

REPUBLIC OF CHILE | PROFILE 2021

MIGRATION
GOVERNANCE
INDICATORS



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MIGRATION
GOVERNANCE
INDICATORS

TABLE OF CONTENTS

OBJECTIVE // 6

INTRODUCTION // 7

CONCEPTUAL FRAMEWORK // 9

KEY FINDINGS // 10

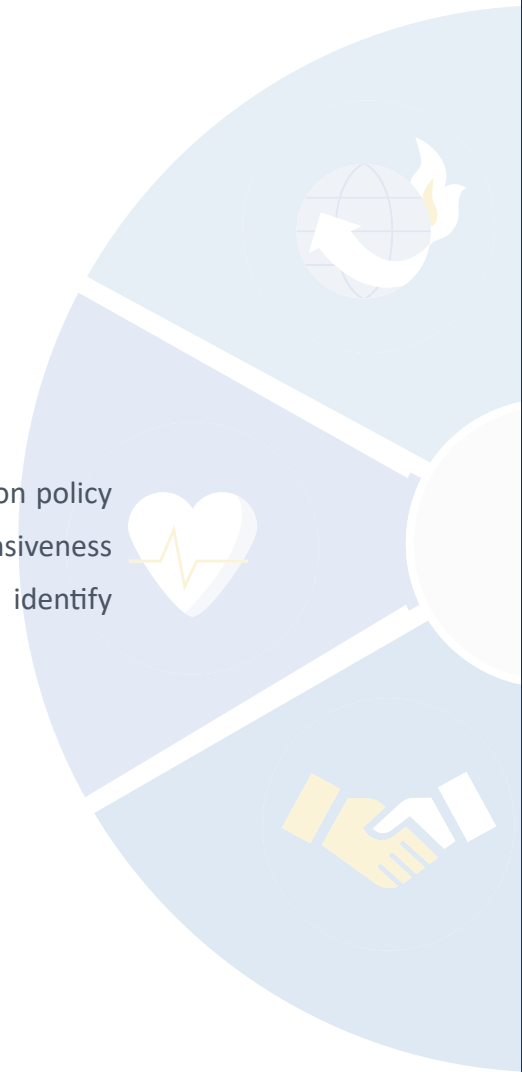
COVID-19 ANALYSIS // 24

KEY SOURCES // 26

ANNEXES // 32

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.



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 development. Migration is integrated in a number of Sustainable Development Goal (SDG) targets, such as 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.

This country profile presents a summary of the well-developed areas of the migration governance structures of the Republic of Chile (hereinafter referred to as Chile), as well as the areas with potential for further development, as assessed by the MGI.^{4,5}

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 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.

⁵ Terms used in this publication are in line with the IOM *Glossary on Migration* (2019). Available at <https://publications.iom.int/books/international-migration-law-ndeg34-glossary-migration>.

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.

At the basis of

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.

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 6 different dimensions of migration governance that draw upon the MiGOF categories:



MIGRANTS'
RIGHTS
PAGE 12

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 15

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 17

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 19

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 21

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 22

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.



1

ADHERENCE TO INTERNATIONAL STANDARDS AND FULFILMENT OF MIGRANTS' RIGHTS

1.1. International conventions ratified

Table 1. Signature and ratification of international conventions

Convention name	Ratified (Year)
International Labour Organization (ILO) Migration for Employment Convention (Revised), 1949 (No. 97)	No
United Nations Convention relating to the Status of Refugees (also known as the Refugee Convention), 1951	Yes (1972)
United Nations conventions on statelessness, 1954 and 1961	Yes (2018)
ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)	No
United Nations Convention on the Rights of the Child (UNCRC), 1989	Yes (1990)
United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW), 1990	Yes (2005)

1.2. Migration governance: Examples of well-developed areas

As of October 2021, migration in Chile is governed by Law No. 1.094 (1975) on Migration and Aliens in conjunction with the Regulations on Migration. Work began nonetheless in 2013 on the draft Migration Law through a supreme decree signed by the Migration Policy Council, then concluded in 2021. The outcome was Law No. 21.325 on Migration and Aliens (which was promulgated on 11 April 2021 and published on 20 April 2021), replacing Law No. 1.094, which will be repealed when the new law takes effect. Law No. 21.325 will enter into force upon publication of its regulations. As of December 2021, the time of this writing, only the transitional articles of the law are in force. This regulatory change signals a transition from a system that was specifically geared to the 1970s, towards a vision that is in line with the evolution of the concepts of “migration governance” which emanate from the matters discussed in the global process launched in 2006, 2013, 2016 and 2018.⁶ The implementation of the new law creates a national migration governance system which, besides the existence of bodies such as the Migration Policy Council and the National Migration Service, also envisages the Migration Authority Abroad (*Autoridad Migratoria en el Exterior*).

