduce the number of cases of sexual violence in the country by stepping up an institutional response. Besides, it emphasizes that sexual violence is a sociocultural problem the response to which must consider the whole of society. The population segments given priority under the Policy include migrants and persons in emergency situations being housed in shelters.



1

ADHERENCE TO INTERNATIONAL STANDARDS AND FULFILMENT OF MIGRANTS' RIGHTS

1.1. Migration governance: Examples of well-developed areas

Under Decree No. 44-2016 (Migration Code, 2016), it is the duty of the Guatemalan State to ensure that all persons present in the national territory enjoy equal access to public services such as security, health, education, employment, housing and all those that are necessary to the conduct of their lives. In addition, the Migration Code is gender sensitive and provides, in Article 13, that “migrant women, whether or not in possession of an identity document permitting them to be in the country, shall be entitled, on an equal footing with Guatemalan citizens, to access public sexual and reproductive health services, including gynaecological and maternity services for the time needed to preserve their lives and that of the unborn child, as well as to access family planning services”.

Likewise, the Public Policy on Protection and Assistance to Migrants 2019–2032 (2019) stipulates that, pursuant to the Social Development Law (2001), and through the Social Development and Population Policy (2002), “the Ministries of Public Health and Social Assistance and of Education, as well as other public sector bodies having to do with the issue, shall seek to ensure that migrant workers and their families have access to health, education and other basic services that enhance their living conditions in temporary accommodations”. In 2018, the Department for the Regulation of Programmes for the Care of People under the Ministry of Public Health and Social Assistance (*Ministerio de Salud Pública y Asistencia Social*, MSPAS) updated the Standards for Comprehensive Primary and Secondary Health Care. This document is universally applicable and ensures that primary and secondary health-care personnel will attend to the entire population, irrespective of migration status, and furthermore contains a specific section on “Caring for migrants”.¹¹

Guatemala maintains the right to social security for all persons residing in the country, including regular migrants and those in formal employment. The social security system provides access to financial benefits and medical assistance, including illness and maternity, accidents in general, as well as disability, old-age and survivors’ benefits. The Migration Code provides that migrant workers and their family members who are beneficiaries are entitled to the services and benefits available under the country’s social security system. The Guatemalan Institute of Social Security (*Instituto Guatemalteco de Seguridad Social*, IGSS) must issue the administrative provisions governing the registration of migrant workers and their beneficiaries. To enjoy this entitlement, the migrant worker is required to be in possession of a contract establishing a relationship of dependency on the employer.

All immigrants in Guatemala enjoy the right of access to public education on the same basis as Guatemalan nationals. Legislative Decree No. 12-91 (Law on National Education, 1991) recognizes education as an inherent human right and an obligation of the State, and it encompasses basic and higher education, as well as technical and vocational training. Furthermore, the Political Constitution of Guatemala (1997) prescribes that free public education is the right of everyone, including migrants, irrespective of their migration status.

The Ministry of Education has Ministerial Agreement No. 1753-2019 (Regulations on comparability and equivalencies of studies at the pre-primary, primary, and high school levels and in the formal and non-formal education subsystems, 2019). The document regulates the technical and administrative process for the handling of applications relating to the comparability of studies done abroad, or equivalences in the education subsystems. Besides, it states that the authorities of education centres are required to ensure that all students requesting recognition of their studies, with or without complete documentation, are registered.

¹¹ The updating of the document began in 2022.

It further provides that at the primary level, and in the case of students who lack documentation, education centres will register them in the grade jointly decided on by the authorities and the parents, responsible persons or guardians. At the secondary school level, educational institutions will set a placement test.

Guatemala has effected reforms to protect the political rights of Guatemalans living abroad. In 2018, the Supreme Electoral Tribunal (TSE) set up the Specialized Unit on Voting Abroad, tasked with ensuring that Guatemalan citizens residing abroad are able to vote in elections to choose the President and Vice President of the Republic. Signed in 2022, the Inter-agency Cooperation Agreement between TSE and the Ministry of Foreign Affairs (MINEX) aims to facilitate voting by Guatemalan citizens abroad. Accordingly, MINEX has supported TSE in organizing Registration Days (*Jornadas de Empadronamiento*) at consular offices and mobile consulates in the United States of America in 2022.

In 2019, the Sub-directorate for Immigration in the Guatemalan Migration Institute set up the Register of Ordinary Migration Status in order to centralize the issuance, registration, and monitoring of temporary and permanent residence permits. The Sub-directorate for Immigration grants permanent residency to persons wishing to elect domicile in the country and who have been temporary residents for a period of five years or longer. Also eligible for permanent residency are persons who have been married or in a declared de facto union with a Guatemalan national for at least one year; relatives of a Guatemalan national, as defined by law, who hold another nationality; persons born in other Central American countries who have been temporary residents for a period of one year; and retirees or pensioners who have been authorized to live in the country and have legitimate permanent income coming from abroad.

1.2. Areas with potential for further development

It can be seen from both the 2018 Migration Governance Profile¹² and the 2022 update that resident foreigners do not enjoy equal access to employment as Guatemalan nationals. Foreign nationals entering Guatemala legally must obtain prior permission from the Directorate-General of Employment in the Ministry of Labour and Social Welfare, provide proof of knowledge of the Spanish language, and show evidence of a private-sector job offer. In the event of a change of employer, they must apply for a new permit, as every authorization is linked to a particular company, except in special cases of persons married to a Guatemalan national or having an underage Guatemalan child. Furthermore, work permits are granted for periods of one year and are renewable for the same length of time upon submission of another written application. Besides, Article 13 of the Labour Code (2011) prohibits the hiring of less than 90 per cent Guatemalan workers and paying them less than 85 per cent of the total wage bill in their respective companies.

The preparation of a policy or strategy to combat crimes of hatred, xenophobia and discrimination towards migrants is deemed an area with potential for further development. The 2009 Law against Sexual Violence, Exploitation and Trafficking in Persons makes no specific mention of xenophobia. Article 12 of the Migration Code stipulates that the State must guarantee the dignity and rights of migrants in the national territory and ensure that they are not subject to any form of violence, torture, or cruel, inhuman, or degrading treatment, but it does not lay out a specific strategy.

General complaints about discrimination are channelled through the Office of the Ombudsman for Migrants in the Office of the Human Rights Procurator,¹³ along with the Prosecutor for Crimes of Discrimination in the Office of the Public Prosecutor for Human Rights in the Public Ministry, set up in 2014 through Agreement No. 33-2014. Another area with potential for further development is the establishment of a prosecutor's office to deal exclusively with discrimination and xenophobia towards migrants.

