



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

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

**Second periodic report submitted by Chile under
article 73 of the Convention pursuant to the
simplified reporting procedure, due in 2016^{*}, ^{**}**

[Date received: 15 May 2019]

* The present document is being issued without formal editing.
** The annexes to the present report can be consulted on the Committee's website.



1. The second periodic report of Chile on the implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families was prepared by the Ministry of the Interior, with the assistance of the Ministry of Justice and Human Rights, in accordance with article 73 and the guidelines on the simplified reporting procedure. It responds to the list of issues prior to reporting (CMW/C/CHL/QPR/2) formulated by the Committee in April 2018.

2. The State of Chile undertakes to provide appropriate responses for any issues for which no up-to-date or detailed information is provided herein during the next constructive dialogue with the Committee, due to be held during its thirty-second session in April 2020.

Section I

A. General information

Reply to the issues raised in paragraph 1

3. Chile made reservations to article 22 (5) and article 48 (2). The reasons for making the reservations have not changed.

Reply to the issues raised in paragraph 2

Paragraph 2 (a)

4. On 10 April 2018, the executive branch submitted instructions for modernizing the migration bill of 2013 to the Chamber of Deputies.¹ The core aims of the bill and the instructions are: to guarantee protection and fair and humane treatment for regular migrants and persecuted people who arrive in Chile; to ensure safe, orderly and regular migration; to ensure equality of rights and obligations for migrants; and to support their integration into the national community.

5. Participation, integration and inclusion are the fundamental principles of the new migration policy. In accordance with Act No. 20.500² and Act No 18.575,³ the Office of the Undersecretary of the Interior has made ongoing civic participation in institutional public management a priority, harnessing the mutual commitment of citizens and State to refine public policies and their implementation at the national and community levels.

6. A series of measures have been introduced to facilitate the integration and inclusion of migrants in Chile, based on the understanding that efforts should be focused on improving social cohesion, promoting diversity and fostering intercultural relations while at the same time improving access to the local-level public and private networks that enable migrants to exercise their rights, facilitate the integration of foreign citizens of any nationality and allow Chilean society to adapt to the new circumstances that current migration flows bring with them.

7. Responding to these circumstances, the Office of the Undersecretary of the Interior decided that a new representative and pluralistic national advisory council,⁴ with a broad mandate and a membership drawn from organizations with competence in the respective fields, should be created. A resolution⁵ regulating the operation and composition of the Council was adopted,⁶ and, on 11 October 2018, an online poll was held to elect its

¹ Boletín 8970-06.

² Ley núm. 20.500, sobre asociaciones y participación ciudadana en la gestión pública.

³ Ley orgánica constitucional de bases generales de la administración del Estado.

⁴ Por medio de R.E. núm. 1.957 del 09.04.2018.

⁵ Resolución Exenta 2.235 de 8 de mayo de 2018, que Regula el Funcionamiento y Composición del Consejo Consultivo Nacional de la Subsecretaría del Interior.

⁶ A partir de estos fundamentos, se estableció por parte de la SI realizar un proceso previo de Registro de las Organizaciones Sociales sin fines de lucro, las que debían acreditar su vigencia, órganos de administración o directorio, domicilio y objetivos relacionados con las materias de cada grupo

members in which 91 per cent of officers working in migration-related areas voted. The results of the election were announced on 26 October 2018.

Paragraph 2 (b)

8. In order to harmonize domestic legislation with the Convention, the migration bill has been designed to ensure the promotion and protection of the fundamental rights of all migrants.⁷ The bill provides for the creation of a new institutional structure, the Council on Migration Policy, which will be responsible for developing a clear and transparent migration policy that is regularly and systematically updated. The bill also envisages the creation of a national migration service, which will be responsible for implementing the policy and will have the structure and capacity to carry it forward, and introduces a range of migration categories, including temporary residence for work and study as well as short stays for foreign transients and tourists. Migrants who have obtained temporary residency and wish to remain indefinitely are granted permanent residency, and can then apply for Chilean nationality after five years. In addition, the bill extends to migrants the right to access health care, education, social security and other state-funded benefits, besides providing for the modernization of the system for validating and recognizing academic and professional qualifications and the non-criminalization of illegal residency.

9. The discretion granted to the investigative police at borders is limited by the principle of non-discrimination. In addition, to help officials to determine whether to admit a person as a tourist, a protocol has been adopted that sets out objective criteria for such decisions, namely, length of stay in the country, the person's available resources, where they will be staying and in some cases an objective estimate of their financial resources based on data from the Office of the Undersecretary for Labour.

10. The provisions regulating the main powers of the investigative police in matters of immigration are contained in article 5 of the Organic Act on the Investigative Police,⁸ article 10 of the Aliens Act⁹ and article 4 of the regulations implementing the Aliens Act.¹⁰

temático. De esta forma, cada organización quedó vinculada al grupo temático acorde sus características y a lo indicado por la organización en la declaración jurada simple de idoneidad.

Luego de lo anterior y revisados los requisitos establecidos para el registro, se procedió a hacer un llamado por parte de la comisión electoral para que las organizaciones que así lo quisieran inscriban a sus candidatos. Esto se efectuó por medio de un procedimiento on-line que cumplió todos los estándares de transparencia e información verificable, con formularios individualizados que contenía nombre, cédula de identidad y/o cédula para extranjeros, domicilio, cargo, correo electrónico y un resumen curricular del postulante, además de una declaración jurada de inhabilidad, en donde el candidato acreditaba que no tenía impedimentos o causales de inhabilidad para el cargo.

La elección se estableció por medio de voto electrónico, en un sitio web, especialmente habilitado para tal efecto, asegurando el voto secreto y que cada organización solo haya tenido derecho a un voto dentro del grupo temático al que pertenecía. Se efectuó para el llamado a las organizaciones, un trabajo territorial en todo Chile, por medio de las gobernaciones respectivas, para que dieran a conocer a las organizaciones interesadas, la posibilidad de integrar de este organismo de participación ciudadana.

Se efectuaron tres actividades masivas informativas en la RM y además de lo anterior se habilitó la información en el sitio web de la SI.

⁷ El Estado reconoce a los extranjeros la igualdad ante la ley, la plenitud de sus derechos laborales y el acceso a la salud y la educación preescolar, básica y media al igual que a todos los nacionales, la reunificación familiar, el envío de remesas a sus familiares, la promoción de los DDHH, la no criminalización y el debido proceso.

⁸ Artículo 5° de la Ley Orgánica de la PDI. – Corresponde en especial a Policía de Investigaciones de Chile “[...] controlar el ingreso y la salida de personas del territorio nacional; adoptar todas las medidas conducentes para asegurar la correcta identificación de las personas que salen e ingresan al país, la validez y autenticidad de sus documentos de viaje y la libre voluntad de las personas de ingresar o salir de él; fiscalizar la permanencia de extranjeros en el país, representar a Chile como miembro de la Organización Internacional de Policía Criminal (INTERPOL), y dar cumplimiento a otras funciones que le encomienden las leyes”.

⁹ Artículo 10° de la Ley de Extranjería. – Corresponderá a la Dirección General de Investigaciones controlar el ingreso y salida de los extranjeros y el cumplimiento de las obligaciones que este decreto ley les impone, como asimismo, denunciar ante el Ministerio del Interior las infracciones de que tome

Paragraph 2 (c) (i) and (ii)

11. The migration bill, which is currently in its second reading in the Senate, provides for the free movement of persons who have entered and are staying in the country legally; equal rights and obligations for migrants and nationals;¹¹ labour rights;¹² access to health care;¹³ social security, State benefits,¹⁴ education¹⁵ and housing;¹⁶ family reunification;¹⁷ respect for the best interests of children and adolescents;¹⁸ sending and receiving remittances;¹⁹ and due process.²⁰

conocimiento, sin perjuicio de adoptar las demás medidas señaladas en este decreto ley y en su reglamento. En aquellos lugares en que SI ue no haya unidades de Investigaciones, Carabineros de Chile cumplirá dichas funciones. Sin embargo, en los puertos de mar en que no existan dichas unidades, ellas serán cumplidas por la Autoridad Marítima a que se refiere el artículo 2°, letra e), del Decreto ley núm. 2.222, de 1978.

¹⁰ Artículo 4° del Reglamento de Extranjería. – Corresponderá a Policía de Investigaciones de Chile, o a Carabineros de Chile en aquellos lugares donde no existen Unidades de Policía de Investigaciones, controlar el ingreso y egreso de los extranjeros e impedir que entren o salgan del territorio nacional personas que no cumplan los requisitos. Le corresponderá, asimismo, denunciar ante el Ministerio del Interior las infracciones de que tome conocimiento, sin perjuicio de cumplir las demás obligaciones que le impone la Ley y el presente Reglamento. En los puertos de mar en que no existan Unidades de Policía de Investigaciones, estas funciones serán cumplidas por la Autoridad Marítima a que se refiere el artículo 2° letra e), del Decreto-ley núm. 2.222, de 1978.

¹¹ El Estado garantiza el ejercicio de los derechos y vela por el cumplimiento de las obligaciones.

¹² Los extranjeros gozarán de igualdad de trato. La situación migratoria no limita obligaciones del empleador. Los extranjeros gozarán de los mismos derechos en materia laboral que los chilenos, sin perjuicio de los requisitos y sanciones que la presente ley, en particular, y el ordenamiento jurídico, en general, establezcan para determinados casos.

Todo empleador deberá cumplir con sus obligaciones legales en materia laboral, sin perjuicio de la condición migratoria irregular del extranjero contratado. Lo anterior, no obstante las sanciones que, en todo caso, está facultada para imponer la IT.

¹³ Los Residentes, tendrán acceso a la salud en igualdad de condiciones que los nacionales. Se eleva a categoría de Ley la garantía del acceso de extranjeros irregulares a la salud hoy establecida en decretos del MINSAL. Los extranjeros residentes o en condición migratoria irregular, ya sea en su calidad de titulares o dependientes, tendrán acceso a la salud conforme a los requisitos que la autoridad de salud establezca, en igualdad de condiciones que los nacionales.

¹⁴ Igualdad de acceso que los nacionales con excepción de prestaciones de carga enteramente fiscal que se accede a los dos años de residencia.

¹⁵ Acceso a la enseñanza preescolar, básica y media a los extranjeros menores de edad. El Estado garantizará el acceso a la enseñanza preescolar, básica y media a los extranjeros menores de edad establecidos en Chile, en las mismas condiciones que los nacionales. Principio de no denegación de matrícula: en ningún caso podrá denegarse la matrícula a causa de su nacionalidad en establecimientos educacionales regidos por el decreto con fuerza de Ley núm. 2, de 1998, del MINEDUC, que fija el texto refundido, coordinado y sistematizado del decreto con fuerza de Ley núm. 2, de 1996, del mismo ministerio, y por el DL núm. 3.166, de 1980. Asimismo, tal derecho no podrá denegarse ni limitarse a causa de su condición migratoria irregular o la de cualquiera de los padres, o la de quien tenga el cuidado del NNA.

