



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

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

**Information received from Guatemala on follow-
up to the concluding observations on its second
periodic report^{*, **}**

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* The present document is being issued without formal editing.
** The annexes to the present document are available on the Committee's website.



I. Introduction

1. The Presidential Commission for Peace and Human Rights submits the information below, compiled in conjunction with the expert committee on migration matters, for the follow-up to four specific recommendations made by the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and set out in document [CMW/C/GTM/CO/2](#) of 2019, following the interactive dialogue on the second periodic report of Guatemala.

II. Context

2. In accordance with the new institutional framework for human rights instituted by the President of the Republic pursuant to Government Decision No. 100-2020, the purpose of the Presidential Commission for Peace and Human Rights is to advise and to coordinate with the various agencies of the executive branch to promote actions and mechanisms to ensure the effective enjoyment and protection of human rights. One of its responsibilities is to advise such agencies on actions needed to prevent human rights violations, protect peace and resolve rural and agricultural disputes.

3. The information below was requested from and provided by institutions involved in supporting and protecting migrants, namely the Counsel General's Office, the Ministry of Foreign Affairs, the Social Welfare Secretariat of the Office of the First Lady, the Guatemalan Migration Institute, the National Civil Police, the National Institute of Forensic Sciences, the National Council for Assistance to Guatemalan Migrants, the Ministry of National Defence and the Social Welfare Secretariat.

4. The adoption of the Migration Code (Congressional Decree No. 44-2016) marked a turning point in the approach to migration in Guatemala. The Code, which entered into force on 1 May 2017, provided for the establishment of the Guatemalan Migration Institute and addressed the need for a national migration system that fully upholds the right to migrate as the cornerstone of the institutional framework and law on migration, ensures respect for fundamental human rights and provides legal security for individuals and incorporates international standards on the protection and assistance of migrants and their families in countries of transit, destination and return.

III. Follow-up to recommendations

A. Follow-up information relating to paragraph 25 of the concluding observations ([CMW/C/GTM/CO/2](#))

5. The National Council for Assistance to Guatemalan Migrants is a government body that determines, coordinates, monitors and oversees the activities of State agencies and bodies to protect, support and assist Guatemalan migrants and their families and foreign migrants in the national territory. It supports those seeking immediate assistance to safeguard the human rights of their relatives abroad and works in coordination with the Ministry of Foreign Affairs, which has an overseas presence and helps migrants through the relevant consulates.

6. The Council provides telephone support to migrant leaders abroad who request assistance in specific cases. Using the information obtained, Council staff immediately contact the migrant's family in Guatemala to determine the migrant's situation and inform the Ministry of Foreign Affairs about the request so that it can lend assistance and follow up on the case.

7. The Ministry reports that, as of May 2021, 16 migrants' organizations abroad that met the requirements under the Act on the National Council for Assistance to Guatemalan Migrants were registered. Organizations may participate by nominating candidates to serve as regular and alternate members of the Council's advisory body.

8. Migration to Canada is mostly for temporary work purposes. Guatemalans migrating in this way do so in a safe, orderly, regular and circular manner. Most of the people who migrate to Canada work on farms, which Guatemalan consuls in Canada visit to ensure that migrants' human and labour rights are being respected. In 2020, the visits were conducted by videoconference rather than in person owing to provincial restrictions put in place to contain the coronavirus disease (COVID-19) pandemic.

B. Follow-up information relating to paragraph 31 (a) of the concluding observations

9. The Directorate of Consular Affairs under the Ministry of Foreign Affairs assists families of Guatemalans missing abroad. It works in coordination with the consular network to establish the whereabouts of Guatemalans who in their last communication reported that they were last out of the country and who, for various reasons, have not had further contact with their families.

10. There is a mechanism for contacting the families of Guatemalan migrants who have disappeared abroad, which involves:

- (a) Interviewing the family member of the missing person;
- (b) Completing an ante-mortem/post-mortem questionnaire for determining the whereabouts of Guatemalans missing abroad;
- (c) Determining the place, date and circumstances of the person's disappearance;
- (d) Collecting recent photographs and the identification document of the missing person;
- (e) Referring the case to the consulate or diplomatic mission responsible for the place or area where the person disappeared;
- (f) Forwarding, through the responsible consulate or diplomatic mission, the case information to the competent authorities of the country to initiate search protocols;
- (g) Depending on the results of the search, carrying out DNA and genetic profile tests where required and providing other services, including consular protection, repatriation of a deceased person and repatriation of a person in a situation of vulnerability.

11. The procedure for supporting the families of migrants reported missing is set out in chapter V of the Migration Code, which provides that any family member of a foreigner presumed missing has the right to be reported as such. The Guatemalan Migration Institute, through the Council for Assistance and Protection of Migrants, then initiates search protocols, facilitating the exchange of information with the authorities of other transit or destination countries where the person is believed to be located.

12. The search mechanism involves obtaining information on unidentified deceased persons buried in those countries, persons deprived of their liberty and persons in health-care facilities or hospitals, forensic centres, or migrant shelters in the transit or host State.

13. The Guatemalan Migration Institute began its work on 1 August 2020. The Council for Assistance and Protection of Migrants was formed on that date, and an expert committee was established to perform the duties listed under article 161 (e) of the Migration Code, which include assisting the families of migrants believed to have disappeared while in the process of migration and creating mechanisms for contacting foreign authorities. The Committee's recommendations will thus be implemented through the establishment of this special committee to deal with such matters.

C. Follow-up information relating to paragraph 31 (b) of the concluding observations

14. The Directorate of Consular Affairs has a fund for assisting Guatemalan migrants who are in situations of vulnerability or have died abroad, which is used to assist their families by paying all or part of the cost of repatriating or returning such migrants or their remains.

15. The Ministry of the Interior, through the Missing Persons Section of the Special Criminal Investigation Division, which is part of the Directorate General of the National Civil Police, takes all relevant and necessary steps to locate missing persons in Guatemala, including foreigners and migrants.

16. When the Missing Persons Section receives a report of a missing foreign migrant in the national territory, all search procedures that the investigator deems appropriate are carried out. If found, the person is interviewed and if he or she has been the victim of criminal acts, a complaint is lodged and the Public Prosecutor's Office is informed. If the person states that he or she has not been a victim of an act that could lead to a criminal prosecution, the person is interviewed and signs a record thereof, and the prosecutor is notified of the action taken.

17. In cases where foreign older persons and children and adolescents are transported or remain illegally in the country for migration purposes, the human trafficking sections of the National Civil Police and the Public Prosecutor's Office immediately:

(a) Determine the possible location of the older adult, child or adolescent foreigners;

(b) Document the property and the means of transportation or vehicle used;

(c) Identify the threat and risk factors in the area, in coordination with various agencies (the investigator of the Human Trafficking Section, the Public Prosecutor's Office and the Counsel General's Office);

(d) Establish the identity of the persons using their personal identification documents, passports or other document proving their identity and nationality and indicating where they were authorized to enter and stay in the country;

(e) For persons not carrying an identification document or proof of lawful entry into the national territory, notify them that they have failed to comply with an administrative migration regulation and, once their irregular migratory status has been established, refer them to the nearest office of the National Migration Institute;

(f) Take action in coordination with the Counsel General's Office for Migrant Children and Adolescents, which will assume responsibility in the case of unaccompanied children and adolescents;

(g) Interview the victims and persons who aware of the event under investigation to establish whether an offence of illicit trafficking in persons or related offences have been committed and identify those responsible;

(h) Request and coordinate action with the International Criminal Police Organization (INTERPOL) to have an international arrest warrant issued in the migrants' countries of origin.