¹² The 2018 Migration Governance Profile for the Republic of Guatemala is available at www.migrationdataportal.org/overviews/mgi/guatemala.

¹³ This Ombudsman underwent a name change. Created as an outcome of the Peace Agreements signed in 1996, it was called the Ombudsman for Uprooted and Migrant People and addressed several topics relating to uprooted migrant people affected by national and international trafficking. It is now called the Ombudsman for Migrants.

There is no evidence that IGSS maintains agreements with other countries on the portability of pensions, nor is it a member of the Ibero-American Multilateral Convention on Social Security, which serves to coordinate the social security legislation on pensions among the various Ibero-American countries and has been in force since 2011.

Improving the statistical records kept by MSPAS on persons cared for under Guatemala's health system, according to their migration status, is also an area with potential for further development. This would facilitate the process of identifying particular needs and taking specific action to ensure ease of access for all migrants to health services and differentiated care.



2

FORMULATES POLICY USING EVIDENCE AND WHOLE-OF-GOVERNMENT APPROACH

2.1. Migration governance: Examples of well-developed areas

Since 2018, Guatemala has approved new plans containing provisions and guidelines to ensure that a whole-of-government approach is taken to migration matters. The new plans, such as the Public Policy on Protection and Assistance to Migrants 2019–2032 (adopted in 2019) and the General Government Policy 2020–2024 (adopted in 2020), complement the already existing Migration Code (2016) and the Guatemalan K'atun National Development Plan 2032 (adopted in 2014).

Created by the Migration Code, the Guatemalan Migration Institute (IGM) took over from the Directorate-General of Migration the task of coordinating specific migration-related activities with secretariats and ministries. Having fulfilled the requirements of the transition process launched in May 2017, IGM began, in August 2020, to discharge the functions laid down in the Migration Code. IGM is charged with implementing Guatemala's migration policy, which is issued by the National Migration Authority (*Autoridad Migratoria Nacional*, AMN).

Guatemala has developed an interministerial migration coordination mechanism. IGM, AMN and the Guatemalan National Council for Assistance to Migrants (*Consejo Nacional de Atención al Migrante de Guatemala*, CONAMIGUA) make up the Guatemalan Migration System, a set of government institutions that care for migrants and regulate movements of nationals and non-nationals into and out of Guatemala, as well as the transit through or stay of foreign nationals in the country. The Council for Assistance and Protection (CAP), for its part, comprises the Vice Ministers of Health, Education, Labour, Home Affairs, Foreign Affairs, the Economy and Social Development; the Office of the Attorney General; the Under-Secretariat for the Protection and Care of Children and Adolescents; the Social Welfare Secretariat in the Office of the President of the Republic; the Human Rights Procurator; the Executive Secretary of CONAMIGUA; and the IGM Director General. In 2021, CAP held monthly meetings to coordinate measures to deal with the mass influx of returning migrants at the El Ceibo border in the Department of Petén. In March 2022, IGM and IOM signed a cooperation agreement on the formulation of the first public policy on human mobility in Guatemala (under preparation at the time of drafting of this document).¹⁴

The national migration strategy is known as the Public Policy on Protection and Assistance to Migrants 2019–2032¹⁵ and embodies aspects of the Global Compact for Safe, Orderly and Regular Migration in order to buttress inter-agency efforts to step up assistance, protection, and care, and also the documentation of Guatemalan migrants in countries of transit and destination and upon their return to Guatemala. The Policy contains four main planks, namely: (a) protecting the human rights of Guatemalan migrants and their families while in transit countries, residing in countries of destination, and upon their return; (b) strengthening the consular network so as to step up the assistance, support, protection and documentation services offered to Guatemalan migrants; (c) safeguarding the human rights of Guatemalan migrant children and adolescents, with special emphasis on those who are unaccompanied and separated; and (d) encouraging the productive use of family remittances. This Policy is aligned with the K'atun National Development Plan 2032, which proposes to institutionalize and adopt the right to social protection, following an approach based on human rights and the principles of equity and comprehensiveness, the right to protection in sexual and gender-related matters, and with reference to the Maya peoples. The General Government Policy

¹⁴ For the purposes of formulating the Migration Policy, extensive cooperation was sought across a variety of sectors so as to address all the dimensions of migration, pursuant to the provisions of the Global Compact. Participating bodies included State entities; departmental, municipal and community representatives; civil society; international agencies; internal IGM bodies; the private sector; the National Immigration Authority; the diaspora; the research centre and academic units; and CAP.

¹⁵ Available at www.minex.gob.gt/Uploads/PoliticaPublicaDeAtencionAlMigrante.pdf.

2020–2024 furthermore provides for actions to tackle migration issues, such as formulating and implementing strategies to reduce migration by promoting economic opportunities and creating employment.

Guatemala has stepped up coordination in order to interact with its diaspora. The Ministry of Foreign Affairs provides support, services of protection, assistance and attention to Guatemalans abroad, while CONAMIGUA offers support and assistance to Guatemalan migrants and their families in Guatemala, and also to returnees and migrants present in the national territory. Together with associations in the diaspora, CONAMIGUA has carried out support activities, including consultancy and participation in meetings with the Permanent Technical Committee (*Mesa Técnica Permanente*) or the Migrant Platform (*Plataforma Migrante*), which brings together some 50 representatives of migrant associations. In 2022, CONAMIGUA began preparing a directory of diaspora associations and, locally, has launched a process for holding meetings with mayors, authorities of the National Association of Municipalities of the Republic of Guatemala, and migrant leaders, in order to share experiences in migration management.

IGM publishes monthly figures on returnees and migratory flows by air and land. The data include information on unaccompanied children and migration flows by nationality and by country of provenance of returnees. The National Institute of Statistics maintains a compilation of migration statistics provided by institutions such as CONAMIGUA, the Ministry of Labour and Social Welfare, IGM, the National Registry of Persons, and the Social Welfare Secretariat. All these data are broken down by sex and in accordance with the information compiled by the institution.

2.2. Areas with potential for further development

It is apparent that the Public Policy on Protection and Assistance to Migrants 2019–2032 does not contemplate specific actions to empower women migrants. Guatemala has involved the Presidential Secretariat for Women on an ad hoc basis in furthering the overall advancement of women in Guatemala; it has also involved various women's associations in the formulation of activities to benefit women. Creating budgets and mechanisms and devising specific gender-based actions therefore comprise an area with potential for further development in order to empower migrant women and the society in general.