¹⁶ National treatment.

¹⁷ Los residentes podrán solicitar reunificación familiar con cónyuges, convivientes civiles e hijos.

¹⁸ Se asegurará el pleno ejercicio y goce de los derechos de los niños, niñas y adolescentes, consagrados en la CPR, las leyes y los tratados internacionales ratificados por Chile y que se encuentren vigentes.

¹⁹ Los extranjeros pueden enviar y recibir remesas y bienes como un derecho. Los extranjeros tienen derecho a transferir sus ingresos y ahorros obtenidos en Chile a cualquier otro país, así como a recibir dinero o bienes desde el extranjero, conforme a las condiciones y procedimientos establecidos en la legislación aplicable y a los acuerdos internacionales ratificados por Chile y que se encuentren vigentes.

²⁰ El Estado asegurará a los extranjeros un procedimiento e investigación racional y justo para el establecimiento de las sanciones contenidas en esta ley, de conformidad con los derechos y garantías que les confiere la CPR, con especial consideración a lo dispuesto en el número 3 de su artículo 19, y deberá arbitrar los medios necesarios para otorgar asesoramiento y defensa jurídica a aquellos extranjeros que no puedan procurárselos por sí mismos, y los tratados internacionales suscritos por el Estado y que se encuentren vigentes.

12. The bill also establishes the principle of non-criminalization of irregular migration; prohibits collective expulsion²¹ and arbitrary discrimination; promotes, upholds and safeguards rights;²² and establishes an informed migration procedure.²³ The State undertakes to adopt all measures to the maximum of its available resources and by all appropriate means in order to uphold economic, social and cultural rights in full. Where this is not possible, it will seek international assistance and cooperation.²⁴ Accessible, reliable and decentralized information channels will be set up, which will include, at the very least, the electronic platforms of the Ministry of the Interior, the National Migration Service, the Ministry of Foreign Affairs and Chilean embassies and consulates overseas. There will also be accessible mechanisms through which foreign nationals who feel that they have not been provided with full and adequate information by the migration authority will be able to seek redress. Lastly, all foreign nationals applying for entry to or residence in Chile will be assured of a reasonable and fair assessment procedure in which non-discriminatory admission criteria are applied.

Paragraph 2 (c) (iii)

13. The State will strive to ensure that trafficking victims are able to regularize their migration status in the country.

14. The irregular situation of parents, guardians or carers will not prevent children from receiving a residency permit.

15. Political asylum may be granted to foreign nationals who, for their personal safety and owing to the political situation prevailing in their country of residence, have been forced to apply to a Chilean diplomatic mission or who enter national territory seeking asylum, even if they are in an irregular situation.

16. Detention is not among the control measures established by law for migration offences and may be used only in the exceptional circumstances, as follows: "Once an expulsion order is final and enforceable, the person concerned may be subject to restrictions or deprivation of liberty for a period not exceeding 72 hours. Such measures may be imposed only at the residence of the person concerned or at a police station, and subject to compliance with appropriate sanitary and habitability standards. The measure shall never be applied to minors."²⁵

Paragraph 2 (c) (iv)

17. The bill establishes that foreign nationals deprived of their liberty for the purpose of enforcing an expulsion order, as described above, will have the right to: "1. Contact family members and legal representatives; 2. Receive medical treatment when necessary; 3. Contact a consular official; 4. Request an interpreter, if they do not speak or understand Spanish; and 5. Receive a written copy of all information provided to them as persons deprived of their liberty, in accordance with article 5 of the bill."²⁶

18. In addition, "persons subject to an expulsion order who have been deprived of their liberty will be released if the expulsion does not take place within 72 hours of the outset of detention. Subsequently, such persons may be deprived of their liberty only in order to enforce the expulsion order and for a maximum of 48 hours."²⁷

²¹ Los extranjeros y sus familiares no podrán ser objeto de medidas de expulsión colectivas, debiéndose analizar y decidir cada caso en forma individual.

²² El Estado deberá proteger y respetar los derechos humanos de las personas extranjeras que se encuentren en Chile, sin importar su condición migratoria.

²³ Es deber del Estado proporcionar a los extranjeros información íntegra y oportuna acerca de sus derechos y deberes, los requisitos y procedimientos para su admisión, estadía y egreso del país, y cualquier otra información relevante, en idiomas español, inglés y lenguaje de señas.

²⁴ Derechos reconocidos en la CPR, las leyes y los tratados internacionales ratificados por Chile y que se encuentren vigentes.

²⁵ Art. 131 PL.

²⁶ Art. 132 PL.

²⁷ *Ibid.*

Paragraph 2 (c) (v)

19. Children cannot be expelled, and so cannot be detained.²⁸

Paragraph 2 (c) (vi)

20. See reply to the issues raised in paragraph 2 (c) (iv).

Paragraph 2 (c) (vii)

21. The bill sets out specific grounds for expulsion. However, not only do the grounds for issuing an expulsion order need to have been met, but the Government and the courts are also required to give due consideration to the foreign national's personal circumstances beforehand. Persons who are not deported even though they are breaking the law must be granted some form of residency. The alternatives set out in the reply to the issues raised in paragraph 2 (c) (iii) may also be applicable.

Paragraph 2 (c) (viii)

22. See the above replies to the issues raised in paragraph 2 (c).

Paragraph 2 (c) (ix)

23. See the above replies to the issues raised in paragraph 2 (c).

Paragraph 2 (c) (x)

24. Residence permits for foreign transients are not mentioned in the migration bill. This category of residence is for persons who enter Chile for a short period of time without the intention of settling. However, in accordance with the conventions on statelessness, the bill states that: "For the purposes of this law, the term 'foreign transient' shall be used to refer to any person who is passing through Chilean territory, without the intention of staying, in accordance with article 45. Any person born in Chilean territory to whom any of the exceptions provided for in article 10 (1) of the Constitution apply and who would otherwise be stateless shall be considered Chilean by birth. In the absence of evidence to the contrary, it shall be presumed that any child abandoned in Chilean territory was born in the country to Chilean parents."²⁹

Paragraph 2 (c) (xi)

25. See previous paragraph.

Paragraph 2 (c) (xii)

26. Several categories of visa have been established.

27. Temporary residence: permits granted by the National Migration Service to foreign nationals who intend to stay in Chile for a limited time. Persons who wish to apply for a temporary residence permit abroad can do so electronically or by any other means accepted by the Service. The permit can be collected from any Chilean consulate or may be issued directly to the person concerned through any of the channels indicated in the decision.

28. The list of subcategories of temporary residence and the requirements for each will be established by supreme decree³⁰ of the Ministry of the Interior and Public Security.³¹

²⁸ Se estudia la presentación de una indicación que impida sancionar a los menores explícitamente, aunque de forma implícita está incorporado en el Proyecto.

²⁹ PL: Artículo 168. – Prevención de la apatridia.

³⁰ En ningún caso ese decreto supremo podrá afectar los derechos ya adquiridos por poseedores de residencias temporales a la fecha de entrada en vigencia del mismo. Cualquier cambio en las condiciones de una subcategoría migratoria que implique mayores beneficios para los extranjeros que posean una residencia temporal otorgada con anterioridad dará derecho a optar a dicha categoría a quienes cumplan con los requisitos establecidos para la misma.

29. Victims of offences of human trafficking under article 411 *quater* of the Criminal Code who are not nationals or permanent residents of Chile are entitled to apply for a temporary residence permit valid for a minimum period of 12 months, during which time they will be able to decide whether to bring criminal and civil suits in the respective judicial proceedings and/or to initiate the process of regularizing their residency status. Under no circumstances may repatriation be ordered for victims who apply for residency on the grounds of a serious threat to their physical and psychological integrity caused by the circumstances in which the offences were committed in their country of origin.

30. Temporary residence permits are valid for up to two years,³² extendable for a maximum of two further years. Specific validity conditions for each subcategory, and the applicable extensions, will be established by supreme decree of the Ministry of the Interior and Public Security.³³

31. Permanent residence permits give leave to remain in Chile indefinitely and to carry out any lawful activity, without restrictions other than those established by law. Permanent residence permits may be granted to foreign residents who hold a temporary residence permit that expressly allows them to apply for permanent residency and who meet the requirements established under the law and its regulations and the supreme decree establishing the subcategories of temporary residence.

El decreto supremo señalado en el inciso precedente definirá para cada subcategoría migratoria la admisibilidad de la postulación a la residencia definitiva.

En todo caso, dicho decreto deberá comprender, al menos, las siguientes situaciones:

1. Extranjeros que acrediten tener vínculos de familia con chilenos o con residentes definitivos.
2. Extranjeros que ingresen al país a desarrollar actividades lícitas remuneradas, por cuenta propia o bajo relación de subordinación y dependencia.
3. Extranjeros que se establezcan en el país con el objetivo de estudiar en establecimientos educacionales reconocidos por el Estado.
4. Trabajadores de temporada que ingresen al país por períodos limitados, único o interanuales, a fin de realizar trabajos estacionales específicos.
5. Extranjeros que ante los consulados chilenos en el exterior soliciten la búsqueda de oportunidades laborales, siempre que éstas sean autorizadas de acuerdo a los objetivos de la Política Nacional de Migración y Extranjería, las que deberán cumplir los requisitos del numeral 7 del artículo 1 de esta ley.
6. Los que se encuentren sujetos a la custodia de Gendarmería de Chile, tales como los que estuvieren cumpliendo de manera efectiva su pena privativa de libertad por sentencia firme y ejecutoriada, incluyendo aquellos que se encuentren con permisos de salida según lo dispuesto en el reglamento de establecimientos penitenciarios; los sometidos a prisión preventiva; los sujetos a libertad vigilada y los que estuvieren cumpliendo su pena de conformidad con lo dispuesto en la Ley núm. 18.216, que establece penas que indica como sustitutivas a las penas privativas o restrictivas de libertad.
7. Quienes se encuentren en Chile por orden de tribunales de justicia chilenos, mientras sea necesario para el adecuado desarrollo del proceso judicial en que son parte.
8. Extranjeros cuya residencia en Chile se justifique por razones humanitarias.
9. Extranjeros acogidos a acuerdos internacionales ratificados por Chile y que se encuentren vigentes, que concedan residencia temporal.
10. Religiosos de cultos reconocidos oficialmente.
11. Pacientes bajo tratamientos médicos, siempre que acrediten que se harán cargo de los costos de su tratamiento médico.
12. Jubilados y rentistas.