18. The Directorate General of the National Civil Police created the Disappeared Persons Section pursuant to article 37 of General Order No. 05-2018 of 30 January 2018, on the organization and functions of the Special Criminal Investigation Division of the National Civil Police's Criminal Investigation Branch. The Section's duties include following up on cases that involve establishing the whereabouts of disappeared persons from the time their disappearance is reported until their location is reported by other institutions. Examples of activities undertaken include:

(a) Coordination of an expert committee to develop protocols to ensure the timely and prompt investigation of cases of missing persons, such as the police action protocol for searching for missing women;

(b) The National Civil Police act as soon as an Isabel Claudina alert – a mechanism for the immediate search for Guatemalan or migrant women who are reported missing – is issued. The appropriate inter-agency coordination mechanisms are activated to locate the persons and determine their status in the country of origin in order to contact their families;

(c) The Special Criminal Investigation Division has a child and adolescent investigation department that uses the Alba-Keneth Alert System, a set of actions coordinated among State institutions to speed up the process of finding and rescuing children or adolescents (migrants or nationals) who have been abducted or have disappeared;

(d) The Ports, Airports and Border Posts Division and the Special Criminal Investigation Division, together with the Human Trafficking and Migrant Smuggling Sections of the National Civil Police, ensure that migrants enter Guatemala legally and that they have not fallen victim to any trafficking network, while respecting the human rights of all.

D. Follow-up information relating to paragraph 31 (c) of the concluding observations

19. The Act on the Genetic Databank for Forensic Use was passed by the Congression by means of Legislative Decree No. 22-2017. The databank is administered by the National Institute of Forensic Sciences of Guatemala and will make all data immediately available to the Public Prosecutor's Office. Such information may be used only for criminal investigations and trials. The databank's purpose is to compile genetic information.

20. In accordance with article 18 of the Act, the Board of Directors of the National Institute of Forensic Sciences of Guatemala adopted Order No. CD-INACIF-32-2018, establishing the implementing regulations for the Act, which includes the following provisions:

(a) The Genetic Databank for Forensic Use is a set of genetic profile records obtained by the National Institute of Forensic Sciences from biological samples that have been collected and submitted by the agency responsible under any of the circumstances provided for by the Act or other laws. While there is only one databank, it contains information from databases of general profiles duly categorized according to the nature of the proceedings to which they pertain or for which they were collected;

(b) One database was created for humanitarian or civilian purposes. It contains genetic profiles obtained from biological samples collected under non-criminal laws and includes information in the following categories:

- Alba-Keneth Alert
- Immediate search for missing women
- Children and adolescents who have been declared by a competent court to be abandoned
- Missing men
- Search for missing migrants
- Search for persons who disappeared during the internal armed conflict
- Unidentified victims killed as a result of major natural disasters
- Paternity and filiation
- Records of volunteers

(c) The Institute has reported that it is ready to receive genetic records. It has a multidisciplinary team of 13 specialists in biochemistry, microbiology and chemical biology, each holding a master's degree;

(d) As part of efforts to improve the databank and ensure quality of service, the Institute has invested in the latest technology and is currently equipped with a cryogenic

grinder, a nucleic acid extractor, a shaker incubator, thermal mixers, biosafety cabinets, polymerase chain reaction (PCR) cabinets, an automated piercer, real-time thermal cyclers and genetic analysers. It has ISO 17025:2017 accreditation and participates in international programmes including those of INTERPOL, the Combined DNA Index System of the Federal Bureau of Investigation (FBI), the Ibero-American Working Group on DNA Analysis of the Ibero-American Academy of Forensic Science Institutes and DNA-Prokids;

(e) With regard to the exchange of real-time information, the Institute, in coordination with and at the request of the Public Prosecutor's Office, may facilitate consultations and exchanges of information with similar national or international bodies that hold genetic databases or databanks, in accordance with article 11 of the regulations mentioned above. Under rules of reciprocity, it may allow access to genetic profiles contained in the genetic databank, while ensuring respect for international quality, security, privacy and human rights standards. Information is regularly exchanged through the International Affairs Unit of the Public Prosecutor's Office or through the INTERPOL I-24/7 global police communications system;

(f) The Institute now has an agreement with the Center for Human Identification of the University of North Texas Health Science Center and the Gordon Thomas Honeywell Government Affairs consultancy. The aim of the agreement is to strengthen the scientific and technical capacity of the Institute's serological and forensic genetics laboratory and increase the use of the national DNA database system, especially in cases of missing persons (including migrants), vulnerable persons and victims of crime, and in criminal investigations and the identification of human remains. The agreement is also intended to promote public and government awareness of the use of the national DNA database system, to which end a campaign is being designed that will allow 7,000 samples taken from migrants at the Center for Human Identification to be compared with those obtained from the family members of missing Guatemalan migrants.

E. Follow-up information relating to paragraph 33 (a) of the concluding observations

21. From the moment of the first caravan in 2018, the Guatemalan Migration Institute recognized the need to implement an action plan for mass migration events comprising the following:

- The implementation of an action plan for mass irregular international migration events to control, regulate and monitor migrants entering the country in an irregular manner and without official documentation
- The establishment of an adequate control mechanism for mass migration events in order to comply with the Migration Code (Decree No. 44-2016), the Regional Central America-4 (C-4) Agreement on Migration Procedures and other statutory provisions
- The implementation of a coordination system for public, private, decentralized and autonomous institutions, international organizations and non-governmental organizations (NGOs) to support, assist, monitor, control, oversee and apply processes and procedures concerning the human rights and international protection of migrants
- The coordination of programmes for the voluntary return of migrants to their country of origin or departure with the help of public, private, decentralized and autonomous institutions and international organizations
- Action by the State to ensure:
 - The health and well-being of vulnerable groups or any migrant who has an emotional or other type of problem, which should be a priority
 - Personalized care for unaccompanied or separated children or adolescents, taking into account the principle of the best interest of the child
 - Psychological and medical care

- Ambulance services or other means of transportation to respond to emergencies immediately
- Mobile health-care services
- The establishment of operational strategies at border posts where it is believed migrants may enter
- The deployment of an increased number of Guatemalan Migration Institute officials and more equipment to carry out migration checks in a rapid, safe and lawful manner
- Action to ensure that public, private, decentralized and autonomous institutions, international organizations and NGOs provide services within their field of competence in order to meet key needs and provide necessary assistance to prevent crimes such as human trafficking, sexual or labour exploitation, smuggling of migrants, organized crime and others, and to prevent unaccompanied or separated children and adolescents from falling victim to human rights violations, at the country's entry and exit points
- The migration authorities of Honduras and El Salvador conduct migration checks at their shared border and should issue their citizens with proof that the checks have been carried out
- In the case of minors, migration controls must be carried out in accordance with the CA-4 manual and the domestic laws of each country
- Along the entire caravan route, the Guatemalan Migration Institute provides advice in relation to:
 - Migrants' rights and obligations
 - The migrant regularization process
 - The voluntary return processes for individuals and families
 - The process and requirements to apply for temporary and permanent residency

22. The Government of the Republic of Guatemala respects everyone's human right to migrate and calls for migration to be safe, orderly and regular.

23. The National Civil Police, through its specialized units, namely the Ports, Airports and Border Posts Division and the Smuggling of Migrants and Trafficking in Persons Sections, protects the human rights of migrants during transit in Guatemala and at border crossings. These bodies ensure that migrants do not fall victim to criminal acts and work to prevent violations of migrants' rights.