All migrants in Chile are able to access Government-funded health-care services in the same way as the other citizens in the country. Law No. 20.584, regulating the rights and duties of persons relating to their health care (2012), states that “irrespective of the provider, all persons are entitled to the delivery of the actions for the promotion, protection and restoration of their health and for their rehabilitation in a manner that is timely, free of arbitrary discrimination, and in keeping with the forms and conditions stipulated

⁶ This report began to take shape when Chile’s new Migration and Aliens Act (Law No. 21.325) was being discussed in Congress in early 2021. It therefore reflects the transition process associated with the country’s Regulations on Migration. All the information in this document has been updated to reflect the legal situation of migration governance in Chile as of October 2021.

in the Constitution and the laws". Foreign persons not in possession of a Chilean National Identity Card (*Rol Único Nacional*), and who sign a document declaring their lack of resources, may access the services of the public health network free of cost and on the same basis as Chileans, pursuant to Law No. 18.469 regulating the exercise of the constitutional right to the protection of health and creating a health-care system (1985). The same law provides that pregnant women and children up to the age of 9 years are entitled to State-sponsored health protection and monitoring.

Migrants pursuing studies may access kindergarten and basic and middle-level education irrespective of their migration status. Law No. 20.370, which establishes the General Law on Education (2010), provides that all persons have the right to education. Similarly, the School Inclusion Law (Law No. 20.845), regulating student admissions, abolishing cost-sharing and prohibiting profit-making by educational institutions that receive State contributions (2015), provides the following: "This system shall promote and respect the diversity of institutional education processes and projects, as well as the cultural, religious and social diversity of the families it serves." The Ministry of Education has drawn up a National Policy for Foreign Students (2018) to guarantee the right to education of migrant children and adolescents. In conjunction with the Provisional School Identifier, this is intended to cover migrants' registration, economic benefits⁷ and certification of studies, irrespective of their migration status.

Law No. 21.325 on Migration and Aliens (2021) provides that State universities with five years' accreditation may establish mechanisms to validate or revalidate professional qualifications of foreign nationals, an activity currently undertaken by just one university, the University of Chile. This change will speed up the qualification revalidation process and enable migrants living outside of Santiago to do this at regional universities.

Foreign migrant workers enjoy the same labour rights as Chilean workers. To be able to work, foreign citizens must hold a residence permit or authorization to reside temporarily on the national territory, in accordance with Law No. 1.094, which lays out the regulations on aliens in Chile (1975). Visas for permanent or temporary residence or family reunification purposes authorize migrants to work in Chile. The Ministry of Foreign Affairs has a website that provides information on visa types and their implications for access to employment.

Although as of October 2021, holders of temporary student visas are not allowed to work and study at the same time, they may apply for a work permit in two exceptional circumstances – namely, to fund their studies or to undertake a paid professional internship. Furthermore, Article 74 of the new Law No. 21.325 authorizes dependants to engage in paid activities.

All foreign residents can accept employment in the private or public sector on the same terms as nationals, barring the exercise of public authority. Promulgated by the Ministry of Labour and Social Welfare, the Labour Code lays down the rights and duties of workers and employers. Migrant workers are subject to the same rules as nationals as regards dues, the minimum wage, working hours and rest periods, safety, unionization, licences and permits, and maternity, among other things.

1.3. Areas with potential for further development

Only permanent residents are allowed to work as self-employed persons on the same terms as nationals. Non-nationals in the permanent-resident category may work as full-time employees or as self-employed persons under the current Labour Code (2002) and/or current labour legislation emanating from Law No. 1.094 laying out the regulations on aliens in Chile. Holders of a temporary-resident visa may engage in work under the same conditions only during the period covered by their visa. It should be noted that

⁷ These include food, books, insurance and school pass.

under Articles 19 and 20 of the Labour Code, at least 85 per cent of those working for one and the same employer, with a workforce numbering more than 25, must be of Chilean nationality.⁸

There is only limited access to technical or vocational education and to the Preferential School Subsidy for foreign students registered in public or municipal educational establishments, and whose migration status have not yet been regularized or those who are not in possession of a National Identity Card.

There are very few intercultural communication programmes to be found at the different levels of the educational system. These programmes could include the teaching of Spanish as a second language or the comparative analysis of the curriculums of the countries most represented in the educational system, so as to facilitate curriculum adjustments with a view to ensuring educational advancement. Moreover, not enough progress is being made in data registration and processing, which would aid the classification of foreign students and the identification of first- and second-generation ones, with a view to developing relevant policies geared both to teachers and students.