3

ENGAGES WITH PARTNERS TO ADDRESS MIGRATION AND RELATED ISSUES

3.1. Migration governance: Examples of well-developed areas

Since the preceding MGI assessment, Guatemala has continued to participate in regional forums such as the Community of Latin American and Caribbean States, the Organization of American States (OAS) and the Central American Integration System. As a member of the Regional Conference on Migration (RCM) or the Puebla Process, a multilateral regional forum for the sharing of international migration best practices,¹⁶ Guatemala held the pro tempore presidency in 2019. In addition, during the second half of 2021, the Director of the Guatemalan Migration Institute chaired the Central American Commission of Migration Directors, a regional mechanism for coordination, consultation and joint action in the management of migration.

Guatemala also participates in regional forums on migration, such as the Ibero-American Network of Migration Authorities and the Regional Coalition against Trafficking in Persons and Smuggling of Migrants, which it chaired in 2022 through the Secretariat against Sexual Violence, Exploitation and Trafficking in Persons. Moreover, in 2021, Guatemala held the pro tempore presidency of the Comprehensive Regional Protection and Solutions Framework (*Marco Integral Regional para la Protección y Soluciones*, MIRPS). This afforded the country a forum in which to call for more rapprochement and joint action by the RCM and MIRPS in the region's most representative multilateral forums concerned with migration and asylum, while in pursuit of lasting and sustainable solutions for the benefit of people in situations of human mobility and in need of protection.

Likewise, since 2018, Guatemala has stepped up its participation in bilateral negotiations, discussions and consultations on migration. In 2021, Guatemala participated in the Public–Private Dialogue called “Practical tools for the labour market integration of refugees, asylum seekers, displaced persons and returnees in the economies of Central America and Mexico” (MINEX, 2021a), sponsored by OAS and the Office of the United Nations High Commissioner for Refugees. The country also took part in the XIII Meeting of the Central American Integration System Forum for Dialogue and Cooperation with the Republic of Korea.

The Public Policy on Protection and Assistance to Migrants 2019–2032 (2019) institutionalized cooperation with the private sector in order to reintegrate returnees into the formal economy. Thus, in May 2021, Swisscontact Guatemala and the Guatemalan Chamber of Construction signed the Public–Private Partnership to Reduce Irregular Migration in Guatemala, which is part of an inter-agency agreement on cooperation that gets under way with the project “New Opportunities: Productive reintegration of returned migrants”. The project aims to benefit 200 returning migrants in the ensuing two years by providing them with psychosocial care, training in soft skills, coaching, and job placement assistance, and through job fairs and financial education.

3.2. Areas with potential for further development

Guatemala is a party to the Agreement Creating the Central American Single Visa for the Free Movement of Foreign Nationals between the Republics of El Salvador, Honduras, Guatemala and Nicaragua (CA-4) (2005). This Agreement contains no provisions on labour migration, and a work permit is therefore needed.

¹⁶ The current members of the RCM are Belize, Canada, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama and the United States.



4

ADVANCES THE SOCIOECONOMIC
WELL-BEING OF MIGRANTS AND SOCIETY

4.1. Migration governance: Examples of well-developed areas

Through the General Directorate of Non-Formal Education, the Ministry of Education (*Ministerio de Educación*, MINEDUC) runs four education programmes for returnees and foreign nationals in Guatemala designed to allow students to complete their education at their own pace or to provide access to vocational training through the following: (a) Adult Distance-learning Programme, (b) Secondary Education Modular Programme, (c) Municipal Centres for Training and Human Development Programme, and (d) National Alternative Education Programme.

Besides, MINEDUC implements the Skills Certification System (SCC) through Ministerial Agreement No. 3751-2018. The SCC is a set of ministerial procedures to upgrade, recognize, and certify knowledge, abilities, skills and capabilities that people have acquired throughout their lives. The purpose of the SCC is to formally recognize skills acquired locally and internationally. It covers the country's 22 departments, along with migrants residing abroad, through the consulates general, including those in Arizona, North Carolina, Chicago, Philadelphia, Los Angeles, Maryland, New York, San Francisco and Washington. Furthermore, regular skills certification sessions are held targeting returning migrants in border departments. Skills certification sessions will be held abroad during the second half of 2022, in coordination with migrants' associations, consulates and commercial attaches.

The procedure for the comparison of studies is laid out in "Instructions on the Comparability and Equivalence of Studies" (2019) and is implemented by MINEDUC. By comparing studies, it is possible to recognize those completed abroad so that a student can be integrated into the National Education System in the grade immediately above the last one successfully completed or in the grade that was being pursued prior to a student's arrival in the country; students may also be incorporated on the basis of the equivalence of studies, which entails determining the similarities or differences between two study plans or curriculum structures followed in the National Education System in order to determine the student's proper academic level.

In February 2021, the Ministry of Foreign Affairs (MINEX) introduced the electronic apostille system, enabling applicants to request it online, thereby saving time and easing communication in the process. The apostille consists of placing an annotation certifying the authenticity of the signature on public documents issued in a participating country, and which are to be valid in another country that is party to the agreement. Decree No. 1-2016 of the Congress of the Republic of Guatemala identifies MINEX as the body empowered, on behalf of the State of Guatemala, to implement the Hague Convention of 5 October 1961 Abolishing the Requirement of Legalization for Foreign Public Documents.

Guatemala has signed new bilateral labour agreements since the preceding assessment of its migration governance indicators. The Labour Cooperation Agreement between the Republic of Guatemala and the United States of Mexico has been in place since 2018, and lays the groundwork that enables the parties, within their respective spheres of competence, to work together and share quantitative and qualitative information on labour migration. The Agreement also facilitates the establishment of cooperation mechanisms that allow for regular, safe and orderly labour migration between both countries. In September 2020, the labour authorities of the Governments of Guatemala and the United States of America signed the Agreement concerning Temporary Agricultural and Non-agricultural Worker Programmes. This Agreement is designed to strengthen bilateral cooperation on the H-2A and H-2B visa programmes allowing United States employers to hire temporary foreign workers, in addition to facilitating the issuance of H-2A and H-2B visas to qualified Guatemalan workers and promoting safe, orderly and regular migration.

There are mechanisms in place to safeguard the rights of Guatemalan nationals working abroad. The Labour Code (2011) applies to Guatemalans who are hired to provide services abroad. Article 35 of the Code prohibits the Ministry of Labour and Social Welfare (MINTRAB) from authorizing contracts for Guatemalan citizens to work abroad in the following cases: (a) child labourers, (b) in the absence of guarantees of maintenance payments by workers (upon being hired) to their dependants, (c) workers needed by the national economy, and (d) contracts that violate the dignity of workers. Furthermore, the Public Policy on Protection and Assistance to Migrants 2019–2032 (adopted in 2019) requires MINTRAB to offer guidance to migrant workers regarding their labour rights, and provide information to persons expressing interest in working abroad. At the same time, MINTRAB stays in touch with Guatemalan citizens abroad in order to keep abreast of their circumstances and working conditions.