³¹ Que deberá ser firmado por los ministros que conforman el Consejo, y cumplir el trámite de toma de razón por la CGR.

³² Salvo para el caso de la subcategoría de trabajadores de temporada, la que podrá tener una vigencia de hasta cinco años cuando ésta establezca plazos de estadía anuales limitados.

³³ Dictado bajo la fórmula “por orden del Presidente de la República”.

32. Permanent residency may be granted to foreign nationals who hold a temporary residence permit that allows them to apply for permanent leave to remain and who have resided in the country on this permit for at least 24 months.

33. Naturalization: Chilean nationality is conferred in accordance with Ministry of the Interior Decree No. 5142 of 1960, establishing the consolidated text of the provisions on the naturalization of foreign nationals who have been resident in Chile for five years. Discretionary naturalization by law is also permitted, and a special naturalization procedure has been created for permanent residents who can prove two years of continued residence in Chilean territory and who have been married to a Chilean national for at least two years, provided that the marriage is registered in Chile and the requirement set under article 133 of the Civil Code has been met over the same period. Blood relatives of Chileans to the second degree, persons adopted by Chilean nationals and children whose father or mother, having previously been Chilean nationals, had lost their Chilean nationality before the child's birth also qualify.

Paragraph 2 (c) (xiii)

34. The procedure for granting refugee status is contained in Act No. 20.430 and does not feature in the current migration bill. However, the bill does provide for the protection of victims of human trafficking, diplomatic and territorial asylum, special entry on humanitarian grounds and a subcategory of continued temporary residency for foreign nationals whose residence in Chile is justified on humanitarian grounds.

Paragraph 2 (d)

35. Chile has signed various international instruments for the protection of migrant workers and promotion of their rights in addition to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families of 1990. These include the United Nations Convention against Transnational Organized Crime and the Vienna Convention on Consular Relations of 1967, both of which set a minimum framework for protection of the rights of migrants who intend to settle and engage in remunerated activities in Chile. The 1951 Convention relating to the Status of Refugees and the 1954 Convention relating to the Status of Stateless Persons provide protection for persons in need of more targeted support.

36. At the regional level, Chile has signed agreements with the Southern Common Market (MERCOSUR) and the Pacific Alliance, including the Agreement on Residence for Nationals of the States Parties of MERCOSUR, the Plurinational State of Bolivia and Chile,³⁴ the Agreement on the Regularization of Internal Migration of Citizens of MERCOSUR States Parties, the Plurinational State of Bolivia and Chile in 2005, agreements on travel documents (2008), extradition (2012) and electronic registration (2017) and a further agreement to allow a 90-day period of admission for tourists who are nationals of MERCOSUR States parties and associated States.³⁵

37. Pacific Alliance agreements include the body's framework agreement of 2012 and an inter-agency agreement between the foreign affairs ministries of the Pacific Alliance States parties for the adoption of cooperation measures in consular assistance matters. The aforementioned instruments establish a protection framework that reflects the situation in the region and takes the principle of reciprocity between signatories into account.

38. Lastly, the State of Chile has signed bilateral agreements and memorandums of understanding on consular and migration-related cooperation with most countries in the region.³⁶

³⁴ Cuya aplicación se realizó mediante Oficio de la Subsecretaría del Interior núm. 26.465 del año 2009.

³⁵ Que a la fecha no ha sido ratificado.

³⁶ Argentina, Colombia, Ecuador, Panamá, Paraguay, Perú, República Dominicana y Uruguay cuentan con, a lo menos, un acuerdo bilateral vigente con Chile en esta materia.

Reply to the issues raised in paragraph 3

39. The National Human Rights Plan is a public policy instrument that, building on the State's sectoral and intersectoral priorities, is used to set specific, trackable and measurable targets for the promotion and protection of human rights. The plan comprises 15 sections, including one on migrants and refugees and another on human trafficking and migrant smuggling.

40. The aim of the section on migrants and refugees is to ensure that the human rights of migrants and refugees are respected, protected and safeguarded in conditions of equality and non-discrimination. It is centred around four goals: (1) bringing legislation on migrants and refugees into line with international standards; (2) combating discrimination against migrants and refugees; (3) implementing policies, plans and programmes to ensure migrants' access to social services; and (4) enhancing the quality of asylum and the local integration of applicants for refugee status.

41. The goals themselves comprise a total of over 70 actions involving various public bodies, including the Ministry of the Interior and Public Security, the Ministry of Labour and Social Security, Ministry of Health, Ministry of Housing and Town Planning and Ministry of Education.

42. The aim of the section on human trafficking and migrant smuggling is to eradicate human trafficking and migrant smuggling, ensuring effective implementation of the legal framework in accordance with international human rights standards. This section sets out three goals: 1) producing quantitative and qualitative information about human trafficking and migrant smuggling in the country in order to better inform public policy decisions on the issue; 2) implementing and monitoring the National Plan of Action against Human Trafficking; and 3) addressing migrant smuggling in a manner consistent with the National Plan of Action against Human Trafficking.

43. The hard work and dedication of institutions working in this area, including the Carabineros (police), the investigative police and the Ministry of Justice and Human Rights, has been outstanding.

Reply to the issues raised in paragraph 4

44. The role of the Aliens and Migration Department, which is attached to the Ministry of the Interior and Public Security, is to ensure compliance with existing legislation on foreign nationals in Chile, including the regulations governing entry and exit, temporary and permanent residence, expulsion and the situation of foreign nationals who settle in the country, within the framework of the Government's national migration policy. Its main remit is to lead the development of a national migration and asylum policy for addressing the challenges and opportunities to which migration in Chile gives rise.

45. The Department's activities to this end include considering applications for temporary and permanent residence, asylum and naturalization; implementing measures that foster the integration of immigrants; promoting the modernization of institutions, legislation and the management of migration in Chile, and implementing the presidential instruction on migration policy while ensuring strict compliance with the commitments assumed under the Convention.

46. For these purposes, the Department has been allocated a budget of 4,162,945,000 Chilean pesos (Ch\$)³⁷ for 2019 and 286 members of staff.

47. Although the Department has offices only at the central level, there are migrant assistance offices in every province.³⁸ Furthermore, in July 2018, the Department opened a

³⁷ Pesos chilenos.

³⁸ Para efectos de mantener la adecuada coordinación nacional, el DEM dicta permanentemente circulares e instrucciones para las Intendencias Regionales y Gobernaciones Provinciales, con el fin de cumplir su misión institucional, y velar por el debido resguardo de los derechos de todos los trabajadores migratorios y sus familiares. A través de esta oficina se canalizan dudas y consultas de los funcionarios de Gobierno Interior que ejercen labores de Extranjería, y se comunican las

new public-facing office that migrants can visit any day of the week to carry out migration-related formalities.³⁹

48. In 2014 the Department created a regional coordination office to support regional administrations and provincial governments across the country in their migration-related duties and to facilitate communication with the central authorities.⁴⁰

49. In 2015 the Ministry of the Interior and Public Security created the Migration Policy Board.⁴¹ The Board falls under the authority of the Aliens and Migration Department and is composed of representatives of various government bodies working in this field. The Board operates through expert working groups, each responsible for different areas. These include international affairs and human rights, intercultural relations, labour matters and innovation, social inclusion, civic participation, coordination with emigration authorities, and information and monitoring. Through this initiative, the Department is able, since the executive secretariat of the Board falls under its authority, to oversee the development of a comprehensive national migration policy and to ensure that the policy takes a rights-based approach.

50. In order to strengthen and reinforce the institutional framework at the local government level, as is necessary to implement plans, programmes and projects designed to assist and integrate the migrant population, the “*Sello Migrante*” (Migrant Seal)⁴² certification scheme has been introduced. The certificate is awarded by the Aliens and Migration Department to municipalities that take affirmative action to integrate migrants, applying quality standards and a rights-based approach that is focused on inclusion and non-discrimination. The Department provides support and advice to scheme participants, besides forming part of the assessment committee and presenting the certificates. Of the 70 municipalities currently taking part in the programme, so far 8 have been awarded the certificate.

51. The Community and Social Integration Section of the Aliens and Migration Department, which became operational in 2018, coordinates the various initiatives described in the previous paragraphs, besides proposing new initiatives, maintaining streamlined and direct communication with other State administrative bodies that deal with issues affecting the migrant population, implementing the national training plan on migration and managing cultural integration efforts in which the Department has either a direct or indirect role.

Reply to the issues raised in paragraph 5

52. For an estimate of the number of foreign nationals residing in Chile, see annex I.⁴³

53. The migration bill envisages the creation of a national register of foreign nationals that will be managed by the new National Migration Service. The register will be confidential⁴⁴ and State administrative bodies will be able to access the information securely. It will contain information on: foreign nationals present in the country and the addresses of foreign residents; their migration category and the validity period of their permit; prior authorizations or visas issued; applications for migration permits refused; entries refused by the Office of the Undersecretary for the Interior; logs of entries to and exits from Chilean territory; details of any infringements of migration law; and any other details that, pursuant to article 141 of the former, may be necessary to the evaluation of permit applications provided for by law.

instrucciones de las autoridades migratorias, a efectos de asegurar un actuar coordinado en cuanto a la gestión migratoria nacional.

³⁹ La nueva sucursal consiste en un espacio de 2.800 metros cuadrados construidos, dos pisos, 38 módulos de atención en funcionamiento, y con una capacidad potencial de recibir a mil personas en su interior.

⁴⁰ Oficio Ordinario núm. 24341 del Departamento de Extranjería y Migración, de fecha 15.07.2014.

⁴¹ Decreto núm. 108 del Ministro del Interior y Seguridad Pública, de fecha 27.01.2015.

⁴² Resolución Exenta núm. 10331 del Ministerio del Interior y Seguridad Pública, de fecha 11.12.2015.

⁴³ “INE- DEM PRESENTACION OFICIAL ESTIMACION”.

⁴⁴ En virtud de lo dispuesto en los numerales 2 y 5 del artículo 21 de la Ley núm. 20.285 y de la Ley núm. 19.628.

Reply to the issues raised in paragraph 6

54. The Aliens and Migration Department began developing a national capacity-building plan in 2014 and its implementation began in 2015. The plan is based on the principle of non-discrimination and takes a rights-based approach. Training is given to Department staff and other public officials who work with migrants, with a view to imparting information on current national legislation, developing a unified perspective and improving State services provided for migrants throughout the country. The topics covered by the training workshops include awareness of migration, intercultural relations, management of migration, nationality, asylum, human trafficking and inclusion.

55. Between 2015 and April 2019, a total of 436 workshops were held throughout the country, providing training to 16,270 people, most of whom were public officials, on the rights and obligations of migrants in Chile. More detailed information is contained in annex II.

56. A monitoring mechanism composed of representatives of the various services involved will be created to conduct regular assessments of the country's implementation of the Convention.