⁸ The following rules must be used to calculate the percentage:

- (a) An employer's total number of workers in the national territory will be taken into account and not that of the different branches separately.
 - (b) Specialist technical personnel will be excluded.
 - (c) A foreigner whose spouse or civil partner or children are Chilean or who is a widow or widower of a Chilean spouse will be deemed to be Chilean.
 - (d) Foreign nationals who have resided in the country for more than five years will also be considered Chilean, without taking account of accidental absences.
-



2

FORMULATES POLICY USING EVIDENCE AND WHOLE-OF-GOVERNMENT APPROACH

2.1. Migration governance: Examples of well-developed areas

The Department of Aliens and Migration of the Ministry of the Interior and Public Security is the body responsible for the formulation and follow-up of national migration policy under Law No. 1.094, which lays out regulations on aliens (1975). With the entry into force of Law No. 21.325 on Migration and Aliens (2021), that entity was replaced by the National Migration Service.⁹ The latter is a decentralized public service subject to presidential oversight, with the Ministry of the Interior and Public Security as an intermediary, which will implement the National Migration and Aliens Policy and the action plan and programmes required for that purpose, among other duties.

The Migration Policy Council¹⁰ is a multisectoral body tasked with advising the President of the Republic, through the Ministry of the Interior and Public Security, on the preparation of the National Migration and Aliens Policy, along with updating its content and definitions, in accordance with the country's needs and requirements. Charged with the implementation of the policy, the Migration Policy Council is chaired by the Minister of the Interior and Public Security and comprises the Ministers of Finance, Foreign Affairs, Justice and Human Rights, Social Development and Family, Health, and Labour and Social Welfare. The presidents of the most representative municipal associations will also form part of the Council, but without the right to vote.¹¹

The Department of Immigration, which reports to the Ministry of Foreign Affairs, is in charge of informing the public about visa procedures and applications for foreigners wishing to visit or live in Chile. Migration-related matters have been handled by the Civil Society Council¹² on behalf of the Ministry of the Interior and Public Security and the Ministry of Foreign Affairs. The Ministry of the Interior and Public Security, in particular, acts as a consulting adviser to the authorities on the various matters within its remit. For this purpose, it has a commission dedicated to migration issues, the members of which provide advice in representation of migrants and migrant communities.

The Government is striving to improve migration policy coherence on a cross-cutting basis. Decree No. 41 was published in the *Diario Oficial* in September 2021, approving the Organic Regulations of the Undersecretariat of Foreign Affairs, pursuant to Law No. 21.080 (2018). This law lays down the internal organization of the Undersecretariat of Foreign Affairs, as well as the designations and functions of each of its units.¹³

Worthy of note are efforts to advance towards more integral development through cross-sectoral alliances in two major national agendas: *Agenda Mujer* (the Women's Agenda) and *Agenda Migraciones* (the Migration Agenda). The Migration Agenda aims to regulate the migration process in order to provide minimum acceptable living standards for persons in quest of an opportunity to develop their capabilities in Chile. At the same time, it ensures that these persons are included in Chilean society by providing them with documents from the day of their arrival.

⁹ Under the transitional articles of Law No. 21.325, the President of the Republic is empowered, within one year of the publication of the law (20 April 2021), to determine the staffing of the new National Migration Service, among other important decisions regarding that entity. On this basis, the National Migration Service officially launched operations on 1 October 2021.

¹⁰ The Migration Policy Council was created initially by Decree No. 1.393 of 2014. The current Council was set up by Law No. 21.325 (Articles 159 et seq.).

¹¹ Examples are the Association of Municipalities of Chile and the Chilean Association of Municipalities.

¹² This is a consultative and autonomous mechanism created under Law No. 20.500 (2011), on associations and citizen participation in governance.

¹³ The new organic structure is geared to Chile's current foreign policy challenges and is consistent with the general rules of public administration.

Law No. 21.325 on Migration and Aliens addresses the integration of immigrants, including the establishment of the National Migration Service, which is “a decentralized public service with its own legal personality and resources, subject to the oversight of the President of the Republic, through the Ministry of the Interior and Public Security”.

The Panel on Access to Justice for Migrants and Foreigners,¹⁴ set up in 2013 to facilitate and ensure access to justice for migrants and foreign nationals, comprises the Public Prosecutor’s Office, the Ministry of Foreign Affairs, the Ministry of Justice and Human Rights, the Investigations Police of Chile, the Carabineros de Chile, the National Institute of Human Rights and the Public Defender’s Office. The Panel has prepared brochures and posters in various languages with information on rights; they are displayed at police stations and made available in places of detention and where complaints are received. These documents have thus been standardized and included in newsletters. The fourth edition of the *Boletín de Migrantes* (Migrants’ Newsletter), for example, contains figures on detentions and complaints of migrant victims for 2018 and 2019. As of October 2021, the Panel has been engaged in validating a handbook on the treatment of accompanied and unaccompanied migrant children and adolescents.