In that connection, MINTRAB has published Government Agreement No. 50-2022, “Regulations on the registration of recruiters of Guatemalan workers to supply services or perform work outside of the territory of the Republic of Guatemala”, which creates both a physical and an electronic register of recruiters of Guatemalan workers for the purposes of registering, authorizing, and updating records of recruiters engaged in hiring and placing job applicants outside of Guatemala. The Congress of the Republic of Guatemala enacted the Law for the Promotion of Work of the Guatemalan Merchant Marine Abroad (2022), which promotes access to employment abroad for Guatemalan nationals in settings such as ships, boats or other ocean-going vessels, in accordance with the applicable Guatemalan labour legislation and international agreements ratified by Guatemala.

In 2021, MINTRAB published the strategy on the Temporary Work Programme, which lays out the vision, functions, principles and mechanisms for linking up Guatemalan workers with job opportunities abroad. It was agreed through Ministerial Agreement No. 163-2021 to establish the Temporary Work Programme, which is designed to ensure safe, orderly and regular migration, and is implemented by the Labour Mobility Department of the Directorate-General of Employment. It aims to promote job market integration for Guatemalans abroad, ensure the protection and observance of the labour rights of workers, and guarantee equality of treatment with the citizens of the country of destination. MINTRAB also maintains close contact with the Guatemalan Migration Institute and MINEX in order to promote safe, orderly and regular migration for persons leaving the country under the programme.

The Public Policy on Protection and Assistance to Migrants 2019–2032 lays out measures to encourage financial inclusion. More specifically, it contains an action line called “Promoting the productive use of family remittances”, the purpose of which is to formulate an economic and financial advisory strategy to offer guidance in using family remittances productively through a range of activities. These include developing a strategy of rapprochement with migrants’ families in Guatemala, developing partnerships with private banks to encourage the efficient and long-term use of family remittances, and implementing a programme that gives financial advice on the productive use of remittances and offers incentives for the creation of micro, small and medium-sized enterprises. Furthermore, in January 2022, and with the financial backing of the European Union, the Ministry of Economy signed a contract with the Technical Institute for Training and Productivity providing for the award of 9,210 scholarships for education and technical training, and the certification of skills so as to help Guatemalans find decent work.¹⁷ This new contract envisages special support for Guatemalan returnees, women and young people in situations of vulnerability.

4.2. Areas with potential for further development

The formulation of policies for monitoring and assessing the demand for foreign nationals in Guatemala’s labour market is deemed an area with potential for further development. Studies are in fact conducted into labour demand at the domestic level, but they do not explore the aspect of migration. The National Institute of Statistics compiles and publishes annual labour market data broken down by sex and age but not

¹⁷ More information is available at <https://empleodigno.gob.gt/noticia-5/>.

in terms of migration status. In this connection, IOM and the International Labour Organization conducted a research project in 2019 entitled “Labour Market Information Systems (LMIS) in El Salvador, Guatemala, Honduras and Mexico: Towards better integration of labour migration”, which revealed that a number of information-gathering tools are used in Guatemala, making it possible from time to time to form a profile of the domestic labour market and, to a lesser extent, the international labour market.

Despite the variety of visas and residence permits that exist, one area deemed open to improvement is the implementation of structured programmes and processes for attracting specific job skills. MINTRAB does not manage the granting of work permits on the basis of labour demand in the country or according to job skills. Work permits are issued upon application by an employer wishing to hire foreign nationals, and provided the foreign national fulfils the criteria of residence, good conduct and identity stipulated in the Regulations Governing Authorization Issued to Private Sector Employers for the Hiring of Foreign Persons (2003).

There is no evidence of specific measures to promote gender equality among migrants in the labour market. As pertains to equity in the labour market, the National Policy for the Comprehensive Advancement and Development of Women (2009), through its Equal Opportunity Plan 2008–2023, aims to guarantee access to information, training and advice for Maya, Garifuna, Xinca and mestizo women migrant workers, by setting up programmes, projects and mechanisms for the inter-agency coordination of advisory services and the protection of their rights. These efforts have led to the establishment of the National Coordination Office for the Prevention of Domestic Violence and Violence against Women, the Presidential Secretariat for Women, the Ombudsman for Indigenous Women, the Municipal Directorates for Women’s Affairs, the Women’s Commissions within the System of Urban and Rural Development Councils, and the Gender Units, whose task is to manage gender equity in the framework of sectoral and institutional policies, and within the sphere of competence of the institution concerned.

Guatemala ensures equal access for foreign students to university education, and there are no restrictions based on personal characteristics. No specific programmes exist, however, allowing international students to work in the country during and after their studies.

Reinforcing the existing national statistical information systems is deemed to be an area with potential for improvement, with particular reference to labour migration. This would improve the knowledge and monitoring of Guatemala’s labour market so as to better identify job opportunities of good quality for foreign nationals and Guatemalans, within and outside the country.



5

EFFECTIVELY ADDRESSES THE
MOBILITY DIMENSIONS OF CRISES

5.1. Migration governance: Examples of well-developed areas

The Guatemala National Disaster Risk Management Plan 2018–2022 (*Plan Nacional de Gestión de Riesgo de Desastres*, PNGRD), issued in 2018 by the National Coordinating Office for Disaster Reduction (CONRED), lays out comprehensive risk management measures. Drawing on the guidelines proposed in the Sendai Framework for Disaster Risk Reduction 2015–2030,¹⁸ the Plan names as one of its action priorities the protection of persons and their property, while promoting and safeguarding all human rights, including the right to development. In addition, CONRED issued the National Response Plan (2019), which enables it to respond effectively to risk, emergency or disaster situations.

Since the preceding MGI assessment, Guatemala has buttressed the communication systems through which it disseminates information about developments in crisis situations, learns of people's needs, and provides information on ways of accessing help. CONRED's highest organ, the National Disaster Reduction Council, uses a colour-coded system (from green to red, describing alert levels) to issue warnings to the general public. The warnings are transmitted by radio, telephone, television and the Internet. To aid disaster risk management, CONRED also distributes the Communication Kit *¡Podemos actuar!* ("We can take action!"), which is available in Spanish and four local languages (Mam, K'iche', Kaqchikel and Q'eqchi').¹⁹ Accordingly, the Public Policy on Protection and Assistance to Migrants 2019–2032 (2019) therefore states that in order to enhance support for and communication with Guatemalans abroad, and to ensure their well-being through a dignified, humane, efficient, effective and rapid-response service, the Migrant Attention call centre was set up in 2016 in the United States of America.²⁰

Moreover, the Ministry of Foreign Affairs (MINEX) has contingency plans for the "Evacuation of Guatemalans in cases of emergency", and they are kept updated through Guatemala's consulates and embassies abroad.