Reply to the issues raised in paragraph 7

57. Information on cooperation with civil society is given in the relevant sections of this report. The role of the Advisory Council for Migration is described in the reply to the issues raised in paragraph 36 (b).

B. Information in relation to each of the articles of the Convention**1. General principles****Reply to the issues raised in paragraph 8***Paragraph 8 (a) and (b)*

58. The principle of equality before the law is respected in Chile, meaning that the same entities have competence for nationals and non-nationals and that migrants who require legal protection have access to the courts irrespective of their migration status. Migrants who require legal aid can apply to the Legal Aid Corporation or to the university-based legal aid clinics. The Public Defender Service has a specialist defence unit for migrants that provides legal assistance in criminal proceedings. The high courts ensure that the rights of migrants are fully respected in cases involving expulsion and that they are detained in appropriate conditions.

59. With regard to the children of foreign transients, the Supreme Court has consistently upheld the nationality claims of children born in Chile to parents who are foreign nationals and whose immigration situation was irregular at the time of their children's birth. On the basis of these rulings, the standard approach now taken is to consider Chilean-born children of migrants in an irregular situation to be Chilean.

Paragraph 8 (c)

60. Between 2012 and 2016, the implementation of Act No. 20.609 on non-discrimination resulted in 234 cases being brought before courts of first instance, 87 appeals being submitted to courts of appeal and 10 appeals being submitted to the Supreme Court, with 64 per cent of these cases being brought to completion. The Act protects against discrimination on the grounds of race or ethnicity, nationality, socioeconomic status, language, ideology or political opinion, religion or belief, trade union membership, participation in trade unions or lack thereof, sex, sexual orientation, gender identity, marital status, age, filiation, personal appearance and illness or disability.

61. Between January and June 2018, foreign workers submitted 3,471 complaints to the Labour Directorate for violations of labour regulations.⁴⁵ No reports of violations of foreign workers' fundamental rights were recorded during that period.

Paragraph 8 (d)

62. The Human Rights Office of the Legal Aid Corporation of the Metropolitan Region advises and represents migrants in an irregular situation who wish to regularize their status. To this end, the appropriate administrative and judicial remedies are made available. The attached annex III contains statistical information on the expulsion of persons, broken down by year. A distinction is made between administrative remedies and judicial (*amparo*) actions.⁴⁶

Paragraph 8 (f)

63. The websites of each sectoral body contain information on how migrant workers may submit complaints and the authority to which they should submit them.⁴⁷

2. Part II of the Convention

Article 7

Reply to the issues raised in paragraph 9

Paragraph 9 (a)

64. In 2012, Act No. 20.609 on non-discrimination was promulgated in order to prohibit any distinction, exclusion or restriction made without reasonable justification by State officials or private individuals that might cause deprivation of, interference with or threats to the legitimate exercise of the fundamental rights established in the Constitution or in international human rights treaties ratified by and implemented in Chile, including on grounds of race, ethnicity, nationality or language. The Act also provides for a judicial mechanism for punishing offenders, thereby discouraging discrimination.

65. Presidential instruction No. 5, issued in 2015, sets out guidelines for national migration policy, establishing the precepts that should guide government action on immigration and emigration and giving the instructions necessary for the development of plans, programmes and projects by the various State bodies and services. The principle of non-discrimination and consideration for vulnerable groups is one of the fundamental precepts of this instruction, which stipulates that the Government must respect and uphold the rights of all migrant workers and members of their families, without discrimination and on an equal footing with nationals, with special consideration being given to children, asylum seekers, refugees, persons with disabilities and older persons.

66. The Aliens and Migration Department has taken steps to promote a culture of openness and non-discrimination towards migrants. Since 2014, the Government has encouraged the establishment and/or strengthening of the municipal institutions necessary for implementing plans, programmes and projects aimed at supporting and including migrants. It was for this purpose that the aforementioned "*Sello Migrante*" (Migrant Seal) certification scheme was established.

67. In the workshop on migration and intercultural relations organized as part of the national capacity-building plan, migration is addressed from a rights-based angle that, in seeking to inform participants, dispels the myths and prejudices surrounding migrants and raises the awareness needed to foster interaction between public officials and migrants who

⁴⁵ A modo de referencia, 26.658 denuncias han sido interpuestas por trabajadores chilenos. "INFORME TRIMESTRAL TRABAJADORES EXTRANJEROS, ENERO-JUNIO 2018", elaborado por la Unidad de Análisis Estadístico, Departamento de Estudios, Dirección del Trabajo. Disponible en https://www.dt.gob.cl/portal/1626/articles-115963_documento.pdf.

⁴⁶ Información año 2014 a 2018 (insumo entregado en julio 2018).

⁴⁷ El DEM tiene sus publicaciones en redes sociales.

are open to interculturalism. As at April 2019, 7,334 public officials⁴⁸ had received training through 184 workshops.

Paragraph 9 (c)

68. In August 2016, in order to prevent discrimination at the border, the Aliens and Migration Department held capacity-building workshops on migration awareness, trafficking in persons and asylum for the staff of the Chilean Investigative Police and the National Migration Authority of Peru working at the Chacalluta border crossing point. The capacity-building was delivered jointly to 30 officials.

Paragraph 9 (d)

69. In order to provide due protection to migrant women who are victims of domestic violence, a cooperation and joint action agreement⁴⁹ has been concluded between the Ministry of the Interior and Public Security and the National Service for Women. Under the terms of the agreement, migrant women are able to join the protection network for victims of domestic violence, take the measures necessary to expedite their applications for asylum as members of a vulnerable group and receive a temporary residence visa. The attached annex IV contains details of visas granted to victims of domestic violence.

70. In addition to the measures described above, the National Service for Women and Gender Equality continues to run shelters for women victims of trafficking in persons and exploited migrants.⁵⁰ For information on the right to work, see the reply to the issues raised in paragraph 11. For information on the right to health, see the reply to the issues raised in paragraph 22, and for information on the right to education, see the reply to the issues raised in paragraphs 13 and 24.

Reply to the issues raised in paragraph 10

71. For information on the programme in Quilicura, see annex V, which contains details of the *Plan acogida y reconocimiento Quilicura 2014* (Quilicura Shelter and Recognition Plan 2014).⁵¹

72. In August 2014, the Migration and Social Inclusion Unit, which reports to the Undersecretary for Social Services,⁵² was established to represent the Ministry of Social Development in expert working groups related to migration; to support the Office of the Undersecretary for Social Services in its efforts to promote the intersectoral coordination of social policy on migration, both to other public departments and to related service entities; to ensure that migrants, as a vulnerable group covered by the social protection network, are given consideration in the public services provided by the Ministry; to support the generation of statistics that can be used to build a national information system; to engage with civil society organizations working in the area of migration; to participate in national and international meetings related to migration; and to develop collaboration agreements with public and private agencies involved in migration issues.⁵³

73. The Migration and Social Inclusion Unit is also required to support proposals for migration policy relating to social protection, to liaise with civil society organizations that represent the migrant community, and to design, develop and coordinate programmes specifically aimed at this community.

⁴⁸ Tanto del nivel central como de gobernaciones y municipios.

⁴⁹ Resolución Exenta núm. 80.388 de 2009.

⁵⁰ Ver en respuesta a párrafo 32 c).

⁵¹ También el documento Programa “Los Migrantes y las Ciudades, Sistematización 2014-2017”, de OIM Chile, contiene información sobre la materia. El documento se encuentra disponible en https://chile.iom.int/sites/default/files/publicacion_1_los_migrantes_y_las_ciudades_oim_sistematizacion.pdf.

⁵² A través de la División de Promoción y Protección Social.

⁵³ También se indica la necesidad de que la UMIS genere datos para un sistema nacional de información sobre migración, que elabore estudios y genere información respecto de la comunidad migrante y las personas, sus características sociales y apoye la coordinación intersectorial en todos los temas migratorios, así como la coordinación al interior del Ministerio y sus servicios dependientes.

74. The Unit first implemented a pilot programme on social and intercultural mediation and then took on the coordination of social policy on migration.

75. The purpose of the pilot programme⁵⁴ was to foster inclusive communities by training intercultural social mediators to organize mechanisms for putting migrants in touch with nationals in their neighbourhoods and with the nearest networks. The programme was designed to address the lack of opportunities for neighbours to come together in neighbourhoods with a high proportion of immigrants and was targeted at neighbourhoods located in five communes⁵⁵ of the Metropolitan Region that have high numbers of immigrants and low levels of interaction between Chilean and immigrant residents. One aim of the programme was to come up with an intervention strategy⁵⁶ and, as this was a pilot, the municipalities issued the related final technical reports in January 2016.⁵⁷

3. Part III of the Convention

Articles 8 to 15

Reply to the issues raised in paragraph 11

76. The Labour Directorate has launched a quarterly report, entitled *Caracterización de la población atendida por la Dirección del Trabajo: trabajadores migrante* (Characteristics of Communities Served by the Labour Directorate: Migrant Workers) and containing background information on the situation of workers who have settled in the country, which helps to identify issues that must be addressed in order to facilitate their full and effective incorporation into the labour market. The report covers all the activities, formalities and services under the responsibility of the Labour Directorate, including monitoring activities, mediation work, the activities of labour inspectors and the contracts of women, including

⁵⁴ Fuente: Informe de Descripción de Programas Sociales: Cierre al 31.12.2015.

⁵⁵ Estas comunas fueron Santiago, Estación Central, Quilicura, Recoleta e Independencia.

⁵⁶ La estrategia de intervención del Programa Piloto se inicia con la elaboración de un diagnóstico sobre la situación migratoria de la comuna, lo que es realizado por los municipios ejecutores de la iniciativa. Dentro de los aspectos a considerar se encuentra el de identificar un barrio con alta densidad de población residente inmigrante y con complejidades interculturales; caracterizar la convivencia intercultural del barrio, relevando los aspectos facilitadores y obstaculizadores para la buena convivencia.

Entre los componentes del Programa se considera un proceso de formación a líderes sociales comunitarios de distintas nacionalidades como Mediadores Sociales Interculturales. Estos Mediadores cumplirán el rol de facilitadores de los Talleres de Diálogo Social Participativo Intercultural, que se realizarán en los barrios de cada una de las cinco comunas. Estos Talleres (de a lo menos ocho sesiones) se ejecutarán a través de una metodología de trabajo intergrupar cuyos objetivos radican en: Reconocer a un “otro” y aprender a dialogar entre vecinos; superar estereotipos y prejuicios entre las personas; generar una actitud de tolerancia y respeto entre comunidades; evitar la “invisibilidad cultural” de las comunidades; crear instancias donde se aprecien los puntos de unión entre las comunidades; reflexionar sobre los puntos conflictivos (su origen y posible solución y/o aceptación) y diseñar planes de acción o actividades de integración entre las comunidades para originar cambios en las relaciones habituales.