F. Follow-up information relating to paragraph 33 (b) of the concluding observations

24. The Guatemalan Ministry of Foreign Affairs holds meetings with the States of El Salvador, Honduras and Mexico in order to ensure ongoing communication and coordinate actions to deal with migratory flows in a comprehensive manner. The Ministry has taken the following steps to address mass migration flows:

(a) It contacted the Honduran Embassy in Guatemala and the Honduran Ministry of Foreign Affairs as soon as it became aware of calls circulating on social media and other communications media to form migrant caravans;

(b) It requested monitoring reports on the number of migrants. The reports were shared with national institutions involved in coordinating mass flows of migrants in transit through Guatemala;

(c) It should be noted that, within the framework of the Central American (CA-4) Free Mobility Agreement, all persons transiting from one State to another must identify themselves at the relevant border points. In the case of minors, a passport is required and they

must be accompanied by their father and/or mother. In the context of the pandemic, health requirements were also introduced, such as the presentation of a negative PCR or antigen test;

(d) Officials from Guatemalan and Mexican institutions have been deployed to strengthen the management of migration and the cordon sanitaire at the border in Tapachula, Chiapas, and Tecún Umán, Department of San Marcos. The goal is to promote bilateral collaboration when dealing with all aspects of migratory flows, especially the challenges related to irregular and mass migration, security and comprehensive efforts to combat migrant smuggling and human trafficking, while ensuring unrestricted respect for the human rights of migrants at all stages of the migration cycle;

(e) Several intersectoral and high-level preparatory meetings have been held with a view to delivering a coordinated, comprehensive and cross-cutting response that will ensure respect for the human rights of migrants and compliance with migration controls and health protocols, in conjunction with national institutions, agencies of the United Nations system and the diplomatic missions of Honduras, Mexico and the United States of America.

25. As regards border governance measures for migration, the National Civil Police, together with neighbouring countries (El Salvador, Honduras and Mexico), have agreed to focus on maintaining control, security and good governance in border areas by taking joint action in each State to foster safe, peaceful and orderly migration and to fully ensure the effective safety of migrants through the implementation of plans and strategies. There is a police presence at border customs posts and patrols at unofficial border crossings, and Security Plan No. 02-2021, on security measures for the movement of migrants through Guatemalan territory, has been implemented.

G. Follow-up information relating to paragraph 33 (c) of the concluding observations

26. In terms of combating violence and enforcing the principle of non-refoulement and the prohibition of arbitrary and collective expulsions of migrants, the National Civil Police is responsible for keeping migrants safe and protected and for preventing any act that violates their human rights.

27. Migrants are supported by several agencies, including the National Civil Police, the Guatemalan Migration Institute, the Office of the Human Rights Advocate, the National Coordinating Office for Disaster Reduction, the Ministry of Social Development and the Counsel General's Office. The National Civil Police force is currently in the process of approving a police action protocol for dealing with mass movements of migrants.

28. Through the INTERPOL Specialized Operational Network (ISON),¹ of which the Human Trafficking Section of the National Civil Police is a member, information is obtained from countries where mass migrant flows originate. This information is transmitted to the national police forces of the participating countries, which:

- (a) Constantly monitor social media and/or public sources of information;
- (b) Form work teams to find information on mass movements of migrants;
- (c) Periodically monitor mass movements of migrants in order to safeguard the inherent rights of individuals;
- (d) Gather intelligence to identify the mastermind behind the mass movement;
- (e) Escort the caravan to ensure that human rights are not violated;
- (f) Coordinate the transfer of migrants who, for various reasons, are unable to continue;
- (g) The National Civil Police force applies the bilateral or multilateral conventions and agreements relevant to its field of competence. These include:

¹ ISON: INTERPOL Specialized Operational Network against migrant smuggling.

- The Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime
- The American Convention on Human Rights (Pact of San José)
- San José, Costa Rica, 7 to 22 November 1969
- The Universal Declaration of Human Rights
- The International Convention on the Elimination of All Forms of Racial Discrimination

29. The Guatemalan military has conducted nationwide security and humanitarian assistance operations to support the public security forces and other state institutions. These operations include the transportation of migrants who wish to return to their country voluntarily. Such operations are carried out in accordance with national law and international conventions and treaties on human rights, and the rights of migrants who enter and transit through Guatemalan territory are safeguarded.

30. The National Council for Assistance to Guatemalan Migrants:

(a) Promotes respect for migrants' human rights along the entire migration route and at border crossings:

- The Council coordinates with the Guatemalan authorities that work with the Mexican border authorities to allow the migrant caravans to travel in a safe and orderly manner, without violence or discrimination, and to ensure respect for human rights.

(b) Ensures that border governance includes the development and oversight of joint plans with neighbouring countries, especially Mexico, for the safe and orderly passage of migrant caravans:

- The Council, on written request, works in coordination with the Guatemalan Migration Institute and Ministry of Foreign Affairs to provide support and assistance to caravans of Guatemalan, Central American and South American migrants in the form of food and clean water, as well as transportation in the case of migrants voluntarily returning to the Guatemalan border.
- Food and shelter for migrants, primarily families, returning voluntarily are arranged in collaboration with "Casa del Migrante" (Migrant House), an NGO. Volunteer fire services, municipal authorities, churches and government authorities are also involved in order to safeguard the rights, including the rights to life and health, of migrants of all ages.

31. It is important to emphasize that the National Institute of Forensic Sciences does not discriminate between migrants and residents when called upon to take part in a criminal investigation. The Institution's team of experts seek to ascertain the facts when migrants have been the victim of violence of any kind during their passage through the national territory.

32. As part of its identification protocol, the Institute coordinates with various embassies and consulates to determine a person's identity, search for his or her relatives and repatriate the body of the deceased.

H. Follow-up information relating to paragraph 33 (d) of the concluding observations

33. The Government of Guatemala has worked with national and international organizations to develop an action strategy to deal with migrant flows. The Ministry of Foreign Affairs is part of these intersectoral coordination efforts, while the lead agency on the issue is the Guatemalan Migration Institute, which launched a plan of action for mass irregular migration events for 2020 and the Caravan Strategy for 2021.

I. Follow-up information relating to paragraph 33 (e) of the concluding observations

34. Guatemala is a party to the following bilateral and multilateral agreements:
- Agreement on cooperation in labour matters between Guatemala and Mexico. Its objective is to lay the foundations for the parties to cooperate on matters of labour migration within their respective fields of competence. Under the agreement, programmes and projects will be designed to ensure decent employment and thus promote safe, orderly and regular labour migration.
 - Memorandum of understanding between the Governments of Mexico, El Salvador, Guatemala, Honduras and Nicaragua on the dignified, orderly, swift and safe repatriation by land of migrants who are Central American nationals. Its objective is to establish a regional cooperation mechanism for repatriation of Guatemalan, Salvadoran, Honduran and Nicaraguan nationals in the custody of the Mexican migration authorities.
 - Initiative for a memorandum of understanding between Guatemala and Mexico that would create a bilateral cooperation mechanism for the assisted, dignified, orderly, swift and safe return of Guatemalan migrants and an immediate response mechanism to deal with mass flows of migrants.