Since 2020, CONRED's Directorate for Comprehensive Disaster Risk Reduction Management has been deploying a strategy to support enhanced governance through the creation of Municipal Bodies for Comprehensive Disaster Risk Management. The aforementioned strategy serves to transfer knowledge to municipal authorities about working with or supporting groups in situations of vulnerability (including migrants), by providing them with information or medical care.

Nationwide, CONRED runs the Emergency Operations Centres (COEs), which bring together institutions present in the municipality to coordinate the efficient use of response resources. COEs also become active when there are mass migratory movements across the country. In this connection, CONRED has provided support by monitoring developments and setting up checkpoints along the migration route. Care, hydration and sanitary services are available at every checkpoint. Furthermore, there was coordination with the Permanent Contingency Commission of Honduras in 2018 for managing the return of Honduran migrants.

In 2021, the Guatemalan Migration Institute (IGM), MINEX and other government agencies prepared a series of strategies designed to offer protection and care to displaced persons. MINEX organized the meeting "Action plan for irregular, international mass migration events, institutional coordination 2021"

¹⁸ More information is available at www.undrr.org/implementing-sendai-framework/what-sendai-framework.

¹⁹ This kit is intended to provide the media, educational institutions, public and private institutions, authorities and community leaders with information enabling them to address disaster risk management from a perspective of comprehensive protection for children, adolescents and women, and also of citizen participation. The kit is available at <https://conred.gob.gt/kit-de-comunicacion/>.

²⁰ This service makes it possible to respond to different inquiries about the consular services of the Ministry of Foreign Affairs (MINEX). Between February and August 2021, MINEX received more than 718,000 calls, which were answered in Spanish, English and seven Mayan languages, namely Q'eqchi', K'iche', Kaqchikel, Q'anjob'al, Mam, Ixil and Acatéco.

(*Plan de actuación de eventos masivos de migración internacional irregular, coordinación institucional 2021*), held virtually and in person. It drew on prior experiences in managing mass migratory movements in order to prioritize the protection of vulnerable persons and the regulation of migrants entering the country irregularly and without documentation. Since 2021, IGM has had an internal action protocol for mass migration movements, which was approved by the Central American Commission of Migration Directors. Moreover, under the set strategies, and in keeping with prior experience in this regard, and also in anticipation of similar events in the future, IGM has explored a range of logistical measures and activities, including the establishment of communication channels between institutions as a precaution, the creation of checkpoints to provide adequate care to migrants and assist unaccompanied children and adolescents so that the Office of the Attorney General of the Nation may place them at the charge of a judge, and the provision of protective measures ordered for them.

MINEX furnishes assistance, care and consular protection for Guatemalans abroad in general, including during times of crisis. The Guatemalan Consular Identity Card (*Tarjeta de Identificación Consular Guatemalteca*, TICG) was created in 2005, providing Guatemalans residing in the United States with an identity document in addition to their passport. It is issued on a voluntary basis. January 2022 witnessed the introduction of a facility for capturing several types of data, making it possible to complete the procedures for obtaining a passport, a TIGC and a Personal Identity Document at a special single window, obviating the need to repeat the procedure for each separate document. This window was first introduced at the consulate in Los Angeles. This unified service is to be rolled out in the near future at the consulates in Atlanta, Chicago, Denver, Houston, Maryland, Miami, New York, Phoenix, Riverhead, and San Bernardino, and also in Madrid, Spain.

In 2019, the Republic of Guatemala published its Regulations on the Procedure for the Protection, Determination and Recognition of Refugee Status. People fleeing persecution on grounds of race, religion, nationality, threats, foreign aggression, persecution or human rights violations may opt for this status. Article 12 establishes the National Commission for Refugees (*Comisión Nacional para Refugiados*, CONARE), comprising a technical representative and an alternate from MINEX, the Ministry of Labour and Social Welfare (MINTRAB), the Ministry of the Interior, and IGM. CONARE is the body that advises the National Migration Authority, and its principal functions will be to examine the merits of applications for refugee status and issue recommendations, opinions and suggestions.

In January 2022, MINTRAB opened an office to support returned Guatemalan migrants and refugees within the Migrant and Refugee Support Centre in the Department of Quetzaltenango. Its aim is to promote reintegration into the job market and society for returning migrants, and also the integration of foreign refugees into the different spheres of society.

5.2. Areas with potential for further development

Although Guatemala has strategies for addressing mobility in times of crisis, there are no specific provisions for migrants and their needs. For example, while there is a system of communication, notices are not issued in languages other than Spanish.

In the National Response Plan (*Plan Nacional de Respuesta*, PNR) (2019) and the PNGRD, the preparation of road maps and protocols for dealing with migration and human displacement issues is considered an area with room for improvement. The PNR describes in general terms the need for a system of shelters during emergencies, without specifying how the movement of people will be managed during a crisis.

There is also room to improve mobility policies in times of crisis through a specific approach for migrants. The 2032 K'atun National Development Plan and Policy (2014 and 2015, respectively) do not directly address the matter of reintegrating returned migrants.



6

ENSURES THAT MIGRATION TAKES PLACE IN A SAFE, ORDERLY AND REGULAR MANNER

6.1. Migration governance: Examples of well-developed areas

As the implementing agency for migration policy, the Guatemalan Migration Institute (IGM) pursues the main goal of ensuring and maintaining migration controls, as well as regulating entries and departures of nationals and non-nationals into and from the national territory, and also lengths of stay in the country. It acts in compliance with the Migration Code (2016) and the Internal Regulations of the National Migration Authority (2018), which are among the cornerstones of the legal framework that regulates and coordinates migration matters in Guatemala.²¹ To fulfil the laws and regulations governing the control of entries and departures of nationals and foreigners into and from the country, the Institute has air force, land-based, and maritime sections, and operates passport-issuing centres, returnee reception centres and shelters.

The Law against Sexual Violence, Exploitation and Trafficking in Persons (2009) aims to prevent, suppress, punish, and eradicate sexual violence, exploitation and trafficking in persons; to assist and protect victims; and to compensate for damages suffered. Furthermore, to harmonize and make the best use of the resources and activities of the various branches of the State, Guatemala has in place the Public Policy on Trafficking in Persons and the Comprehensive Protection of Victims 2014–2024 (2014),²² along with the Public Policy against Sexual Violence in Guatemala 2019–2029 (2019).