Una vez finalizado el Taller, se elabora desde los municipios un plan con actividades y acciones de integración entre comunidades y una Guía de orientaciones para el trabajo local en materia de mediación social intercultural. Además, se genera un documento final con la síntesis de los diagnósticos y un seminario de difusión con los resultados.

Criterios de Egreso: La acción de Mediación Social Intercultural es permanente, no obstante, un territorio determinado podrá considerarse egresado del programa, en la medida en que se alcancen los productos intermedios finales derivados de la intervención en los barrios.

Tiempo de Intervención: Siete meses.

⁵⁷ Adicionalmente, se realizó un Informe de Sistematización realizado por consultor externo a petición del MDS, en donde describe la experiencia del programa piloto y entrega un resumen y análisis de los diagnósticos comunales de las cinco comunas a partir de la información que ellos entregaron.

Sin embargo, al corto tiempo se decidió que MININT sería la cartera que coordinaría toda la política migratoria.

foreign women, engaged in domestic work.⁵⁸ This information will allow for improved monitoring of the recruitment of foreign nationals in general and foreign domestic workers in particular.

77. Where monitoring is concerned, the Labour Directorate's website provides information on the regulations applicable to female domestic workers, including those concerning working hours, rest periods, remuneration, social security contributions, the registration of employment contracts and their termination. Sample contracts are provided for users to download.⁵⁹ There is also a list of frequently asked questions for women engaged in domestic work.⁶⁰

78. Measures taken to bring national legislation into line with relevant International Labour Organization (ILO) conventions include the promulgation of Decree No. 34 of 28 May 2016, enacting the Domestic Workers Convention, 2011 (No. 189),⁶¹ and of Act No. 20.786 of 27 October 2014, which made adjustments to working hours, rest periods and the remuneration of women engaged in domestic work and made it illegal to force them to wear uniforms in public places.⁶²

79. Where administrative matters are concerned, Ordinance No. 3750/0064 of 18 July 2016⁶³ stipulates that employers of domestic workers may subscribe to family allowance funds and, consequently, register these workers' dependants, while Ordinance No. 853 of 21 February 2017 of the Labour Directorate states that it is not lawful for domestic workers to provide services on Sundays, even for part of the day, Sundays being set aside for weekly rest, which is an inalienable right.⁶⁴

80. The ILO Forced Labour Convention, 1930 (No. 29) and the ILO Abolition of Forced Labour Convention, 1957 (No. 105) have both been ratified by Chile. They are therefore binding in national law and are applied in judicial and administrative procedures. With a view to these Conventions' application, the Government has incorporated their provisions in the employment sections of the bilateral trade agreements signed by Chile, thereby establishing a minimum labour protection standard with which its international trade partners must comply.

Reply to the issues raised in paragraph 12

Paragraph 12 (a)

81. Chile ratified the Convention on the Rights of the Child in 1990. In so doing, it undertook to ensure the comprehensive protection of all children and adolescents in the national territory, irrespective of their race, ethnic affiliation, sex, language, religion, political opinions or national, ethnic or social origin. Accordingly, public policies for the eradication of child labour and its worst forms also provide protection for migrant children, without discrimination.

Paragraph 12 (b)

82. The Office of the Undersecretary for Labour, through the Department of Child Labour, has taken two measures aimed at raising migrants' awareness of the negative

⁵⁸ Mayor información disponible en https://www.dt.gob.cl/portal/1627/articles-115346_informe.pdf.

⁵⁹ Ver: <http://www.dt.gob.cl/portal/1626/w3-article-60059.html>.

⁶⁰ <http://www.dt.gob.cl/portal/1628/w3-propertyvalue-83792.html>.

Los siguientes sitios también señalan la importancia del registro del contrato de trabajo de la trabajadora de casa particular:

<https://www.chileatiende.gob.cl/fichas/38919-registrar-el-contrato-de-una-trabajadora-de-casa-particular>; <http://www.ips.gob.cl/servlet/internet/content/1421810848925/trabajadora-de-casa-particular>, y resuelve consultas sobre las normativa correspondiente a las trabajadoras de casa particular.

⁶¹ <https://www.leychile.cl/Navegar?idNorma=1068531>.

⁶² <https://www.leychile.cl/Navegar?idNorma=1090821>.

⁶³ <http://www.dt.gob.cl/legislacion/1611/w3-article-109770.html>.

⁶⁴ <http://www.dt.gob.cl/legislacion/1624/w3-article-111224.html>.

effects of child labour. Firstly, in 2018, it launched a qualitative study on child labour and the migrant population with a view to identifying specific ways of ensuring that children, adolescents and members of their families who arrive in the country are aware of this issue. Secondly, in the same year, it issued an information booklet for migrants that is designed to increase knowledge of child labour and its implications, and of the benefits the Chilean State can provide in the area of education.

83. The National Strategy for the Eradication of Child Labour has an education component that envisages training not only children and adolescents but the entire school community. To support implementation of this strategy, a book entitled *Crecer Felices: Orientaciones para comunidades educativas* (Growing Up Happy: Guidelines for Educational Communities) was launched in 2017/18. The book is intended to be a key tool for incorporating the subject of child labour in the school curriculum.

84. Representatives of Fundación Telefónica (the Telecoms Foundation), the Ministry of Education, ILO and the Department of Child Labour of the Ministry of Labour and Social Security participated in the preparation of the document and, in 2018, various launch activities, led by representatives of central and regional authorities, were carried out in different regions of the country. A total of 340 teachers and members of educational communities attended these events.

Paragraph 12 (c)

85. In Chile, the National Service for Minors maintains a universal database system, known as the central register of the worst forms of child labour, that includes all minors in the country, including migrant children and adolescents, without distinction.

86. In addition, in 2018 work was carried out on two statistical tools. Firstly, the content of the National Survey of the Activities of Children and Adolescents was updated for the 2020 review. To this end, an expert round table was set up, led by the Social Observatory of the Ministry of Social Development and composed of representatives of the Ministry of Labour and Social Security, ILO and the United Nations Children's Fund.

87. Secondly, ILO and the Economic Commission for Latin America and the Caribbean released the child labour risk identification model, which makes it possible to determine the risk variables associated with child labour at the community level, and thus to better target local efforts to prevent child labour

Reply to the issues raised in paragraph 13

88. All children in Chile benefit from various policies providing special protection for children, irrespective of their nationality, but the Government has also designed and implemented a series of public policies that are specifically targeted at foreign children and adolescents. Since 2014, the Aliens and Migration Department has taken various steps to protect this particularly vulnerable group of migrants and ensure their effective access to education even if they are in an irregular migratory situation, in line with the Convention on the Rights of the Child⁶⁵ and current regulations on migration. For example, it has established that children and adolescents should not be punished for violating the Aliens Act or its implementing regulations as it is the responsibility of their parents, guardians or caregivers to carry out the formalities necessary to regularize their migratory situation. In view of the foregoing, officials are instructed not to punish children and adolescents who are in violation of migration regulations and children may not under any circumstances be expelled from the country as a penalty.

89. Kindergartens, primary schools and secondary schools are now culturally more diverse as a result of the growing numbers of migrant children enrolled there. This process of change offers a great opportunity to establish a more inclusive society. In 2014, the Aliens and Migration Department, in collaboration with the Division of Internal Government and the Ministry of Education, began implementing the “*Escuela Somos Todos*”

⁶⁵ Promulgada en Chile mediante el Decreto núm. 830 de fecha 27 de septiembre de 1990 del Ministerio de Relaciones Exteriores.

(School is for everyone) programme as part of a drive to encourage foreign nationals in Chile to regularize their migration status and to facilitate and promote migrant children's enrolment in educational establishments irrespective of their parents' migration status. One of the aims of this programme is to make schools a hub for social interchange that can give families the incentive needed to regularize their migration status and, as a corollary, to guarantee access to social rights and ensure that all children and adolescents residing in Chile have the same opportunities. Another of the programme's aims is to end situations where students are enrolled in the Chilean education system but still have an irregular migration status and thus continue to be classified as temporary students, a situation which impedes their full inclusion in the system.

90. In 2017, temporary residence permits for children and adolescents were introduced in order to ensure that their rights were guaranteed irrespective of their parents' migration status. However, children whose family members have a regular migration status may be granted a more advantageous residence permit. In order to obtain this visa, a birth certificate or other official or public document issued in the child's country of origin must be presented. This document must state the names and places of birth of his or her parents and must be duly authenticated or certified, as appropriate. Applications submitted on behalf of children not accompanied by their parents must be supported by sufficient duly authenticated documentation attesting to the applicant's guardianship or custody of the child. This residence permit is issued in accordance with the general rules established for temporary residence in Chile. It is therefore valid for one year, renewable for a further year, and entitles the holder to apply for permanent residence in the country.

Articles 16 to 22

Reply to the issues raised in paragraph 14

91. The regulations on asylum seekers and refugees in Chile are set out in Act No. 20.430 of 2010 on the protection of refugees and its implementing regulations.⁶⁶ This Act establishes the principle of non-refoulement and provides that refugees and applicants for refugee status may not be subjected to expulsion, or any measure having the effect of refoulement, including prohibition of entry at the border, to any country where their life or personal freedom would be at risk.

92. Refugees or applicants for refugee status may be expelled from the national territory only in exceptional circumstances, on grounds of national security or public order and in accordance with due process of law. If an expulsion order is issued, applying the rules of due process persons facing expulsion may submit evidence of any kind to clear themselves and may avail themselves of the corresponding judicial and administrative remedies. In addition, they will be granted a period of 30 days in which to arrange entry to another country, during which time they remain subject to the corresponding control measures.

93. The regulations stipulate that refugees may not be subject to any criminal or administrative penalty for having entered or resided in the country unlawfully. When such offences are committed by asylum seekers, the penalties are suspended, without prejudice to migration rules, until their application for asylum has been resolved.

94. These legal and regulatory provisions uphold the principle of non-refoulement from different angles, besides ensuring that, in accordance with due process, both administrative and legal appeals may be submitted against the decisions taken by the administrative authorities.

95. The Government allocates resources to reception facilities and services for refugees and applicants for refugee status on an annual basis. The funds are transferred under service agreements to civil society organizations able to provide for the needs of persons who require special protection in the areas of housing, food, health and work. Particular attention is paid to persons in vulnerable situations.

⁶⁶ Decreto núm. 738 del año 2010.

96. The procedure for determining refugee status is governed by Act No. 20.430 and its implementing regulations. These regulations establish that foreign nationals who wish to seek asylum in Chile may express their intention either to officials at the border or, once inside the country, to the administrative authorities, who will inform them of the procedure to be followed.