2.2. Areas with potential for further development

Chile has a legislative framework for migration matters, but it lacks an implementation plan in the form of an updated and pragmatic manifesto and/or a separate strategy document. In the Government’s only development plan, the National Strategy for Economic and Social Development (1977), the only reference to migrants appears in the proposal for “cross-border education”, intended to ensure equal opportunities for migrant students and Chileans.

While there are initiatives such as the Migration Policy Council, the Consultative Council of the Ministry of the Interior and Public Security, the National Migration Service, and partnerships with the Women’s Agenda and the Migration Agenda, there is no evidence of periodic consultations with decentralized government entities. Law No. 21.325 on Migration and Aliens does not provide for consistent or formal vertical policy endeavours.

¹⁴ This was originally set up to implement measures to facilitate compliance with the right to consular notification established under the Vienna Convention on Consular Relations (1963). The Vienna Convention on Consular Relations was adopted on 24 April 1963 and ratified by Chile on 9 January 1967.

3

ENGAGES WITH PARTNERS TO ADDRESS
MIGRATION AND RELATED ISSUES

3.1. Migration governance: Examples of well-developed areas

Chile is party to several regional and bilateral agreements. The country participates as an Associate State in the Southern Common Market (MERCOSUR) regional agreement,¹⁵ which promotes labour mobility. To buttress the regional integration process, MERCOSUR has introduced instruments that facilitate the free movement of people among its member countries, such as the Agreement on Residency for Nationals of MERCOSUR States Parties, the Plurinational State of Bolivia and Chile (2002). Under said mechanisms, MERCOSUR citizens are entitled to obtain legal residency in the territory of another State Party. Chile is also a member of the Organisation for Economic Co-operation and Development.

Chile is involved in the regional consultative process called the South American Conference on Migration (SACM).¹⁶ It was launched in 2000 as a forum for consultation among South American countries, principally in the realms of development, diasporas, migrant rights, integration, information-sharing, migration statistics, and the suppression of human trafficking and smuggling. The SACM last met in Argentina in August 2021. Chile has held the pro tem presidency of the SACM in 2001, 2012, and 2015 and will do the same for the period 2021–2022. Moreover, Chile has played an active part in various migration-related regional and international forums, including the Meeting on Migration of the Community of Latin American and Caribbean States (CELAC), the EU–CELAC Structured and Comprehensive Bi-regional Dialogue on Migration, the Working Group on South American Citizenship, the Working Group on Consular and Legal Affairs of the Southern Common Market, and the Global Forum on Migration and Development, among others.

Chile has various bilateral agreements relating to social security matters, such as the Ibero-American Multilateral Agreement on Social Security. This is complemented by bilateral memorandums of understanding on consular and migration cooperation that it has signed to date. Chile and Ecuador signed the Operating Regulations governing the Binational Commission on Human Mobility, Migration and Consular Cooperation, established under the Bilateral Cooperation Agreement signed in 2016. Besides the above-mentioned, Chile has been part of the Pacific Alliance since 2015, a body also comprising Colombia, Mexico and Peru. It is an economic and trade integration mechanism based on the following pillars: the free movement of goods, services, capital, and people and cross-cutting cooperation.

Law No. 20.500 on Associations and Citizen Participation in Governance (2011) and Presidential Instruction No. 5 issuing guidelines and instructions for the National Migration Policy (2015)¹⁷ promote citizen involvement in the formulation and implementation of public policies and programmes, and they include migrant communities in all participatory forums. From 2013 to 2021, for example, more than 80 organizations¹⁸ took part in the drafting and design of Law No. 21.325 on Migration and Aliens (2021), putting forward more than 600 pointers for the draft and making 50 presentations in Congress. Furthermore, a platform has been created for citizen participation, allowing them to submit suggestions and comments that will enhance the text of the regulations implementing the Migration Law, based on the arguments set out regarding the future regulations on migration.

¹⁵ Member countries include Argentina, Brazil, Paraguay and Uruguay. The Bolivarian Republic of Venezuela is now suspended, while the Plurinational State of Bolivia is in the process of accession. Associate countries are Chile, Colombia, Ecuador, Guyana, Peru and Suriname.