The national strategy against people trafficking has been reinforced since the preceding MGI assessment in 2018. The Secretariat against Sexual Violence, Exploitation and Trafficking in Persons (SVET) is the lead, liaison and advisory agency tasked with prevention, assistance, prosecution and punishment of crimes of sexual violence, exploitation and trafficking in persons. In parallel, the Inter-agency Commission against Trafficking in Persons (CIT) for its part comprises 32 institutions, including public bodies, international agencies and civil society. The Commission reports directly to SVET and serves as an inter-agency body for consultation, management, and formulation of initiatives and for promoting consensus in the fight against people trafficking, pursuant to national and international laws. In Guatemala, there is an Office against Trafficking in Persons within the Office of the Public Prosecutor,²³ along with a Specialized Division against Trafficking in Persons in the National Civil Police (*Policía Nacional Civil*, PNC). In 2021, PNC opened the Office against Human Trafficking in the Department of Quetzaltenango. In addition, in September 2021, the Office of the Public Prosecutor opened two regional prosecutor's offices to deal with trafficking in persons in the Departments of Alta Verapaz and Chiquimula.

SVET publishes information from time to time about its activities to prevent and combat sexual violence, exploitation and trafficking in persons. On its website, it periodically publishes statistics on complaints received by the Office of the Public Prosecutor, PNC, the judicial body, and the Office of the Attorney General of the Nation about the crimes of exploitation, people trafficking and sexual violence.²⁴ The State Report on Trafficking in Persons 2020–2021 (2021) is a summary of the work done by the Government, civil society organizations and international cooperation agencies during that period, and it includes data on things like raids, arrests and the number of cases filed, complaints received, and persons harmed. Besides, the Secretariat publishes figures on complaints by department and breaks down the data by institution as well as by type of criminal offence.

²¹ The Guatemalan legal framework for migration is available on the IGM website: <https://igm.gob.gt/marco-legal-migratorio-guatemalteco/>.

²² The Secretariat against Sexual Violence, Exploitation and Trafficking in Persons (SVET) began the process of updating this Policy in 2022.

²³ The Prosecutor's Office against Trafficking in Persons strives to protect the life and integrity of people who are victims of this crime.

²⁴ The SVET website is available at <https://svet.gob.gt/>.

SVET operates inter-agency spaces and technical working groups through which it coordinates activities relating to sexual violence, exploitation and people trafficking. There is CIT and, at the regional level, the Regional Coalition against Trafficking in Persons and Smuggling of Migrants, with which it coordinates endeavours to prevent, detect, refer and prosecute criminal offences involving people trafficking and migrant smuggling.

In that context, SVET inaugurated the “Mobile Units for the Prevention of Sexual Violence, Exploitation and Trafficking in Persons – UNIVET” in August 2021, through which to deploy the SVET task force to the different areas transited by migrants in order to alert them to the risks of sexual violence, exploitation and people trafficking they face along their journey.²⁵ Moreover, migrants are given information material describing the risks and forms that these situations could take so that they are able to identify them. The project focuses specifically on people in transit, applicants for refugee status, persons with special needs, and returned migrants, with a view to preventing these three crimes. Furthermore, in March 2022, SVET unveiled the campaign *Voy a paso seguro* (“I walk safe steps”) designed to protect children and adolescents from such crimes in situations of human mobility in Guatemala, El Salvador and Honduras.

The year 2019 witnessed the establishment of the Office against Trafficking in Persons, within the Office of the Public Prosecutor.²⁶ Its role is to investigate offences defined in the Migration Code, including trafficking in persons, trafficking of Guatemalan citizens, illegally facilitating stays in the country, and criminal association, as well as to dismantle criminal structures and their illicit activities in Guatemalan territory.

There are systems in place for tracing and identifying migrants who have disappeared on Guatemalan soil. The Migration Code establishes the Council for Assistance and Protection (CAP) as the body charged with “attending to families of migrants deemed to have disappeared during migration, creating mechanisms for contact with foreign authorities” and acting to assist persons deported or returned and provide relief to families as regards locating and identifying their relatives.

The Public Policy on Protection and Assistance to Migrants 2019–2032 (2019) also underlines the importance of “reinforcing support services for Guatemalans in situations of vulnerability, for locating detainees and disappeared persons, and for the repatriation of deceased persons”. In February 2022, IGM’s Sub-directorate for Assistance and the Protection of the Fundamental Rights of Migrants submitted to the Technical Working Group of CAP the proposal for the IGM Search Mechanism for Missing Migrants, to be used to locate Guatemalan migrants abroad and foreign migrants in the country.

In 2021, CAP approved the Inter-agency Protocol on the Reception and Care of Guatemalan Migrants Repatriated by Air, submitted by the Guatemalan National Council for Assistance to Migrants (CONAMIGUA). Under the Protocol, CONAMIGUA is responsible for receiving returned migrants and providing them with food and transportation to bus terminals or communities of origin, delivering personal hygiene kits in view of the COVID-19 pandemic, and coordinating accommodation arrangements where necessary. Besides, in June 2021, and with the support of the United States Agency for International Development and IOM, the Government marked the official handover of the returnee reception centre located within Guatemalan Air Force facilities and managed by IGM.

In 2020, the Ministry of Foreign Affairs (MINEX) coordinated the updating of the Inter-agency Coordination Protocol for the Repatriation of Victims of Human Trafficking, to incorporate reception, support and accommodation mechanisms coordinated from MINEX, in conjunction with the Office of the Attorney General of the Nation, SVET and the Social Welfare Secretariat in the Office of the President, among other agencies. The Protocol aims to “strengthen the activities of institutions, through an updated technical

²⁵ More information is available at www.acnur.org/noticias/press/2021/8/612930484/guatemala-con-unidades-moviles-se-busca-prevenir-la-violencia-sexual-explotacion.html.

²⁶ More information is available at www.mp.gob.gt/noticia/ministerio-publico-inauguro-fiscalia-contra-el-trafico-ilicito-de-migrantes/.

instrument that lays down procedures to ensure the dignified, orderly and safe return of victims of human trafficking to their country of origin, without prejudice to the activation of the international protection system”.

The year 2020 witnessed the inauguration of the Mechanism for the Comprehensive Protection of Unaccompanied Migrant Children and Adolescents, comprising the Office of the Attorney General of the Nation, the Social Welfare Secretariat, SVET, and the Children’s Refuge (*Refugio de la Niñez*). The aim is to strengthen the comprehensive commitment to unaccompanied children and adolescents whose dignity and rights have been violated by crimes of sexual violence, exploitation and human trafficking.