97. Applications for asylum must be submitted in person to the provincial government at the regional level or to the Aliens and Migration Department in Santiago. Should applicants be unable to submit the application in person for reasons outside their control, the authorities must ensure that a qualified official visits the person concerned, informs them of the procedure and assists them in making their application. At present, applicants for refugee status are informed of the procedure followed by the authorities for determining refugee status and of their rights and obligations either in their own language or in another language that they can understand. If necessary, an interpreter is provided.

98. While applications for asylum are being processed, foreign nationals and their accompanying family members are granted a temporary residence permit that is valid for eight months and renewable for the same period until the procedure is complete. These residence permits are issued free of charge. Once individuals are registered, they may apply to the Civil Registry and Identity Service for an identity card, which facilitates their access to health care, education, and other basic rights guaranteed by the State and allows them to enter the labour market.

99. Once their application has been processed, applicants undergo an eligibility interview conducted by a protection officer belonging to the Technical Secretariat of the Commission for the Recognition of Refugee Status, who reports to the chief of the Aliens and Migration Department. This interview is conducted on a one-to-one basis in a place where confidentiality is guaranteed. Protection officers are trained to identify, in the course of the interview, any cultural, religious, gender-related or personal factors, such as age or educational level, that might affect the applicant's ability to present his or her case.

100. Chilean law establishes a special procedure for safeguarding the rights of children and adolescents that is in line with the recommendations made by the Chilean authority on the protection of the rights of children and adolescents and the Office of the United Nations High Commissioner for Refugees (UNHCR) guidelines on the protection and care of refugee children.

101. Special treatment is afforded to applicants for asylum who claim to have been victims of sexual or gender-based violence. In such cases, the relevant public agencies and non-governmental organizations are informed so that the persons in question can be provided with psychological and social support.

102. Once the eligibility interview has taken place, a report on the situation of the asylum seeker in his or her country of origin is drawn up. This makes it possible to conduct a proper assessment of the circumstances giving rise to the application for asylum.

103. The Technical Secretariat then draws up a report, which it submits to the Commission for the Recognition of Refugee Status.⁶⁷

104. Once the Commission has conducted an individual analysis of a case, it adopts a recommendation that is then forwarded to the Undersecretary of the Interior. The authority then reaches a duly reasoned decision on whether to approve, refuse, terminate, cancel or revoke the application for asylum.

105. If individuals are recognized as refugees, they are granted this status in addition to a permanent residence permit. If they do not have a travel document that entitles them to leave and re-enter the national territory, they have the right to obtain one, unless refused on grounds of public order or national security.

106. If, on the other hand, individuals are refused refugee status, the temporary residence visa issued during the refugee status determination procedure expires. They are then

⁶⁷ Comisión presidida por el Jefe del DEM e integrada por dos miembros del MININT y dos de MINREL, además de sus respectivos reemplazantes.

granted a period of 30 days, counting from the date on which the decision not to grant refugee status becomes executory, in which to apply for another residence permit under current immigration regulations.

107. Applicants must be informed either in person or by service of written notice of the decision on whether to grant or refuse refugee status and the document of notification must be accompanied by a full copy of the decision. Administrative requests for reconsideration and appeals to a higher body may be filed against a decision refusing refugee status. The filing of such appeals suspends the execution of the measures imposed by the authority in the refusal decision. Individuals may also have recourse to the *amparo* and protection remedies provided for in the Constitution.

Reply to the issues raised in paragraph 15

108. As to the Committee's recommendation concerning the conditions in which migrant workers detained for violations of migration laws are held, it is important to note that foreign nationals may be detained for such violations only if they are subject to an expulsion order issued by a competent authority (the Ministry of the Interior and Public Security or regional administrations) on the basis of a ground previously established in in-force migration law and for the sole purpose of implementing the order in question.

109. Article 90 of the Aliens Act provides that the Chilean Investigative Police have sole responsibility for implementing expulsion orders. The protocol for the expulsion of foreign offenders, concluded between the Ministry of the Interior and Public Security and the Chilean Investigative Police on 28 March 2013, establishes that expulsion orders must be executed within 24 hours. For this reason, the person concerned may not be detained for longer than this period.⁶⁸ This protocol is in conformity with the Convention and the Committee's recommendation concerning such procedures. It also establishes that, when an expulsion order is issued, the Chilean Investigative Police must transfer the foreign nationals concerned to the National Office of Overseas Affairs and International Police so that they may be duly informed by means of the respective notice. In such cases, the persons concerned may be detained for a maximum period of 24 hours and only for the purpose of carrying out the expulsion. The officer in charge will immediately apprise them of their right to inform their consular representatives of their situation.

110. The protocol provides for the establishment of special temporary accommodation units for foreign nationals facing expulsion, which must offer adequate living and sanitary conditions, have separate wings for men and women and be independent of facilities where persons are detained for other legal reasons.

111. In accordance with the protocol, in 2013 the Chilean Investigative Police established a technical commission for the preparation of temporary custody facilities for foreign nationals facing expulsion and, in 2014 a special unit of the Chilean Investigative Police, responsible for the temporary custody of foreign nationals, began operating in Santiago.

112. The best interests of children and adolescents and their right to be heard are given due consideration in administrative expulsion proceedings affecting the persons responsible for their care, in accordance with the Constitution, the relevant human rights treaties ratified by Chile and the law. This consideration requires that all the circumstances of each specific case be properly analysed. National law specifies that, in cases where the authorities order the expulsion of an adult foreign national from the national territory, the expulsion order applies only to the affected person and not to the children or adolescents in his or her care.

113. If the expelled foreign national and the children in question so wish, there is nothing to prevent the latter from remaining in the national territory if there is a responsible adult, whether Chilean or a foreign national with the right to reside in the country, who can take care of them. In such cases, steps are taken to ensure that the responsible adult with whom the children stay in Chile is legally authorized to assume their care.

⁶⁸ Este acuerdo interinstitucional tuvo como principal antecedente la sentencia de 25.03.2013 de la CS que confirmó la sentencia de la ICA de Santiago (Rol 251-2013), acogiendo el recurso de amparo presentado por la Oficina de Derechos Humanos de la CAJ contra la detención prolongada de 18 extranjeros en dependencias de la PDI (Cuartel Borgoño).

114. In situations where the authorities order the expulsion of a foreign national who is the mother, father or legal guardian of a child and there is no responsible adult with the legal right to reside in Chile able to assume their care, the authorities will not, under any circumstances, separate the child from his or her mother, father or legal guardian, thereby respecting the principle of family reunification established in article 10 of the Convention on the Rights of the Child. In these cases, the State makes every effort to arrange for the foreign national to be returned in the company of the child in his or her care without the latter's journey being in any way connected with the penalty imposed on the responsible adult.

115. Should a child be separated from his or her family in the circumstances described in article 9 (4) of the Convention on the Rights of the Child, the State provides the child in question with ongoing protection and guarantees his or her rights through public policies developed and implemented by the agencies mandated for this purpose, which include the Office of the Undersecretary for Children, the National Service for Minors, the family courts and Protective Measures Centres.

116. The fundamental criteria governing this process are the principles of family reunification and the best interests of the child.

117. In addition, in 2014, in order to ensure the rights of children and adolescents the Aliens and Migration Department issued Circular No. 30.722 of 10 September, which stipulates that migration penalties may not be imposed on children and adolescents.⁶⁹ As a result, even when adolescents have been convicted by the courts for violating criminal law, they may not be expelled from the national territory or subjected to any type of administrative penalty.

118. The current regulations on foreign nationals and migration stipulate that the Chilean Investigative Police are required, as a control measure, to take a statement from any foreign nationals found to have contravened the regulations. The foreign nationals in question are required to stay at a particular address and report to the local police station at regular intervals while the immigration authority decides on the applicable penalty.

119. An amendment to the regulations implementing the Aliens Act introduced in March 2015 provides that the police may not, as a control measure, retain identity or travel documents issued in the country of origin of foreign nationals who have violated immigration laws. However, they may impose another control measure provided for in the regulations.

120. Currently, under the new administrative regulations, the competent authority may retain a Chilean identity card only if it has expired and may retain a passport or national identity card solely for the purpose of enforcing a valid expulsion order.

121. Between 1 January 2012 and 31 December 2018, the administrative authorities, in the form of either the regional administrations or the Minister of the Interior and Public Security, issued a total of 21,269 expulsion orders against foreign nationals who had violated migration regulations. Table 3 shows that the number of administrative expulsions is falling in relation to those ordered by the courts.

Reply to the issues raised in paragraph 16

Paragraph 16 (a)

122. See the reply to the issues raised in paragraph 15.⁷⁰

⁶⁹ Que en lo fundamental, determina lo siguiente: i) Para asegurar el cumplimiento de las garantías consagradas en la CDN, particularmente su artículo 3°, se dispuso que no corresponde la aplicación de ningún tipo de sanción a los menores de edad infractores de la Ley de Extranjería y su Reglamento. ii) En aquellos casos en que se denuncie la infracción de un grupo familiar, solo se deberá sancionar a los extranjeros mayores de edad. iii) Bajo ninguna circunstancia y en ningún caso se debe sancionar a un menor de edad con la medida de expulsión del país.

⁷⁰ Específicamente, el punto V del Protocolo dispone:

Paragraph 16 (b)

123. See the reply to the issues raised in paragraph 15.

Paragraph 16 (c)

124. See the reply to the issues raised in paragraph 15.

Paragraph 16 (d) and (e)

125. As the law makes no distinction between national and foreign workers, the general rules apply to both groups. The Human Rights Office of the Legal Aid Corporation of the Metropolitan Region advises and represents migrants who are victims of offences of torture or ill-treatment, initiating criminal and civil proceedings as appropriate. Figures issued by this institution show that, as of July 2018, only one complaint had been filed in this connection, on behalf of a Haitian citizen who was the victim of grievous bodily harm under article 330 of the Code of Military Justice.⁷¹

Paragraph 17

Table 1

Women inmates in Chilean prisons as at 6 May 2019

<i>Nationality</i>	<i>Number</i>
Argentinian	5
Bolivian	65
Brazilian	1
Colombian	21
Ecuadorian	2
Peruvian	43
Dominican	2
Overall total	139

Source: Prison Service.

Reply to the issues raised in paragraph 18*Paragraph 18 (a) and (e)*

126. With regard to the Committee's query concerning the expulsion of 169 Haitian nationals in March 2018, the Chilean Investigative Police used its legal and constitutional powers to prevent these foreign nationals from entering the country because they did not comply with the legal requirements for entering as tourists. Consequently, the individuals who were denied entry stayed in Santiago de Chile Airport for several days while waiting to be returned to their country of origin.