J. Follow-up information relating to paragraph 45 (a) of the concluding observations

35. Article 170 of Legislative Decree No. 44-2016, the Migration Code, states:
- “Principles. The procedure for the care and protection of unaccompanied children and adolescents shall be governed by the following principles:
- “Best interests of the child. Decisions shall ensure strict compliance with this principle. The authority shall determine the best interests of the child or adolescent, which requires a clear and thorough assessment of the identity of children who are unaccompanied or separated from their families, especially as regards their nationality, upbringing and ethnic, cultural and linguistic background, in order to determine their vulnerabilities and special protection needs. Where it is impossible to determine whether such persons are minors or there are reasonable doubts as to their age or the authenticity of their documents, they shall be presumed to be minors.
- “Non-discrimination. Children and adolescents who are unaccompanied or separated from their parents shall not be discriminated against on the basis of their status as being unaccompanied or separated; their status as being a refugee, asylum-seeker or migrant; or their nationality, ethnicity or sexuality. This principle allows differentiation on the basis of different protection needs such as those deriving from age, sexual diversity or gender.
- “Family unity and right to family reunification. The authorities shall make every effort to ensure that unaccompanied or separated children and adolescents are reunited with their father and/or mother, guardian or whoever has custody, whether in the country of origin, the country of departure or the receiving country, except where prolonging separation is deemed to be in their best interests. This principle discourages separation of siblings or relatives.
- “Communication, preservation of personal relationships and direct contact between children and parents. Children and adolescents shall have the right to be informed of the whereabouts of members of their family, especially their parents and siblings. This principle includes the right to locate and communicate with their parents or other family members in the country of origin or in the receiving country.
- “Non-violence and dignified treatment. The dignity of migrant children and adolescents, especially when they are unaccompanied, shall be protected by ensuring

that they are not subjected to conditions that would threaten their physical or mental integrity, including torture and cruel, inhuman or degrading treatment.

“Protection and safety. No administrative decision or order by an authority shall jeopardize children’s safety. Accordingly, a range of appropriate measures shall be in place for their protection and efforts shall be made in coordination with the authorities of other States to ensure that they are repatriated in a safe and dignified manner. They shall be accommodated and cared for in a pleasant, safe and friendly environment.

“Legality and due process. All decisions regarding the status of children and adolescents, especially those who are unaccompanied or have been separated, shall be taken with full respect for the right of defence and the right to due process.

“Confidentiality of records and protection of privacy. Care shall be taken to ensure that sensitive information, including the identity of children and their families, is not compromised. Disclosure of such information shall be restricted, except where such disclosure is deemed to be in the best interests of the child in order to locate and reunite them with their families. The authorities shall protect the confidentiality of information pertaining to unaccompanied children and their families. Safeguards shall be put in place to guarantee that the information received and exchanged to protect children is not used for other purposes.

“Specialization of staff and officials responsible for migration management and for the protection, repatriation, return and family and social reunification of unaccompanied child migrants. Professionals responsible for migration procedures and for dealing with children and adolescents shall have specialized training on the human rights of children and adolescents that enables such professionals to provide multidisciplinary support in the fields of psychology, social work, health care and law.

“Non-refoulement when personal safety is at risk. No child or adolescent shall be transferred to another country where they would be at risk of serious violations of their human rights, especially the right to life, freedom and physical integrity.

“Right to life, survival and development. Children, especially separated or unaccompanied children, shall be protected from violence and exploitation.

“Right to express views freely. The views and wishes of unaccompanied or separated children and adolescents shall be ascertained and given due consideration. To allow for a well-informed expression of such views and wishes, it is imperative that such children and adolescents are provided with all relevant information about their entitlements, services available, including means of communication, the process for claiming asylum or refugee status, family tracing and the situation in their country of origin. In guardianship, care and accommodation arrangements, and legal representation, the views of the child or adolescent shall also be taken into account. Such information shall be provided in a manner that is appropriate to their maturity and level of understanding. As participation is dependent on reliable communication, where necessary, interpreters shall be made available at all stages of the procedure.”

36. These principles constitute basic rights that must be upheld in all processes of repatriation, family reunification, integration into the host country or resettlement in a third country, taking into account the principles of the best interests of the child and non-refoulement, and they must therefore be applied and respected regardless of where the unaccompanied children and adolescents are located.

37. The Guatemalan Migration Institute and the Ministry of Foreign Affairs work in a coordinated manner to deal with each individual unresolved case of Guatemalan parents and children, or unaccompanied children, in the custody of foreign authorities.

38. There is international cooperation with Mexico, El Salvador and Honduras to expedite, monitor, transfer and follow up on repatriation cases, especially those involving children and adolescents who are unaccompanied or have been separated from their families, while ensuring that the principle of the best interests of the child is upheld.

39. Cases of unaccompanied children and adolescents in need of international protection are dealt with in a comprehensive manner. The procedures, which must safeguard the best

interests of the child, encompass short- and long-term solutions, including family reunification, integration into the host country, repatriation to the country of origin or resettlement in a third country.

40. Efforts are made to guarantee that no child or adolescent is repatriated without prior, justified and case-by-case verification that the measure is in his or her best interests and that his or her life will not be endangered.

41. The approach taken with regard to the protection, care and assistance of children and adolescents is based on two scenarios. The first concerns Guatemalan migrant children and adolescents, and the second relates to foreign migrant children and adolescents in Guatemalan territory.

42. The Ministry of Foreign Affairs has implemented, in its sphere of competence the Consular Protection Model for Migrant Children and Adolescents, with the aim of building institutional capacities to ensure that consular officers are in a position to identify vulnerabilities and assist with determining the best interests of the child.

43. The model comprises four areas of work:

(a) Provision of support through a psychosocial approach: in partnership with the United Nations Children's Fund (UNICEF) and the Missionaries of San Carlos Scalabrinianos, specialist personnel, including psychologists, have been assigned to certain consular missions in the United States and Mexico on a temporary basis and in accordance with migratory dynamics. These missions were selected based on the number of migrant children and adolescents receiving assistance;

(b) Information on the migration process: the “¿Qué pasa? ¿Qué hago?” (What's happening? What do I do?) information campaign on the migration procedure in the United States has been strengthened with the translation of the material into three Mayan languages. There is also a similar campaign in Mexico;

(c) Education and training: seminars are held periodically for accredited staff of the consular network abroad in order to inform and train them on the progress made in the protection of the rights of migrants, particularly migrant children and adolescents;

(d) Intersectoral coordination: in January 2017, the Ministry of Foreign Affairs, the Counsel General's Office and the Social Welfare Secretariats of the Offices of the President and the First Lady signed an inter-agency coordination agreement for the reception and care of Guatemalan migrant children and adolescents. In November 2018, the updated National Protocol for the Reception and Care of Migrant Children and Adolescents was presented and, in 2019, the Ministry of Foreign Affairs led a campaign to raise awareness of the Protocol. Furthermore, two inter-agency actions were taken in 2018 and 2019: the first was the re-establishment of the Commission for the Comprehensive Care of Migrant Children and Adolescents, which had been created in 2014 but whose mandate had expired in 2018, and the second was the development of an inter-institutional support pathway for foreign migrant children and adolescents in Guatemalan territory. In 2020 and 2021, the Ministry coordinated efforts between agencies for the protection and reception of migrant children and adolescents arriving from Mexico and the United States in the context of the pandemic.

44. The aim of the Social Welfare Secretariat of the Office of the First Lady is to identify people in highly vulnerable situations and to provide them with the necessary protection and care, based on the Protocol for Comprehensive Care for Migrant Families through a Rights-based and Psychosocial Approach (see annex 1) and the National Protocol for the Reception and Care of Migrant Children and Adolescents in Guatemala (see annex 2).

45. The Secretariat provides Guatemalan migrant family units returned by air and land from the United States and Mexico with comprehensive services through a human rights-based and psychosocial approach, prioritizing coverage of their immediate needs through jointly coordinated humanitarian support and assistance.