6.2. Areas with potential for further development

There are various legal instruments in Guatemala designed to ensure that the detention of migrants occurs only as a last resort, and that efforts are made to find alternatives; however, they target migrant children only. The Migration Code seeks to ensure that procedures for the care and protection of unaccompanied children and adolescents are guided by the principles of the primacy of the child’s best interests, non-discrimination, the right to family reunification, non-violence and decent treatment, protection and safety, and legality and due process. The Code also enshrines a principle of non-refoulement in cases where personal integrity is at risk, should there be a danger of suffering grave human rights violations.

Guatemala has signed agreements to prevent the crimes of human trafficking and migrant smuggling. In 2005, for example, the country signed the Memorandum of Understanding between the Republic of Guatemala and the Republic of El Salvador for the protection of victims of human trafficking and migrant smuggling, with a view to coordination and joint cooperation to protect victims of these crimes in border areas, especially women and minors. In 2018, Guatemala signed the Inter-agency Cooperation Agreement between the Offices of Public Prosecutors and Attorneys General Members of the Ordinary General Assembly of the Ibero-American Association of Public Prosecutors’ Offices. July 2021 witnessed the signing of the Agreement on Cooperation between the National Council against Human Trafficking of El Salvador, SVET of Guatemala, the Inter-institutional Commission against Commercial Sexual Exploitation and Trafficking in Persons of Honduras, and the International Centre for Missing and Exploited Children. The aim is to strengthen ties and create a strategic partnership between the signatory countries so as to deploy joint actions to protect the population, especially children and adolescents. The conclusion of formal cooperation agreements with other countries to prevent and counteract migrant smuggling is considered an area with potential for further development.



PREPAREDNESS AND RESPONSE PROTOCOLS ON THE RISKS OF THE NOVEL CORONAVIRUS (COVID-19)

This annex summarizes key national COVID-19 policy responses in Guatemala from a migration governance perspective. It is based on 12 questions that were added to the standard Migration Governance Indicators (MGI)¹ assessment in the country in order to effectively assess national migration governance mechanisms in the context of the COVID-19 pandemic.



Guatemala enacted Decree No. 12-2020 (Emergency Law to protect Guatemalans from the effects of the COVID-19 pandemic) (2020). The Emergency Law introduced sanitary, economic, financial and social measures in response to the crisis, and expressly states that the Ministry of Public Health and Social Assistance (MSPAS) may not withhold medical care from migrants transiting through the national territory and must issue instructions to hospitals and health centres to ensure compliance with its provisions.² In addition, MSPAS drew up “General guidelines for the comprehensive health care of migrants travelling in caravans through the national territory”.³

The National COVID-19 Vaccination Plan (2020), which was still in effect in June 2022, makes no mention of migrants. However, anyone in possession of an identity document, including migrants, may receive vaccines.⁴ Furthermore, there are ad hoc immunization initiatives for returning migrants, along with vaccination operations that include persons in shelters.^{5,6}



The Emergency Law prolonged the payment of tuition fees, the school feeding programme and free medical care, but it makes no mention of migrants, except in connection with the right to health.

The Emergency Law allocated various funds for mitigating the impact of COVID-19. For example, the Fund for Micro, Small and Medium-Sized Enterprises of the Ministry of Economy granted loans at preferential interest rates to foster enterprise on the part of small and medium-sized

¹ More information is available at www.migrationdataportal.org/overviews/mgi.

² Congress of the Republic of Guatemala, Decreto No. 12-2020, Ley de Emergencia para proteger a los guatemaltecos de los efectos causados por la Pandemia Coronavirus COVID-19 (Emergency Law to protect Guatemalans from the effects of the COVID-19 Coronavirus pandemic) (2020). Available at <https://osarguatemala.org/wp-content/uploads/2020/04/Decreto-12-2020.pdf>.

³ Ministry of Public Health and Social Assistance (Ministerio de Salud Pública y Asistencia Social, MSPAS), Lineamientos Generales para la atención a las personas que se movilizan en caravana de migrantes por el territorio nacional en tiempos de pandemia por COVID-19 (Guidelines for the care of people transiting the national territory in migrant caravans during the COVID-19 pandemic) (2021). Available at www.mspas.gob.gt/descargas-mspas/task=download.send&id=2603&catid=606&m=0.

⁴ MSPAS, Plan Nacional de Vacunación Contra la COVID-19: República de Guatemala (National COVID-19 Vaccination Plan: Republic of Guatemala) (2021). Available at www.asomet.org/wp-content/uploads/2021/04/Plan-Nacional-de-Vacunacion-COVID-19-y-Anexos.pdf.

⁵ Ministry of the Interior, PNC inicia vacunación contra el COVID-19 en albergue de colonia La Verbena (PNC launches COVID-19 vaccination at shelter in the La Verbena district). 29 September 2021. Available at <https://mingob.gob.gt/pnc-inicia-vacunacion-contra-el-covid-19-en-albergue-de-colonia-la-verbena/>.

⁶ Guatemalan Migration Institute (Instituto Guatemalteco de Migración, IGM), Inicia Proceso de Vacunación para Guatemaltecos Retornados (Vaccination process gets under way for returning Guatemalans). 1 September 2021. Available at <https://igm.gob.gt/inicia-proceso-de-vacunacion-para-guatemaltecos-retornados>.



PREPAREDNESS AND RESPONSE PROTOCOLS ON THE RISKS OF THE NOVEL CORONAVIRUS (COVID-19)

entrepreneurs. In addition, the Department for the Recognition of Refugee Status offered support measures to refugees and applicants for refugee status, such as assistance with swab tests and vaccination.



The Government took steps to ensure physical distancing and adequate precautionary measures at locations with large concentrations of migrants and asylum seekers, based, for example, on the Protocol on the Reception and Care of Guatemalan Migrants Repatriated by Air (2021).⁷ This Protocol lays out 10 steps describing the actions to be taken by State institutions in assisting and protecting migrants upon their repatriation.



In May 2020, the Guatemalan Migration Institute (IGM) launched the campaign entitled “Migration and COVID-19 Containment and Mitigation” (*Migración ante Contención y Mitigación COVID-19*), which was translated into the 22 Mayan languages, in order to assist and support returning indigenous migrants. The campaign consisted of a radio spot, which was translated by the Academy of Mayan Languages of Guatemala, animations, and leaflets with the main message translated into the above-mentioned languages, as well as audio-visual material with public personalities calling on the population to show solidarity towards returnees.⁸

In parallel, in December 2021, IGM launched the campaign *Todos Somos Migrantes* (“We are all migrants”), designed to build awareness among the Guatemalan people regarding the situation of migrants travelling in an irregular manner and aimed at encouraging solidarity during the COVID-19 pandemic. The campaign was disseminated via social media, official IGM channels, and the communications media of the Departments of Chiquimula, Escuintla, Guatemala, Huehuetenango, Jutiapa, Petén, Quetzaltenango, San Marcos and Zacapa.⁹



Guatemala does not record migration status as a variable in data collection and dissemination for the purposes of key COVID-19 statistics. In its special COVID-19 section, the website of MSPAS shares an updated database, which does not consider migration status as a variable.¹⁰ Neither was migration status included as a variable in data on the socioeconomic impacts of COVID-19.