“La Policía de Investigaciones de Chile, habilitará en las Regiones Policiales y unidades dependientes, módulos especiales para la permanencia transitoria de extranjeros expulsados, los que deberán contar con las condiciones sanitarias y de habitabilidad adecuadas, separados entre hombres y mujeres e independientes de las instalaciones destinadas a personas detenidas por otras causas legales”.

En cuanto a las garantías de acceso a derechos básicos, dado que la Constitución Política del Estado de Chile no distingue entre personas chilenas y extranjeras para el goce y ejercicio de los derechos allí establecidos, consagrando el principio general de igualdad ante la ley para todas las personas que se encuentren en el territorio nacional. En este sentido, aquellas personas de nacionalidad extranjera que sean detenidas por la autoridad policial a efectos de dar cumplimiento a una medida de expulsión administrativa, tienen los mismos derechos y garantías que un nacional en situación de privación de libertad.

⁷¹ Información entregada por la CAJ RM, en el marco del examen ante el Comité contra la Tortura, julio de 2018.

127. Pursuant to article 10 of the Aliens Act, article 4 (1) of Supreme Decree No. 597 on the adoption of the new regulations implementing the Aliens Act, and article 5 of Decree-Law No. 2.640 (the Organic Act on the Chilean Investigative Police), the Chilean Investigative Police are responsible for controlling the entry and exit of foreign nationals and preventing persons from entering and leaving the national territory if they do not meet the legal requirements for doing so. In the case at hand, the Haitian citizens would have needed to meet specific requirements to be considered to be entering the country as tourists, as they claimed to be doing. Under article 44 of Decree-Law No. 1.094, to be considered tourists persons must be entering the country for the purposes of leisure, sports, health, study or business or for family, religious or other similar reasons, with no intention of immigrating, residing in the country or undertaking gainful employment. They must be able to support themselves financially during their stay in Chile and to prove that they are able to do so should the police authority deem necessary. They may remain in the country for up to 90 days, extendable for an equal period.

128. The Chilean Investigative Police carried out the migration controls to which all foreign nationals intending to enter the country are subject. This involved asking each of the Haitian citizens to prove that they were entering the country for one of the aforementioned purposes, could support themselves financially in Chile and would stay in the national territory for no more than 90 days. A useful case to recall in this connection is case No. 33445 of 15 June 2016, in which the Supreme Court stated that migration controls are a complex procedure involving more than simply stamping passports: police officers have to record foreign nationals' entry in the police administration system, check whether they appear in INTERPOL records and corroborate the reason for the trip and their means of subsistence during their stay, among other tasks. In this way, police officers are required to verify the claims of foreign nationals seeking to enter the country using the information they themselves provide.

129. In the case in question, the police officers found that the Haitian citizens did not comply with the requirements of article 44 either because they could not afford to stay in the country or because they would not be remaining for only 90 days. The latter hypothesis was supported by the fact that they did not have a return ticket. In addition, either they were unable to state where they would be staying or they cited a false hotel reservation. Confronted by this scenario, the Chilean Investigative Police adopted the measures required by law and prevented the Haitian citizens from entering the country.

130. With regard to the allegation that the Haitian nationals had been held in administrative detention, article 11 of Decree-Law No. 1.094 provides that international transport companies may not accept passengers bound for Chile who are not carrying the documents required for them to enter the country in the appropriate capacity. Transport companies are required to repatriate, on their own account, as quickly as possible and without liability for the State, passengers whose entry is refused because they do not have the required documents, without prejudice to the penalties to which they are liable under this Decree-Law.⁷²

131. In the case at hand, the Chilean Investigative Police established that the Haitian citizens concerned did not meet the legal requirements to enter the country. Therefore, the officers handed them over to the airline that brought them to Chile so that they could be

⁷² Además, el Capítulo 3, letra K, del anexo núm. 9 del Convenio sobre Aviación Civil Internacional establece que:

“3.43 Las autoridades competentes aceptarán prontamente a los pasajeros y la tripulación para verificar si son o no admisibles en el Estado.

3.44 El explotador de aeronaves será responsable de la custodia y cuidado de los pasajeros y los miembros de la tripulación que desembarcan desde el momento en que abandonen la aeronave hasta que sean aceptados para la verificación que se prescribe en 3.43.”

Por su parte, el Capítulo 5, letra B, del anexo en examen, señala que “5.4 Los Estados contratantes mediante sus autoridades competentes consultarán a los explotadores de aeronaves con respecto al plazo para el retiro de la persona que ha sido considerada no admisible, a fin de conceder al explotador de aeronaves el tiempo necesario para facilitar el retiro de la persona utilizando sus propios servicios o haciendo arreglos alternativos para el retiro”.

returned to their country of origin. In the meantime, the Haitian citizens remained in a boarding lounge at the airport, where they could move around freely.

132. As to whether the persons concerned had access to an asylum or refugee procedure, it should be noted that they did not apply to the authorities for recognition as refugees at the border. This prevented initiation of the procedure provided for in the implementing regulations of Act No. 20.430⁷³ and in article 26 of Act No. 20.340.⁷⁴

Reply to the issues raised in paragraph 19

Paragraph 19 (a)

133. Every situation that might potentially result in expulsion is analysed in accordance with the specific circumstances of the case. Therefore, all expulsions are preceded not only by a formal verification that certain requirements have been met but also by a process that genuinely takes all the factors involved into account. For this reason, mass expulsions cannot take place in Chile. The factors taken into account in decisions relating to expulsion include the number of offences, if any, that the person has committed, the number of ordinary versus minor offences committed and their seriousness, the legal interests affected, whether the foreign national has repeatedly committed unlawful acts, the magnitude of the penalty imposed in the event of conviction, the existence of family ties with Chilean nationals or foreign nationals who are lawfully resident in the country, the degree of integration in Chilean society, the migration status of the foreign national (regular or irregular) and any employment that he or she might have in the country. In this deliberation, particular importance is accorded to the international treaties ratified by Chile, the principle of family reunification, the degree of socioeconomic integration and the best interests of the child. All expulsions are conducted in accordance with the principles of due process: foreign nationals receive prior notification, are given the opportunity to submit their pleadings and evidence to the competent body and have access to effective remedies through which to challenge expulsion decisions.

134. Act No. 20.430 of 2010 on the protection of refugees and its implementing regulations⁷⁵ establishes the principle of non-refoulement, providing that refugees and applicants for refugee status may not be subjected to expulsion or any measure having the effect of refoulement, including prohibition of entry at the border, to any country where their life or personal freedom would be at risk.

135. Expulsion orders are issued by the administrative authority against applicants for refugee status in very exceptional circumstances only. They must be based on reasons of national security or public order and fully uphold the guarantees of due process enjoyed by the affected persons, who may submit all manner of evidence to clear themselves and make use of the administrative and judicial remedies provided for in law. In accordance with the principle of non-refoulement, if the administrative authority decides to issue an expulsion order against refugees or applicants for refugee status, the authority must grant the persons concerned a period of 30 days in which to arrange their entry to another country, during which time they remain subject to the corresponding control measures.

136. Information on reception services for refugees and applicants for refugee status can be found in the reply to the issues raised in paragraph 14.

⁷³ Artículo 1 del Decreto 837 que aprueba el Reglamento de la Ley núm. 20.430 que Establece Disposiciones sobre Protección de Refugiados, “Para estos efectos, se entenderá por “solicitante de la condición de refugiado” todo extranjero que se encuentre en el territorio nacional y formalice su intención de ser reconocido como refugiado...”.

⁷⁴ Podrá solicitar el reconocimiento de la condición de refugiado toda persona que se encuentre dentro del territorio de la República de Chile, sea que su residencia fuere regular o irregular. La solicitud podrá presentarse en cualquier oficina de Extranjería. Al ingresar a territorio nacional, los extranjeros también podrán hacerlo ante la autoridad migratoria que se encuentre en un paso habilitado de la frontera, quien le proporcionará la información necesaria sobre el procedimiento.”

⁷⁵ Dictado mediante el Decreto núm. 738 del año 2010.

Paragraph 19 (b)

137. In August 2016, capacity-building workshops were held for the staff of the Chilean Investigative Police and the National Migration Authority of Peru stationed at the Chacalluta border crossing point. The first workshop was on migration awareness, the second on trafficking in persons and the third on asylum. The training was delivered jointly to 30 officials.

138. In view of the positive results obtained, a second workshop on migration awareness was held in 2017 for 29 officials of the Chilean Investigative Police and the National Migration Authority of Peru stationed at the Chacalluta crossing point on the country's northern border. The aim was to raise awareness of migration issues in Chile, to dispel myths and prejudices surrounding migrants, and to prevent discrimination on the part of officials deployed at borders.

Paragraph 19 (c)

139. When the administrative authority learns that a foreign national has violated the immigration regulations in force, the particular circumstances of the case are assessed, with the various factors being weighed up in an exercise similar to that described for the issuance of administrative expulsion orders. If more information is deemed necessary, the authority informs the person who committed the offence that it is considering imposing a penalty and for this purpose requires not only the information necessary to either prove or disprove the facts that might constitute grounds for sanction but also any information that the person believes the authority should take into account when making its decision, including any documentation attesting to the existence of family ties in the country.

140. The immigration regulations in force set out express grounds for the revocation of residence permits, some of which are mandatory, in which case the authority is required to revoke the permit, and others discretionary, in which case the authority has discretion to decide whether or not to revoke the permit.

141. After verifying that grounds for revocation exist, the administrative authority proceeds to issue the decision revoking the permit, which must be specific to the individual case and set out the factual and legal bases clearly. The revocation may result either in a residence permit of a different category to the revoked permit being issued or to the offender's voluntary departure from the country within a period ranging from 72 hours to 15 days. Persons who are the subject of administrative decisions resulting in the revocation of a residence permit may file an application for reconsideration, in accordance with the regulations in force, which should be submitted to the issuing authority within three days of notification of the decision. Since this is an administrative decision, the persons concerned may avail themselves of any of the administrative remedies provided for in Act No. 19.880⁷⁶ as well as the *amparo* and protection remedies provided for in the Constitution. The constitutional remedies, it should be noted, may be invoked without recourse to a lawyer.

Article 23**Reply to the issues raised in paragraph 20**

142. Chile has been working to establish the framework necessary to ensure the availability of consular protection and assistance for nationals living abroad. At the regional level, it is a party to the Inter-institutional Agreement between the Ministries of Foreign Affairs of the States Parties to the Pacific Alliance on the Establishment of Cooperative Measures regarding Consular Assistance. At the bilateral level, it has signed agreements with Colombia⁷⁷ and Paraguay.⁷⁸ In addition, Spanish nationals have the possibility of applying for special permits to work in Chile.

⁷⁶ Que Establece Bases de los Procedimientos de Administrativos que rigen los Actos de los Órganos de la Administración del Estado.