46. The support, reception and follow-up pathway comprises the following steps:

By air*Step 1*

- Agency: Ministry of Foreign Affairs through Guatemalan consulates abroad.
- Action: Consular protection.
- Description: The Guatemalan consular representative abroad interviews children and adolescents and their families to establish their nationality, document their migration status and determine whether they need special care or any other international protection measure. This information is communicated to the State of transit or destination.

Step 2

- Agency: Ministry of Foreign Affairs through Guatemalan consulates abroad.
- Action: Return of families.
- Description: Once a decision is made to repatriate, the Guatemalan consular representative will notify the Ministry's Directorate General of Consular and Migration Affairs of the date and time of arrival of the flights to Guatemala City. This information must be sent at least 12 hours prior to repatriation and before 5 p.m. The Directorate will pass on to the Social Welfare Secretariat and the Guatemalan Migration Institute all information relating to the migrant families being returned.
- Times: Repatriations by air are carried out Monday to Friday during working hours in Guatemala, between 8 a.m. and 5 p.m.
- Action: Coordinating the reception of families.
- Description: The programme administrators make arrangements for transport on the day of reception.

Step 3

- Agency: Ministry of Foreign Affairs.
- Action: Receipt of information from the Directorate General of Consular and Migration Affairs.
- Description: The Ministry sends the Secretariat information on the family, including the number of family members and special assistance needs, if any.

Step 4

- Agency: Social Welfare Secretariat of the Office of the First Lady, through the designated social work team.
- Action: Locating family members.
- Description: If appropriate, the relatives of the migrant family will be informed of the date, time and place of repatriation to establish whether they can help the family return to their community of origin. If so, the Secretariat will arrange transfer assistance.

Step 5

- Agency: Social Welfare Secretariat of the Office of the First Lady, through the designated programme administrators.
- Action: Coordinating the reception of families.
- Description: The programme administrators make arrangements for transport on the day of reception.

Step 6

- Agency: Social Welfare Secretariat of the Office of the First Lady, through the designated psychosocial team.
- Action: Inter-agency coordination for the reception of families.
- Description: Designated officials call the state and civil society institutions supporting the return process to inform them of the number of returning families and their members, the date and time of their arrival and the assistance that they will likely need, such as food, accommodation, hygiene kits, transport to shelters and arrangements for travel to their communities of origin.

Step 7

- Agency: Social Welfare Secretariat of the Office of the First Lady, through the designated programme psychosocial team.
- Action: Reception of migrant families.
- Description: Designated officials receive the migrant families directly.

Step 8

- Agency: Social Welfare Secretariat of the Office of the First Lady, through the designated programme psychosocial team.
- Action: Assistance for families.
- Description: The Secretariat's psychosocial team supports families from the moment they first reach Guatemalan soil in order to build empathy and begin identifying any protection or humanitarian assistance needs. They also escort the families to the migrant registration office of the Directorate General of Migration in case of arrival at air force facilities.

Step 9

- Agency: Social Welfare Secretariat of the Office of the First Lady, through the designated programme psychosocial team.
- Action: Explanation of the reception procedure to families.
- Description: Family members receive information on the reception procedure in Guatemala and the services available to them. In medical or psychiatric emergencies, the Ministry of Health and Social Welfare will intervene.

Step 10

- Agency: Directorate General of Migration, through migration officials.
- Action: Migrant registration by designated officials.
- Description: At Guatemalan Air Force facilities, the Directorate will register migrant families and refer them to Secretariat staff for continued support. At the facilities of La Aurora International Airport, the Directorate will register migrant families after they have met with the Secretariat's psychosocial team.

Step 11

- Agency: Ministry of Health and Social Welfare.
- Action: Medical care.
- Description: Ministry staff will carry out medical evaluations of returning families, administer the necessary medicines and, if required, arrange for them to be transferred to a hospital for treatment.

Step 12

- Agency: Social Welfare Secretariat of the Office of the First Lady, through the designated psychosocial team.
- Action: Interviewing returning families.
- Description: The Secretariat's psychosocial team conducts interviews with returning families to identify their protection or humanitarian assistance needs. If the family environment is unsuitable and a child or adolescent is in need of protection, the case will be referred to the Counsel General's Office. If no child rights violations are found, the Secretariat will proceed to step 17.

Step 13

- Agency: Social Welfare Secretariat of the Office of the First Lady and the Counsel General's Office.
- Action: Transfer of potential cases of child rights violations.
- Description: The Secretariat's psychosocial team informs the Counsel General's Office that a child or adolescent in need of protection has been identified. The Office will gather the relevant information and take the appropriate action.

Step 14

- Agency: Counsel General's Office.
- Action: Assessment of potential violations of the rights of children or adolescents.
- Description: On discovering a probable threat to or violation of the rights of a child or adolescent, the Counsel General's Office will take the necessary administrative or legal action to offer legal protection if such threat or violation prevents family reunification.

Step 15

- Agency: Social Welfare Secretariat of the Office of the First Lady, through the designated psychosocial team.
- Action: Assessment of potential violations of the rights of adults.
- Description: On discovering a probable threat to or violation of the rights of an adult, staff from the Secretariat's psychosocial team will advise the person on how to file a complaint.

Step 16

- Agency: Social Welfare Secretariat of the Office of the First Lady, through the designated psychosocial team.
- Action: Assistance for families.
- Description: The Secretariat's psychosocial team will manage and provide the necessary assistance for the family.

Step 17

- Agency: Social Welfare Secretariat of the Office of the First Lady, through the designated programme psychosocial team.
- Action: Reunification of families with relatives.
- Description: Checks are made to ensure reunification with the family members and/or relatives previously contacted.

Step 18

- Agency: Social Welfare Secretariat of the Office of the First Lady, through the designated programme psychosocial team.
- Action: Shelter arrangements for families, if required.
- Description: The Secretariat confirms shelter arrangements with the cooperating institutions and organizes transport for the families.

Step 19

- Agency: Social Welfare Secretariat of the Office of the First Lady, through the designated programme psychosocial team.
- Action: Managing relocation of families to their communities of origin.
- Description: The Secretariat will coordinate the return of families with government and non-government institutions where the families lack the financial resources to travel to their communities of origin. Secretariat staff will arrange transportation for families and accompany them to the various bus terminals.

Step 20

- Agency: Social Welfare Secretariat of the Office of the First Lady.
- Action: Follow-up on the reintegration of families into the community.
- Description: The Secretariat's departmental offices will follow up on the families in their communities of origin for a period of six months. This involves coordination and referrals within the Secretariat, home visits to the family, their inclusion in Secretariat programmes, and coordination and referral to services provided by other institutions.

By land*Step 1*

- Agency: Ministry of Foreign Affairs through Guatemalan consulates abroad.
- Action: Consular protection.
- Description: The Guatemalan consular representative abroad interviews children and adolescents and their families to establish their nationality, document their migration status and determine whether they need special care or any other international protection measure. This information is communicated to the State of transit or destination.

Step 2

- Agency: The Ministry of Foreign Affairs, which shall give advance notice of the number of families to be repatriated by land and their time of arrival.
- Action: Transmission of information by email.
- Description: Once a decision is made to repatriate, the Guatemalan consular representative will notify the Ministry's Directorate General of Consular and Migration Affairs of the date and time of the bus's arrival at the returnee centre in Tecún Umán, Department of San Marcos. This information must be sent at least 12 hours prior to repatriation and before 5 p.m. The Directorate will forward to the Social Welfare Secretariat and the Guatemalan Migration Institute all information relating to the migrant families being returned.

Step 3

- Agency: Social Welfare Secretariat of the Office of the First Lady, through the psychosocial team.
- Action: Arrangements for the reception and assistance of migrant families.