¹⁶ Other member countries are Argentina, the Plurinational State of Bolivia, Brazil, Colombia, Ecuador, Guyana, Paraguay, Peru, Suriname, Uruguay and the Bolivarian Republic of Venezuela.

¹⁷ Presidential Instruction No. 5 lays out the guidelines and instructions for the National Migration Policy, and expressly enshrines as one of its central elements citizen participation in the design and implementation of public policies and programmes; and that migrant communities should be included in all participatory spaces, with due regard to social and cultural diversity and to the needs of the different groups that make up Chilean society.

¹⁸ These include IOM and the Jesuit Migrant Service.

Chile has a long-standing policy of maintaining links with its diaspora or the community of Chileans abroad. Decree No. 139 (2010) of the Ministry of Foreign Affairs set up the Interministerial Committee for Chilean Communities Abroad, for the purpose of advising ministries and coordinating them in regard to public policies on interlinking and developing nationals living abroad. In addition, efforts are under way to promote forums for dialogue. For example, the Liaison and Development Department of the Directorate for the Chilean Community Abroad promotes unity and coordination among communities of Chileans abroad, the formation of networks of talented people and innovators, the exercise of civic rights, the development of associations and citizen participation, and the preparation of information on the socioeconomic situation of Chilean communities abroad.

3.2. Areas with potential for further development

The Government of Chile does not involve civil society organizations on a regular or frequent basis in migration agenda-setting and the implementation of migration-related actions.

Furthermore, Chile lacks formal mechanisms through which to cooperate with the private sector in implementing migration policy. Some ad hoc initiatives have been launched, such as the *Compromiso Migrante* (2019), a recognition jointly awarded by the State of Chile through the Department of Aliens and Migration and the Directorate of Labour¹⁹ to institutions, enterprises and associations that stand out for their inclusiveness, intercultural approach, and lack of discrimination in their internal make-up, management and relationship with the surroundings. Furthermore, in 2019 the National Chamber of Commerce, Services and Tourism of Chile, in conjunction with IOM, convened the third annual meeting of the Technical Committee of the Inter-company Panel on Migration. The first such meeting took place in late 2017 and brought together the main business associations in Chile. The second was held in 2018 and involved the Government, agencies of the United Nations System in Chile, companies, associations and binational chambers of commerce.

¹⁹ This also includes IOM and the International Labour Organization as sponsors.



4

ADVANCES THE SOCIOECONOMIC WELL-BEING OF MIGRANTS AND SOCIETY

4.1. Migration governance: Examples of well-developed areas

The country has visas for attracting specific skills, such as an artist's visa, a visa for investors and businesspeople, as well as visas for high-level professionals and experts, journalists or communications media professionals.

The Chilean system of academic accreditation has mechanisms for the recognition of migrants' qualifications. Chile recognizes professional qualifications obtained abroad, which enables Chileans and foreign nationals to register a qualification obtained abroad and thus exercise their profession in Chile. There are also programmes for the recognition of studies, as laid out by the Ministry of Education in the National Policy for Foreign Students (2018–2022).

Chile currently maintains bilateral agreements with Canada, Spain and Argentina. The Labour Cooperation Agreement (1997) with Canada aims to improve the working conditions and living standards of migrant workers in both countries and to protect, undergird and enforce their rights. Moreover, Chile cooperates with Spain on labour matters through the General Treaty on Cooperation and Friendship signed in 1990. The treaty regulates, frames and institutionalizes bilateral cooperation ties and the Hispano-Chilean Cultural Convention (1967). There is also Decree No. 684 promulgating the Administrative Agreement for the Implementation of the Labour Convention Signed with Argentina (1994), for temporary workers who have a contract with a company and have come to work for periods of time in Chile and vice versa.

4.2. Areas with potential for further development

Chile has no national assessment for monitoring the demand for immigrant labour. Since 2018, both the National Institute of Statistics and the Department of Aliens and Migration have been compiling information on migration in the country annually, broken down by gender, age and migration status. The National Employment Survey, a tool for ascertaining the employment status of persons living in Chile, is devised in that context. No similar mechanism exists for studying demand, however.

There are currently no specific programmes for managing labour immigration or granting visas in line with labour market demand. In 2020, the Ministry of Labour and Social Welfare nonetheless established a labour market research programme in order to generate valuable information on current and future gaps between supply and demand of professions and skills, and to prepare and disseminate useful information to users regarding employability, thereby contributing to the formulation of public policies on education, training, certification, labour intermediation and employment in general.