⁷ Guatemalan National Council for Attention to Migrants, CONAMIGUA presenta el protocolo para la atención a migrantes guatemaltecos retornados vía aérea (CONAMIGUA presents the protocol for attention to Guatemalan migrants repatriated by air). 14 July 2021. Available at <https://conamigua.gob.gt/conamigua-presenta-el-protocolo-para-la-atencion-a-migrantes-guatemaltecos-retornados-via-aerea/>.

⁸ IGM, Listado de enlaces 6TA CAMPAÑA Migración ante Contención y Mitigación COVID-19 (List of links, 6TH CAMPAIGN Migration and COVID-19 Containment and Mitigation). Available at <http://igm.gob.gt/wp-content/uploads/2020/06/Listado-de-Enlaces-6TA-CAMPA%C3%91A-Migraci%C3%B3n-ante-Contenci%C3%B3n-y-Mitigaci%C3%B3n-COVID-19.pdf>.

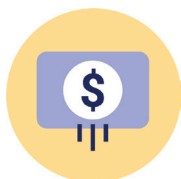
⁹ IGM, Migración Lanza la Campaña Todos Somos Migrantes (Guatemalan Migration Institute Launches the We Are All Migrants Campaign). 18 December 2021. Available at <https://igm.gob.gt/migracion-lanza-la-campana-todos-somos-migrantes/>.

¹⁰ MSPAS, Situación de COVID-19 en Guatemala (COVID-19 situation in Guatemala). Available at <https://tablerocovid.mspas.gob.gt/>.





PREPAREDNESS AND RESPONSE PROTOCOLS ON THE RISKS OF THE NOVEL CORONAVIRUS (COVID-19)



The Guatemalan Economic Recovery Plan (2020) recognizes the importance of remittances from Guatemalan migrants in the United States of America, though it contains no measures to increase the flow of remittances.¹¹ The Plan provides for actions to generate new sources of income for Guatemalans by facilitating business and employment, attracting strategic investments, and promoting the consumption of local products. Furthermore, in December 2021, Guatemala launched the “Coordination mechanism for the harnessing of remittances” (*Mecanismo de Coordinación para el Aprovechamiento de las Remesas*), the main function of which will be to coordinate and pool knowledge, experiences, and activities that interlink Guatemalans living abroad and their families in communities of origin – and this is on a voluntary basis.



Guatemala took action to repatriate migrants stranded by COVID-19 in 2020. As a health measure, the country's borders were closed for a fortnight as of 16 March 2020. Foreign nationals who had entered the country legally were authorized to stay in the national territory. Working through the Directorate-General for Consular and Migration Affairs, the Ministry of Foreign Affairs (MINEX) acted to assist Guatemalans stranded abroad by offering protection, assistance and documentation services.¹² As part of the plan called *Los Queremos en Casa* (“We want them home”), MINEX set up a telephone line to attend to citizens stranded abroad and coordinate their return to the country.¹³

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ANNEXES

MiGOF: Migration Governance Framework²⁷

In an attempt to define the concept of “well-managed migration policies”, the International Organization for Migration (IOM) devised a Migration Governance Framework (MiGOF), which was welcomed by the IOM Council in November 2015. For the purposes of the Migration Governance Framework, IOM defines governance as “the traditions and institutions by which authority on migration, mobility and nationality in a country is exercised, including the capacity of the government to effectively formulate and implement sound policies in these areas”.

The Framework sets out the essential elements of “good migration governance” – three principles and three objectives which, if respected and fulfilled, would ensure that migration is humane, safe and orderly, and that it provides benefits for migrants and societies.²⁸ IOM’s view is that a migration system promotes migration and human mobility that is humane and orderly and benefits migrants and society:

When it:

- (i) Adheres to international standards and fulfils migrants’ rights;
- (ii) Formulates policy using evidence and a “whole-of-government” approach;
- (iii) Engages with partners to address migration and related issues.

As it seeks to:

- (i) Advance the socioeconomic well-being of migrants and society;
- (ii) Effectively address the mobility dimensions of crises;
- (iii) Ensure that migration takes place in a safe, orderly and dignified manner.

The MiGOF does NOT create new standards or norms. In drafting the Framework, IOM relied on its expertise and analytical work, as well as on existing commitments, non-binding declarations and statements. It does NOT address global migration governance that is the international architecture for dealing with issues related to migration and human mobility. Instead, the focus is on the governance and management of migration from the point of view of the State as the primary actor. It does NOT propose one model for all States. The Framework presents a “high road” or ideal version of migration governance, to which States can aspire.

The MiGOF is based on the understanding that, as the primary actor in migration, mobility and nationality affairs, a State retains the sovereign right to determine who enters and stays in its territory and under what conditions, within the framework of international law. Other actors – citizens, migrants, international organizations, the private sector, unions, non-governmental organizations, community organizations, religious organizations and academia – contribute to migration governance through their interaction with States and each other.

²⁷ IOM Council, Migration Governance Framework, 106th Session, C/106/40 (4 November 2015). Available at <https://governingbodies.iom.int/system/files/en/council/106/C-106-40-Migration-Governance-Framework.pdf>.

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The MGI process



1

Launch of the MGI process

The first step of the process is to explain what the MGI entails to key government officials, in order to ensure full understanding of the project and complete buy-in.



2

Data collection

The second step of the process is to start the collection and analysis of data, based on about 90 indicators grounded in the 6 dimensions of the MiGOF. A migration governance profile based on the analysis of the findings is then drafted and shared with the government counterparts.



3

Interministerial consultation

The third step of the process is to convene an interministerial consultation where all relevant ministries and other stakeholders discuss the good practices and main areas that could be developed further as identified in the draft migration governance profile, as well as priorities on the way forward. It is also an opportunity for them to comment and provide suggestions on the draft profile.



4

Publication of the report on the Global Migration Data Portal

After the migration governance profiles are finalized and vetted by government counterparts, they are published on the Global Migration Data Portal²⁹ and uploaded on the IOM Publications Platform.³⁰

²⁹ You can find the profiles at www.migrationdataportal.org/overviews/mgi.

³⁰ Please see <https://publications.iom.int/>.



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