- Description: Once a decision is made to repatriate and the Secretariat has been notified, comprehensive support will be arranged for the families upon reception in Tecún Umán, San Marcos.

Step 4

- Agency: Social Welfare Secretariat of the Office of the First Lady, through the psychosocial team.
- Action: Locating family members.
- Description: If appropriate and if contact information is available, the relatives of the family will be informed of the date and time of repatriation to establish whether they can help the family return to their community of origin. The Secretariat should arrange transport assistance for migrants in situations of vulnerability.

Step 5

- Agency: Social Welfare Secretariat of the Office of the First Lady, through the psychosocial team.
- Action: Inter-agency coordination for the reception of migrant families.
- Description: The psychosocial team calls the state institutions and international partners supporting the return process to inform them of the number of returning families and their members, the date and time of their arrival and the assistance that they will likely need, such as food, accommodation, hygiene kits, transport to shelters and arrangements for travel to their communities of origin.

Step 6

- Agency: Social Welfare Secretariat of the Office of the First Lady, through the psychosocial team.
- Action: Supporting families alighting from the bus and accompanying them to the waiting room.
- Description: The Secretariat's team is involved in receiving and accompanying migrant families from the moment they first reach Guatemalan soil in order to build empathy and begin identifying any protection or humanitarian assistance needs. They also guide the families through the registration process of the Directorate General of Migration.

Step 7

- Agency: Guatemalan Migration Institute.
- Action: Official registration of entry into the country.
- Description: Guatemalan Migration Institute staff officially register the entry of persons, including children and adolescents accompanied by adults, into the country.

Step 8

- Agency: Social Welfare Secretariat of the Office of the First Lady, through the psychosocial team.
- Action: Facilitating migrant families access to telephones and offering humanitarian assistance.
- Description: The psychosocial team facilitates families' access to telephones and provides humanitarian assistance at the reception centre.

Step 9

- Agency: Social Welfare Secretariat of the Office of the First Lady, through the designated psychosocial team.

- Action: Interviewing returning families.
- Description: The Secretariat's psychosocial team conducts interviews with returning families to identify their protection or humanitarian assistance needs. If the family environment is unsuitable and a child or adolescent is in need of protection, the case will be referred to the Counsel General's Office. If no child rights violations are found, the Secretariat will proceed to step 12. In case of a medical or psychiatric emergency, the persons concerned will be referred to a health facility of the Ministry of Health and Social Welfare.

Step 10

- Agency: Social Welfare Secretariat of the Office of the First Lady and the Counsel General's Office.
- Action: Transfer of potential cases of child rights violations.
- Description: The Secretariat's psychosocial team informs the Counsel General's Office that a child or adolescent in need of protection has been identified. The Office will gather the relevant information and take the appropriate action.

Step 11

- Agency: Counsel General's Office.
- Action: Assessment of potential violations of the rights of children or adolescents.
- Description: On discovering a probable threat to or violation of the rights of a child or adolescent, the Counsel General's Office will take the necessary administrative or legal action to offer legal protection if such threat or violation prevents family reunification.

Step 12

- Agency: Ministry of Health and Social Welfare.
- Action: Medical care.
- Description: Ministry staff will carry out medical evaluations of returning families, administer the necessary medicines and, if required, arrange for them to be transferred to a hospital for treatment.

Step 13

- Agency: Social Welfare Secretariat of the Office of the First Lady, through the designated psychosocial team.
- Action: Verification of potential violations of the rights of adults.
- Description: On discovering a probable threat to or violation of the rights of an adult, Secretariat staff will advise the person on how to file a complaint.

Step 14

- Agency: Social Welfare Secretariat of the Office of the First Lady, through the psychosocial team.
- Action: Providing migrant families with information and guidance.
- Description: If no situation of risk or vulnerability is found, the Secretariat's team will provide any information requested by the migrant families, such as location of the bus terminal, timetables, bus fares, office locations of public and private institutions, banks, requirements for processing local passes for border town residents and the complaints procedure.

Step 15

- Agency: Social Welfare Secretariat of the Office of the First Lady.

- Action: Follow-up on the reintegration of migrant families into the community.
- Description: The Secretariat's departmental offices will follow up on vulnerable families in their communities of origin for a period of six months. This involves coordination and referrals within the Secretariat, home visits to the family, their inclusion in Secretariat programmes, and coordination and referral to services provided by other public and private institutions.

47. The Guatemalan authorities competent to deal with the second scenario, relating to foreign child and adolescent migrants in Guatemalan territory, are the Social Welfare Secretariat of the Office of the President and the Counsel General's Office.

48. The Social Welfare Secretariat has been the lead agency for essential services for unaccompanied migrant children and adolescents since the entry into force of the Migration Code.

49. Through the Department for Unaccompanied Migrant Children and Adolescents, attached to the Directorate of Special Protection and Non-Residential Care, the Secretariat has undertaken important steps to provide ongoing specialized care to unaccompanied children and adolescents in keeping with their best interests. These include:

(a) Shelters:

- Strengthening and updating of the reception and assistance processes for unaccompanied migrant children and adolescents at the "Casa Nuestras Raíces" shelters in Guatemala City and Quetzaltenango
- Establishment of special reception rooms at La Aurora International Airport and the Guatemalan Air Force base for unaccompanied children and adolescents returning by air
- Introduction of the emergency assistance protocol for foreign migrant children and adolescents in Guatemala who are unaccompanied or have been separated from their families
- Joint implementation of a guide for evaluating the best interests of migrant children and adolescents by the Counsel General's Office and the Secretariat
- Preparation and implementation of guidelines for the care and protection of unaccompanied migrant children in the context of COVID-19
- Launch of the "Primero" computer system with support from UNICEF. The purpose of this system is to manage cases and provide timely assistance to children and adolescents
- Updating of the protocol for the reception of unaccompanied children and adolescents to include assistance for children in transit, psychosocial tools for the determining the best interests of the child and follow-up, with the support of UNICEF through the Missionaries of San Carlos Scalabrinianos
- Design of a child welfare officer's handbook and a psychosocial support toolkit with the support of UNICEF through the Missionaries of San Carlos Scalabrinianos
- Updating of the psychosocial interview guide with the support of UNICEF through the Missionaries of San Carlos Scalabrinianos
- Preparation of a protocol for assisting unaccompanied or separated child migrants, child claimants for refugee status and refugees and children in need of international protection temporarily placed in foster families, with the support of the Office of the United Nations High Commissioner for Refugees through the Refugio de la Niñez (Children's Refuge) association
- Hiring of four child welfare officers, four psychologists and two doctors with the support of UNICEF through the Refugio de la Niñez
- Renovation of the Casa Nuestras Raíces shelter in Guatemala, with the support of the United States Agency for International Development through the International Organization for Migration (IOM)

- Renovation of the Casa Nuestras Raíces shelter in Quetzaltenango, with the support of UNICEF through the Missionaries of San Carlos Scalabrinianos
- Work to open a specialized shelter to care for unaccompanied foreign migrant children and adolescents in Guatemala, through the comprehensive regional protection and solutions framework
- (b) Training centre service:
 - Strengthening and updating of assistance procedures for unaccompanied and at-risk child migrants in an irregular situation at the “Quédate” (Stay) training centres in Santa María Visitación, Department of Sololá, and Joyabaj, Department of El Quiché
 - Preparation and implementation of the Protocol for the Reintegration of Unaccompanied and At-Risk Child Migrants in an Irregular Situation at the Quédate training centres
 - Programme for 400 specialized and extracurricular scholarships for children and adolescents at the Quédate training centres in Santa María Visitación and Joyabaj, with the support of the Embassy of Japan through IOM
 - Tripartite coordination between the Joyabaj municipal authorities, IOM and the Social Welfare Secretariat of the Office of the First Lady for the refurbishment of a municipal property to function as the Joyabaj Quédate Training Centre, at its own dedicated premises
 - Tripartite coordination between the Joyabaj municipal authorities, IOM and the Social Welfare Secretariat to open a Quédate training centre in Malacatancito, Department of Huehuetenango
 - Collaboration with IOM to open a Quédate training centre in Tacaná, San Marcos