The Government still has no specific measures for promoting gender equality for migrants in the workforce. Law No. 21.325 on Migration and Aliens (2021) contains stipulations on gender, such as Article 13, which states that “the State shall promote respect and protection of foreign women irrespective of their migration status, so that they are free of discrimination at all stages of their migration process”. Likewise, Chile has had a Ministry for Women's Affairs and Gender Equality since 2015, which strives to promote “equal rights and eliminate all forms of arbitrary discrimination against women”, including migrant women. Although there are general measures to protect migrants, there is no evidence of any specific programme geared towards gender equality for migrants in the workforce.

There is no national strategy for equitable access to university education for international students. Free higher education is reserved for (a) the 60 per cent of the population with the lowest incomes in the country, (b) persons who do not hold a prior professional qualification or have not completed an

undergraduate degree from a national or foreign institution, (c) tertiary-level students who have not exceeded the normal duration of the course, and (d) students who are Chilean nationals or foreign nationals with permanent residence status.²⁰ Furthermore, there are no specific schemes that allow international students to work in the country after graduation.

²⁰ A student with residency status must also have completed secondary education in Chile.



5

EFFECTIVELY ADDRESSES THE MOBILITY DIMENSIONS OF CRISES

5.1. Migration governance: Examples of well-developed areas

The National Emergency Office of the Ministry of the Interior and Public Security (ONEMI) uses the Emergency Warning System launched in 2017 to send out mass alerts by text, audio and vibration to all cell phone users in the population in the event of a natural disaster, in conjunction with the network of ChileAtiende branches²¹ through which the public can obtain advice in cases of emergency. Although it is intended for the public in general, the ChileAtiende service also takes into account the specific vulnerabilities affecting migrants. For example, ChileAtiende has 190 branches throughout the country, equipped with modules containing a video interpretation system to provide online service to people in sign language, to members of the Mapuche people in Mapudungun, or to migrants, in Haitian Creole or English; in addition, they contain a nursing room for mothers with newborns, an area for children, gender-neutral changing rooms, and spaces equipped for users with mobility problems.

Chile has a strategy for assisting migrants in the event of a crisis in the country. The Consular Services Emergency Committee (*Comité de Emergencia de Servicios Consulares*) is supported by the initiative of the General Directorate for Consular Affairs and Immigration of the Ministry of Foreign Affairs of Chile (2015). The initiative creates alliances with other public bodies such as ONEMI and the Undersecretariat of Tourism, together with IOM, to assist foreign nationals living in Chile and Chilean nationals living abroad. There is no recent evidence of activity by the Consular Services Emergency Committee, however.

5.2. Areas with potential for further development

Chile has a strategy for dealing with environmental degradation and the adverse impacts of climate change, though it does not include migration-related stipulations. Law No. 19.300 which approves the General Bases of the Environment Act (1994) is the only piece of legislation addressing environment-related displacement or displacement in general. As of October 2021, ONEMI, supported by other bodies attached to the Ministry of the Interior and Public Security and to the Ministry of Foreign Affairs, is in the process of validating guidelines on the dynamics of human mobility, climate change and disasters in Chile.

The country's policy on migration and foreign nationals makes no provision for the long-term reintegration of migrants who have fled the country during a crisis. The regulatory framework – which includes Exempt Resolution No. 5.744 on the Humanitarian Repatriation Plan for the orderly return of foreign nationals to their country of origin (2018), Law No. 20.430 containing stipulations on the protection of refugees (2010), and Law No. 21.325 on Migration and Aliens (2021) – does not address provisions for the lasting reintegration of migrants who have fled the country during a crisis. Furthermore, the ONEMI Strategic Plan (2019–2023) does not include specific provisions for migrants in pre-crisis recovery strategies.

Chile's post-crisis regulatory framework includes a series of laws that do not contain specific provisions for migration-related post-crisis recovery. These include Law No. 20.430 containing provisions for the protection of refugees; Exempt Decree No. 290 approving the amendment of the National Strategic Disaster Management Plan (2015–2018); Decree No. 130 promulgating the Agreement between the Republic of Chile and the European Union, which establishes a framework for the participation of the Republic of Chile in European Union crisis management operations (2015); Law No. 21.288 creating the COVID-19 Temporary Emergency Fund (2020); and Decree No. 412 setting up the Chilean Commission for the International Decade for Natural Disaster Reduction (1991).

²¹ ChileAtiende is a multiservice government network for citizen assistance and guidance. It has more than 190 branches across the country through which citizens can effect a range of formalities and obtain guidance about State services and benefits.



6

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

6.1. Migration governance: Examples of well-developed areas

Border complexes serve to control the flows of people, goods and vehicles entering and leaving Chile through authorized border crossing points where several agencies operate, including the Investigations Police of Chile (PDI) (for migration control) and the Carabineros de Chile (for maintenance of order and security at the border). As pertains to border management, Chile has developed “integrated controls”²² alongside the border traffic facilitation agreements. On the data-processing front, the Ministry of Foreign Affairs has been able to centralize the register of visas requested through the consular network, while the Department of Aliens and Migration maintains the register of visas that are processed and issued in the country. The compilation and preparation of data on migration flows are the outcome of cross-sectoral cooperation between the Department of Aliens and Migration, the National Institute of Statistics, the Ministry of Foreign Affairs, the PDI, and the Civil Registry and Identification Service.

There have been moves to amend the protocols for the granting of visas. For example, under Resolution No. 3.042 issuing instructions on the granting of the *laissez-passer* to Venezuelan citizens (2019), Venezuelan nationals wishing to enter Chile must apply for a Democratic Responsibility Visa or a Consular Tourist Visa at a Chilean consulate. The entry into force of this resolution altered the movement patterns of a group of people who were previously able to enter the country as tourists and regularize their stay in Chile.

The Government trains border personnel on a regular basis. The Professional Training Centre, which is part of the Headquarters for Police Education and Doctrine (*Jefatura de Educación Policial y Doctrina*), is a technical-level police education centre for the routine training and education of general services and civilian employees, and also for specialized police officer training. In addition, the Ministry for Women’s Affairs and Gender Equality has trained the Carabineros de Chile in gender equality, but not the PDI in border controls. The Ministry of Labour and Social Welfare, for its part, has developed a range of training programmes for its officers on subjects such as inclusion, migrants, proper treatment and the protection of dignity, the gender perspective, and human rights.

Chile has provisions to ensure that the detention of migrants is used only as a last resort, as is the case with nationals. Chile’s Political Constitution (1980) prescribes the following: “Every person has the right to legal defence in the manner prescribed by the law and no authority or individual may prevent, restrict or distort the appropriate intervention of the counsel if it has been required.” Article 141 of Law No. 21.325 on Migration and Aliens (2021), in turn, provides that “anyone affected by an expulsion order may file a complaint on their own behalf or that of any other person with the Court of Appeals of the complainant’s domicile, within ten calendar days as from the notification of the respective decision”.

In 2011, the State adopted Law No. 20.507, which criminalizes migrant smuggling and human trafficking and lays down rules for their prevention and more effective criminal prosecution. Furthermore, Exempt Decree No. 2821 (2008) of the Ministry of the Interior and Public Security created the Intersectoral Working Group on Trafficking in Persons, in fulfilment of the United Nations Convention against Transnational Organized Crime – specifically the Protocol to Prevent, Suppress and Punish Trafficking in Persons (one of the three Palermo protocols), ratified by Chile in 2004. What is worth highlighting is the existence of the Intersectoral Protocol for the Care of Victims of Human Trafficking (2015), which aims to implement measures to foster the physical, psychological and social recovery of victims of human trafficking.

²² This refers to activity carried out in one or more places – using administrative and operational procedures – by officers of the different agencies from both countries involved in border control.

In turn, Chile is a member of the Quito Process,²³ which has promoted measures relating to regional coordination to counter human trafficking. Under the Quito Process, initiatives in response to the problem of human trafficking are being joined up, for the sake of enhanced regional coordination.

Chile has a strategy to combat the labour exploitation of migrants. The Labour Directorate issued Circular No. 39 (2016) regulating the special inspection procedure for foreign workers and the ad hoc procedure in the event of indications of migrant smuggling and/or human trafficking. Chile also has in place protections for women and girls through Decree No. 34 promulgating International Labour Organization Convention No. 189 concerning Decent Work for Domestic Workers (2016), which considers that “domestic work continues to be undervalued and invisible and is mainly carried out by women and girls, many of whom are migrants or members of disadvantaged communities and who are particularly vulnerable to discrimination, as well as other human rights abuses”.

In 2018, Chile ratified the Agreement on the Status and Functions of the International Commission on Missing Persons. The Agreement recognizes the International Commission on Missing Persons as an international organization tasked with assisting countries in their efforts to deal with cases of persons missing in situations of conflict, human rights violations, disasters, organized crime, migration and other causes. One example is that of June 2008, when the Commission agreed to provide technical assistance to the Government of Chile in identifying victims of enforced disappearance in the 1970s, especially in studying and tracing the DNA of missing persons.

Chile ratified the 2014 Protocol to the International Labour Organization Forced Labour Convention (No. 29) in January 2021. By October of the same year, the decree that will incorporate it into domestic legislation was in the pipeline. Besides this, the Undersecretariat of the Ministry of Labour and Social Welfare, together with the other related government portfolios, has begun a process for the effective implementation of said instrument.