50. In 2003, Congress approved the Act on the Comprehensive Protection of Children and Adolescents (Decree 27-2003) to protect and defend the human rights of children and adolescents, in line with the international treaties and conventions ratified by Guatemala. Article 108 of the Act provides that the Office of the Advocate for Children and Adolescents under the Counsel General’s Office has the following powers within the system of protection:

“(a) To act as the legal representative of children and adolescents who lack such representation;

“(b) To lead, ex officio or at the behest of a party or a court, investigations into cases of children and adolescents whose rights have been threatened or violated, actively intervening in judicial protection proceedings. To this end, the Office shall have at least one counsel for children and adolescents in the jurisdiction of each juvenile court;

“(c) To lodge complaints with the Public Prosecutor’s Office in cases of children or adolescents who have been victims of crime and who do not have a legal representative, and to appear in any criminal proceedings to defend their interests;

“(d) To conduct hearings and issue legal opinions in all judicial, notarial and administrative procedures established by law, enforcing the rights and guarantees of children and adolescents under the Constitution, international treaties and conventions accepted and ratified by Guatemala and this Act. The Office of the Prosecutor for Juveniles shall be responsible for investigating criminal acts committed by juveniles.”

51. In 2010, the Alba-Keneth Alert System Act and the subsequent amendments thereto were adopted by Congressional Decree No. 28-2010. The Act provides that the Counsel General’s Office has a legal mandate to be a member of and preside over the National Coordinating Agency for the Alba-Kenneth Alert System. The System, in turn, functions through the Operational Unit of the National Coordinating Agency, which is directed and coordinated by the Office of the Advocate for Children and Adolescents and is the executing and operating body in charge of the coordination and follow-up on the search for and tracing and rescue of missing or abducted children and adolescents.

52. In addition, the Migration Code states that the Counsel General’s Office is part of the Council for Assistance and Protection, an entity of the national immigration authority. A

series of competences for the various migration institutions are established under the Code and article 170 sets out the basic principles that members must follow when dealing with children and adolescents. It should be emphasized that decisions related to the status of children and adolescents must “fully respect the right of defence and the right to due process”. Articles 173 (c), 174 and 175 (c) establish general guidelines for the Counsel’s involvement in the assistance and reception of unaccompanied migrant children from Guatemala and/or abroad, particularly when there is a need for special protection measures and in follow-up on the family reunification process.

53. It should be noted that, in accordance with its constitutional and legal mandate, the Counsel General’s Office, through the Office of the Advocate for Children and Adolescents, is tasked with providing children and adolescents whose human rights have been threatened or violated and those who are unaccompanied with specialized support. The Office must ensure that all children and/or adolescents are guaranteed comprehensive assistance and that the migration process has not jeopardized their emotional stability or integrity.

54. In order to carry out its functions, pathways and protocols have been created for the assistance and reception of unaccompanied migrant children and adolescents to ensure that their rights are fully upheld in accordance with the applicable legislation.

55. The Migrant Children and Adolescents and International Abduction Unit is responsible for the reception, assistance, support and provisional legal representation of unaccompanied migrant children and adolescents. Its duties vis-à-vis Guatemalan child and adolescent migrants include:

- Coordinating at both the institutional and inter-agency levels the reception of child or adolescent returnees who enter at any border
- Assisting with the transfer of children and adolescents to special shelters or to the competent courts
- Coordinating institutional and inter-agency efforts to place the returnee in a family environment
- Supporting coordinated action to contact the family of the returned child or adolescent (this involves comparing reports by psychologists and social workers on the family with the child’s interview in order to make a decision on family reunification)
- Determining whether the child or adolescent should be reunited with his or her family member or whether a protection process should be initiated, based on the information available to the Social Welfare Secretariat of the Office of the President
- Reuniting the returned child or adolescent with his or her family using administrative records
- Referring cases of returned children or adolescents to other offices or bodies for monitoring of special cases

56. In cases of foreign migrant children and adolescents, the Unit’s functions are to:

- Provide support for unaccompanied foreign migrant children and adolescents in Guatemalan territory
- Process repatriation orders issued by a court
- Cooperate with consular authorities on the repatriation of children and adolescents
- Accompany and transfer children and adolescents to borders, airports, embassies or consulates while they are under the responsibility of the consular authority or its counterpart in the Office of the Advocate for Children and Adolescents
- Represent children and adolescents who file applications for refugee status with the International Migration Office
- Inform the courts of actions undertaken to repatriate unaccompanied foreign migrant children and adolescents in Guatemalan territory to their country of origin

- Arrange and coordinate concrete steps with other central authorities until the process is completed
- Record and update the procedures carried out in the computer system
- Conduct all procedures to determine and assess the best interests of the child throughout the entire case management process, including communication with the entity responsible for special protection of children in the child's country of origin

57. The Unit carries out activities within the framework of the National Protocol for the Reception and Care of Migrant Children and Adolescents in Guatemala and uses support pathways for migrant children and adolescents. While these pathways vary depending on whether such migrants are returned by air or land, they always provide maximum protection and ensure that the needs of the children and adolescents are met. Within these pathways, the Counsel General's Office is responsible for:

(a) In case of return by land, receiving the children and adolescents at the border point where they arrive. The number of children and adolescents received is checked against a list and they are transferred to the Casa Nuestras Raíces shelter in Quetzaltenango. Meanwhile, the family is searched for, located and interviewed in order for a decision to be taken regarding family reunification or social integration. If a threat to or violation of their rights is detected by the Counsel General's Office, the Social Welfare Secretariat or another institution, administrative or legal action is taken to provide legal protection if such threat or violation prevents family reunification.

(b) It is important to note that, when there is a very large number of children and the shelter in Quetzaltenango reaches maximum capacity, they may be housed in Guatemala City;

(c) In case of return by air, accompanying children and adolescents on arrival at Guatemalan Air Force facilities or La Aurora International Airport and throughout all administrative and migration procedures, together with Social Welfare Secretariat staff, for their subsequent transfer to the Casa Nuestras Raíces shelter in Guatemala City. As soon as notice is received of the arrival of the children and adolescents, the task of searching for, locating and interviewing their families begins in order to determine whether they offer a suitable environment for reintegration of the child or adolescent, which is the final step in the pathway. If necessary, the case is brought before a court for a judge to decide.

58. At all stages of the repatriation and reunification process, the physical and psychosocial status of the children is monitored. They are informed of all measures adopted on their behalf and of what will happen at each stage. Action is always taken in accordance with the principle of the best interests of the child.

59. In January 2019, the Counsel General's Office approved a guide for assessing the best interests of migrant children and adolescents (see annex 3) based on the general comments of the Committee on the Rights of the Child, the legal framework for the protection of migrant children and adolescents in Guatemala and its own experience.

60. The guide sets out a psychosocial approach that considers the historical and social background of each child or adolescent, enabling the multidisciplinary team to collect information from the child or adolescent using the appropriate techniques. The aim of this approach is to find a lasting solution that is in the best interests of foreign migrant children and adolescents in Guatemalan territory who are unaccompanied or have been separated from their families.

61. The assessment to determine the best interests of the child is carried out jointly by staff of the Migrant Children and Adolescents and International Abduction Unit and the Social Welfare Secretariat, which take a series of measures in order to ensure the best protection for the child or adolescent. Various factors must be considered during the assessment procedure, including:

- The age and maturity of the child or adolescent
- The views and identity of the child or adolescent
- The preservation of the family environment and emotional relationships

- The need for the solutions adopted to be stable
- The child's or adolescent's rights to health and education
- The irreversible effect of the passage of time
- The transition to adulthood and independence

62. The guide was updated in 2020 to improve the various procedures and measures, bearing in mind the natural evolution of this type of process and the Counsel General's Office wish to keep abreast of new standards, recommendations and good practices of human and child rights organizations. The updated document is just awaiting official approval before it can be circulated.

63. Family reunification is unquestionably a fundamental right of all migrant children and adolescents, and the State has a responsibility to ensure respect for this right, which is inherent in the universal recognition of the family as the foundation of society.

64. Family reunification occurs after it is determined, through evaluation of the best interests of the child or adolescent and psychosocial assessments, whether the relatives who come forward are able to offer a suitable environment for the care and protection of the child or adolescent. If they cannot offer a suitable environment and a need for special protection owing to a human rights violation is identified, the Counsel General's Office, as part of its duty to legally represent children and adolescents, will apply to the competent court for protection measures.

65. Returning Guatemalan child migrants are cared for and their families are given psychosocial assessments by multidisciplinary teams in the Departments of Guatemala and Quetzaltenango, together with the Social Welfare Secretariat, at Casas Nuestras Raíces shelters, where families are reunited if they are to be integrated in the host country.

66. To this end, a road map and the necessary documentation for reunification have been agreed (see annex 4). In the context of the pandemic, the road map also included a requirement for the child or adolescent to have a negative COVID-19 test before being handed over to his or her family. Otherwise, the child or adolescent receives care in accordance with a guide for epidemiological surveillance of acute respiratory infections due to COVID-19, published by the Ministry of Health and Social Welfare.

67. Since January 2021, the Office of the Advocate for Children and Adolescents has been working with the Social Welfare Secretariat on a guide for family reunification at Casa Nuestras Raíces in Guatemala City. The purpose of the guide is to establish various procedures and ensure that physical spaces are designated at the shelter for the completion of the administrative processes involved in reuniting Guatemalan migrant children and adolescents who have been returned by air or land with their families.

K. Follow-up information relating to paragraph 45 (b) of the concluding observations

68. The Counsel General's Office provides information on measures to promote sound, equitable, humane and lawful conditions in connection with international migration of workers and members of their families, especially for children in situations of international migration, as requested in the Committee's concluding observations.

69. As a result of the mass migration phenomenon, Guatemala has been a country of origin, transit, destination and return of international migrants. The Counsel General's Office has recognized the need to take action through the Office of the Advocate for Children and Adolescents to help provide humanitarian services and assistance to all unaccompanied foreign migrant children who enter and pass through the national territory.

70. Accordingly, the Counsel General's Office approved, in its Decision No. 11-2019 of 16 January 2019, a protocol for assisting unaccompanied foreign migrant children and adolescents present in Guatemalan territory as a result of the displacement of persons (see annex 5). The aim is to establish technical procedures applicable within the field of competence of the Counsel General's Office for providing assistance and protection and

dealing with displaced groups of persons, especially unaccompanied foreign children and adolescents, in Guatemalan territory.

71. To enhance the efforts of the institution's multidisciplinary teams to protect such children, the protocol sets out three procedures or scenarios, always taking into account the assessment and determination of the best interests of the child or adolescent:

- Handling of cases where unaccompanied foreign migrant children and adolescents in Guatemalan territory require special protection. This procedure outlines the response when foreign children and adolescents in need of special protection or legal representation are identified. The Office's assistance protocol sets out the various steps to follow when processing an unaccompanied foreign child or adolescent discovered in the national territory. If, after steps are taken to ensure that there is no risk to his or their life or physical integrity, children or adolescents express a desire to return to their country of origin, then they are voluntarily repatriated, by land if they are from one of the countries bordering Guatemala (Mexico, Belize, El Salvador and Honduras) or by air if they are from another country. Such returns take place with the involvement and assistance of the Ministry of Foreign Affairs. In 2019 and 2020, the Counsel General's Office participated in the repatriation of a total of 254 foreign migrant children and adolescents who had received assistance in accordance with the road map.
- Support for unaccompanied foreign children and adolescents applying for refugee status. This procedure outlines the response and support for children and adolescents found to be in need of international protection following an initial assessment or a direct verbal request from the child or adolescent. Under the assistance protocol, the Counsel General's Office conducts assessments and provides support during the proceedings before the Guatemalan Migration Institute. Once a decision has been made on the application, the relevant care measures for the child or adolescent are adopted. If the application is denied, an appeal can be lodged. It can also be determined whether the child or adolescent may be eligible for other extraordinary protection measures under article 81 of the Migration Code, which include: (a) residency for humanitarian reasons; (b) residency affording special support; and (c) national protection mechanisms for children and adolescents through legal assistance from the Counsel General's Office.
- Arrangements for assisting unaccompanied foreign migrant children and adolescents in Guatemalan territory. This procedure establishes the need to organize and initiate actions based on the procedures above and designate staff to provide an adequate response in cases of emergency or mass migrant flows through Guatemalan territory.

L. Follow-up information relating to paragraph 45 (c) of the concluding observations

72. When following up on pending cases involving Guatemalan mothers and fathers deported from the United States and children and adolescents who travelled alone and are in the custody of the United States authorities, the National Civil Police follow the Police Action Protocol for Foreign Migrant Children and Adolescents who are Unaccompanied or Separated from their Families, which was issued under Decision No. 07-2018 of the Director General of the National Civilian Police and which is currently being updated; the National Protocol for the Reception and Care of Migrant Children and Adolescents, issued by the Commission for the Comprehensive Care of Migrant Children and Adolescents; and the Protocol for Inter-Agency Coordination in the Repatriation of Victims of Human Trafficking of the Inter-Institutional Commission against Human Trafficking.

73. The Office of the Deputy Director for Crime Prevention, through the Department for Children and Adolescents of the National Civil Police, trains police personnel on the application of the Police Action Protocol. In addition, the Human Trafficking Section of the National Civil Police implements programmes through the relevant institutions to raise awareness among migrant children and adolescents of their vulnerability and the risks to their

human rights resulting from their exposure to trafficking-related crimes when migrating without their parents or guardians.

74. The National Civil Police is responsible for accompanying and ensuring the physical safety of persons being repatriated to their country when travelling through the national territory.

75. The Ministry of Foreign Affairs maintains a presence at the immigration hall in the Guatemalan Air Force base in order to inform Guatemalan returnees that they may request the Ministry to follow up on their case if they have been deported and their minor children have been left in the custody of the United States authorities.

76. In the case of children and adolescents, each consular mission works closely with the local authorities in the United States to examine cases and help determine the best interests of the child. Furthermore, the embassy acts as an intermediary with institutions in that country to facilitate access to information for follow-up.

77. The Ministry's Directorate of Consular Affairs receives the identifying documents of children or adolescents and, if the competent authority decides that it is in their best interests to return to their country of origin, the Ministry makes arrangements with the Counsel General's Office for the children or adolescents to be received and to identify the family environment that best suits their interests. The Ministry also has an assistance fund for Guatemalan migrants who are in a situation of vulnerability or for cases where the migrant has died abroad. The fund is available to consulates when the competent authority or a minor's family lack the funds for timely repatriation.