6.2. Areas with potential for further development

There is no national plan for the reintegration of migrants in their country of origin. The Ministry of the Interior and Public Security has issued Exempt Resolution No. 5.744 providing for the Humanitarian Repatriation Plan for the orderly return of foreign nationals to their country of origin (2018). This consists of the transfer of foreign citizens who remain in Chile, whether legally or illegally, and who decide to return voluntarily, either individually or as a family, to the country of their nationality. To this end, means of transportation or tickets are available free of charge for their transfer – national and international – from their place of residence in Chile to the country of their nationality. However, the aforementioned Plan provides only for their transfer and offers no assistance for the reintegration of migrants in their country of origin.

²³ This is the name given to the meetings held and undertakings made between Latin American countries to coordinate the response to the Venezuelan migration crisis. The first meeting took place in Quito, Ecuador, in September 2018 in order to “exchange information and good practices, seeking to articulate regional coordination with respect to the migration crisis of Venezuelan citizens in the region”. It comprises 14 member countries, namely Argentina, the Plurinational State of Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, Guyana, Mexico, Panama, Paraguay, Peru, the Dominican Republic and Uruguay.



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

This page summarizes key national COVID-19 policy responses in Chile 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 in the context of the COVID-19 pandemic.



All migrants in Chile are able to access Government-funded health-care services on the same basis as Chilean nationals. The Health Policy for International Migrants,² which provides health coverage regardless of a person's immigration status, has been applied during the pandemic. Besides this, on 11 February 2021 the Ministry of Health confirmed that irregular migrants could be vaccinated even if they do not have a pending application for a temporary or permanent visa.³



Migrants residing in Chile and in possession of a National Identity Card, or having applied for one, enjoy access to financial support available in the context of COVID-19, which are the Emergency Family Income (IFE) and COVID Voucher, in addition to the Permanent Family Support.⁴



Since June 2020, the Government has been taking steps to adjust the visas issued to migrants, extending the application deadlines for the various benefits, in some cases from 5 to 120 days. At the same time, work was done with government agencies to improve interoperability, thereby reducing the number of documents that people are required to produce. Electronic Provisional Stamping was also introduced, enabling people to download a visa stamp and add it to their passport. In the context of the health crisis, applications could be submitted digitally for visa reconsiderations, extensions of temporary visas, and visas for foreign children and adolescents in the National Service for Minors (SENAME) network.⁵

¹ More information is available at www.migrationdataportal.org/overviews/mgi#0.

² Ministry of Health, *Política de Salud de Migrantes Internacionales* (2017). Available at www.minsal.cl/wp-content/uploads/2015/09/2018.01.22.POLITICA-DE-SALUD-DE-MIGRANTES.pdf.

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



Chile has introduced sanitary and social distancing measures at migrant assistance centres. Since 2019, the Department of Aliens and Migration has upgraded its services through digitization and by setting up an email address for completing formalities, thereby minimizing face-to-face transactions in order to facilitate both procedures and health measures. Such measures continue in effect, the refugee status application being the only thing still done face to face, as it requires an in-person interview. Since October 2020, the Government of Chile has been collaborating with IOM and the United Nations Population Fund for the delivery of kits to vulnerable people in accommodation centres in the metropolitan area.⁶



Chile implemented measures to support the safe return of nationals and residents stranded abroad amid the COVID-19 health crisis. It concluded agreements with countries like Brazil and New Zealand, among others, to facilitate the repatriation of Chilean nationals and residents.⁷



The Ministry of Health mandated all regions in the country to devise plans, disseminate information, implement measures and provide communications that are culturally relevant to the migrant population so as to offer them guidance on COVID-19 prevention actions. The Ministry also provides downloadable material detailing anti-COVID-19 health measures in Spanish, along with some information in Creole for the Haitian migrant community. The Ministry of Health prepared the material in collaboration with IOM and the Pan American Health Organization.

⁶ ONEMI, Conversatorio Virtual sobre migración y GRD.

⁷ Ibid.





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ANNEXES

MiGOF: Migration Governance Framework²⁴

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” – 3 principles and 3 objectives which, if respected and fulfilled, would ensure that migration is humane, safe and orderly, and that it provides benefits for migrants and societies.²⁵ 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.

²⁴ 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>.

²⁵ Migration Governance Framework infosheet (2016). Available at <https://publications.iom.int/books/migration-governance-framework>.

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 Portal²⁶ and uploaded on the IOM Publications Platform.²⁷

²⁶ You can find the profiles at <https://migrationdataportal.org/overviews/mgi#0>.

²⁷ Please see <https://publications.iom.int/>.





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