⁷⁷ Memorándum de Entendimiento para el Fortalecimiento del Diálogo y Cooperación Consular.

143. At the national level, a programme⁷⁹ to strengthen consular and migration policy and administration by standardizing consular administration protocols and formalizing local support networks has been established, as well as a programme to help migrants affected by gender-based domestic violence. Chile has also signed various social security agreements.⁸⁰

144. The consular services website of the Ministry of Foreign Affairs contains extensive information on the services available to Chileans abroad.⁸¹ In addition, with a view to safeguarding fundamental social rights regardless of place of residence, the Directorate for Chilean Communities Abroad of the Ministry of Foreign Affairs and the legal aid agency of the Metropolitan Region have set up a website offering online assistance to Chileans abroad.⁸²

Articles 27 to 30

Reply to the issues raised in paragraph 21

145. Within the national social security system, equal treatment for nationals and non-nationals performing paid labour in Chile is the guiding principle. Article 14 of the Civil Code provides that the law is binding upon all inhabitants of the Republic, including foreign nationals. By virtue of the principle of the universality of protection, in Chile all persons are protected by the law, without distinction on the basis of nationality or residence.

146. Article 19 (18) of the Constitution establishes the constitutional guarantee of social security.⁸³

147. Chile has signed, and is implementing, bilateral international social security agreements with 26 countries.⁸⁴ All of these agreements expressly provide for equality of treatment, which means that nationals of all States parties must be afforded the same rights and be subject to the same rules as nationals of the State party in which they reside. The agreements also provide for the export of pensions,⁸⁵ which means that all persons subject to their scope *ratione personae* may receive their pension in their country of residence without any deduction for administrative costs or taxes.

148. Regardless of whether an agreement is in place, Chile never places restrictions on the export of pensions and all persons who meet the relevant criteria are entitled to this benefit.

⁷⁸ Acuerdo Interinstitucional para el Establecimiento de Medidas de Cooperación en Materia de Asistencia Consular.

⁷⁹ Gracias al Programa de Fortalecimiento de la Política Consular y Migratoria, cada Consulado chileno en el mundo cuenta con un Protocolo de Asistencia Consular Integral y una Guía de Trabajo para casos de Asistencia Social Consular. Cuando se presentan situaciones de mayor gravedad y se han agotado las posibilidades de apoyo a través de la red de protección existente en cada país, se considera la alternativa de traslado a Chile de la persona y su grupo familiar, según corresponda.

⁸⁰ Ver respuesta párrafo 21.

⁸¹ <https://serviciosconsulares.cl/>.

⁸² <http://www.cajmetro.cl/chilenosenlexterior/>.

⁸³ Art. 19: “La Constitución asegura a todas personas: 18°. – El derecho a la seguridad social.

Las leyes que regulen el ejercicio de este derecho serán de quórum calificado.

La acción del Estado estará dirigida a garantizar el acceso de todos los habitantes al goce de prestaciones básicas uniformes, sea que se otorguen a través de instituciones públicas o privadas. La ley podrá establecer cotizaciones obligatorias. El Estado supervigilará el adecuado ejercicio del derecho a la seguridad social;”.

⁸⁴ Alemania (1993), Argentina (2008), Australia (2008), Austria (1997), Bélgica (1996), Brasil (2007), Canadá (1996), Colombia (2003), Dinamarca (1995), Ecuador (2006), España (2002), Estados Unidos (2000), Finlandia (1997), Francia (1999), Holanda (2005), Luxemburgo (1997), Noruega (1997), Perú (2002), Portugal (1999), Quebec (1997), República Checa (2000), Suecia (1995), Suiza (1996), Uruguay (1997), Reino Unido (2012), Corea (2015).

⁸⁵ A excepción de los Convenios con Reino Unido y Corea.

149. Chile is also a party to the Ibero-American Multilateral Agreement on Social Security, under which States parties with individual capitalization systems have the option of establishing fund transfer mechanisms.⁸⁶

150. As a rule, the agreements mentioned provide neither for the transfer of funds (although the agreement between Chile and Peru is an exception) nor the reimbursement of contributions, although exceptions⁸⁷ established in the national legislation of certain countries make these processes available to persons subject to the legislation in question. However, the exceptions apply only to Chileans residing in these countries, and not vice versa.

151. Act No. 18.156 of 1982, as amended by Act No. 18.726 of 1988, exempts foreign nationals working in Chile from having to make contributions for certain benefits.

152. The Act establishes that companies employing skilled personnel from other countries are exempt⁸⁸ from compliance with the social security legislation that requires them to make contributions for old-age, invalidity or surviving spouse pensions and health insurance if the worker is able to certify that: (a) he or she is affiliated to a social welfare or security scheme of any legal nature outside Chile that will provide benefits in the event of illness, invalidity, old age or death at the very least; and (b) that his or her employment contract contains a clause stating that he or she will continue to be affiliated to a social welfare or security scheme outside Chile.

153. Skilled personnel from other countries who meet the conditions described above and have made social security contributions may withdraw the funds held in their capitalization account if they have signed an addendum to their contract indicating that they meet the requirements (art. 7 of the Act).

154. Participants in the unemployment insurance scheme are entitled to monthly giro payments drawn on the funds that either they themselves or their employer have paid into their individual account once their employment relationship has come to an end. This situation is applicable for immigrants who do not wish to retire in Chile.

155. The Social Security Education Unit of the Office of the Undersecretary for Social Security is running a national social security education programme that involves organizing talks and distributing materials specifically designed for migrants which provide information on employers, migrant workers and international agreements. Some of the materials have been translated into Creole for distribution to Haitian immigrants.

156. The Office of the Undersecretary manages a social security education fund with a special focus on migrants. In this way, the Office contributes to the development of a social security culture in which migrant workers are able to exercise their rights, make appropriate social security decisions and have adequate knowledge of, and consequently access to, the benefits to which they are entitled.

Reply to the issues raised in paragraph 22

157. The Ministry of Health has taken steps to ensure the application of Decree No. 67 and to widen access to health care for migrants, especially women migrant workers, who are considered to be at greater risk.

158. The activities described below were developed from a gender perspective and with the participation of communities, which was facilitated by community focal points, since this group of migrants is difficult to reach using traditional services or strategies.

159. Women-only activities, such as workshops and meeting, have been conducted in addition to cross-cutting activities.

⁸⁶ Hasta el minuto no se ha pactado un sistema de traspaso de fondos entre ninguno de los países del Convenio.

⁸⁷ Como es el caso de Alemania y Suiza.

⁸⁸ La exención no se extiende a la protección por accidentes del trabajo y enfermedades profesionales (Ley núm. 16.744), al seguro de cesantía (Ley núm. 19.728), y al seguro para el acompañamiento de niños y niñas en una condición grave de salud (Ley núm. 1.063).

160. One such activity is the programme on access to health care for migrants, which has been rolled out in 23 communes. The programme has two aims: firstly, to raise awareness of health rights and obligations among migrants and encourage their social participation;⁸⁹ and, secondly, to ensure that migrants have access to high-quality health care.⁹⁰

161. Another initiative of note was the Ministry of Health's public information campaign entitled "*La salud no tiene fronteras*" (Health has no borders), run in December 2018, which informed migrants about their health rights and how the health-care system works. The campaign materials included graphics and videos relating specifically to the health services available to migrant women.

162. Other examples of good practice include the multimodal training system for health-sector officials and managers in place since 2014;⁹¹ the specific intervention strategies adopted by the regional ministerial secretariats for health;⁹² initiatives of the health-care services including training for migrant women, the publication of brochures and other information materials in appropriate languages, the development of programmes, manuals, guides and protocols relating to primary care services for migrants, the availability of interpreters and intercultural mediators, and training for health workers; efforts in hospitals⁹³ to provide safe and non-discriminatory care to the international migrant population; and primary health-care initiatives.⁹⁴

Reply to the issues raised in paragraph 23

163. Article 10 of the Constitution sets out the different ways in which Chilean nationality may be acquired. The principle of *jus soli* offers one such route, but excludes

⁸⁹ Actividades de difusión y capacitación en derechos y deberes en salud a población migrante, actividades comunitarias y de participación social con la población migrante, con énfasis en personas en situación migratoria irregular.

⁹⁰ Implementar estrategias locales para mejorar el acceso a la atención de salud de la población migrante, especialmente contratación de mediadores interculturales o facilitadores lingüísticos, que se desempeñen en establecimientos de Atención Primaria de Salud, en la red comunitaria y en la coordinación con la red hospitalaria que corresponda a la Comunas, Capacitación y difusión a funcionarios de Atención Primaria de Salud para reforzar habilidades interculturales o el marco normativo de derechos de salud de las personas migrantes.

⁹¹ a) Talleres presenciales de sensibilización en Salud, DDHH y Migraciones esto incluye capacitación respecto al Decreto 67 y a su aplicación, b) Curso intensivo de aprendizaje de migraciones y salud para el desarrollo de habilidades interculturales en los equipos de salud y (c) Cursos en modalidad de cápsulas de capacitación auto gestionada on-line; 1ª "Migración Salud y DDHH"; 2ª, incluye aplicación del Decreto 67 "Herramientas para el trabajo de los equipos locales de salud con población migrante" y 3ª "Facilitación lingüística en Creole para funcionarios de salud", además de otros cursos en fase de preparación.

⁹² Donde destacan los esfuerzos realizados en actividades como diagnósticos regionales de salud con enfoque de determinantes y vulnerabilidad social, trabajo intersectorial y el desarrollo de espacios de participación como diálogos o mesas de trabajo. Destacan igualmente esfuerzos en torno a la creación de mesas, registro y resolución de casos graves de denuncia en conjunto, referentes de migración en la red pública de salud, y convenios con organismos civiles, campañas comunicacionales y otras estrategias de comunicación de riesgo como plazas ciudadanas.

⁹³ De este último nivel de intervención se relevan innovaciones como talleres del Chile Crece Contigo para mujeres migrantes, acompañamiento en el parto, en las Unidades de Salud Sexual de ITS se realiza atención, prevención y tratamiento y se desarrollan actividades para mujeres migrantes, inscripción al sistema público de salud en los hospitales, comité de migrante y acciones dentro de la Estrategia Hospital Amigo, reuniones clínicas dedicadas a conocer mejor a los migrantes, celebración del día del migrante internacional en el hospital, clases de español, conversatorios, capacitaciones a funcionarios, y el desarrollo de protocolos de atención.

⁹⁴ Como diagnósticos participativos y la atención dirigida a personas invisibilizadas; múltiples capacitaciones a migrantes y a trabajadores de salud; programas radiales; diseño de manuales, guías de derecho y protocolos de atención directa en salud a esta población; formación de monitores comunitarios y contratación de facilitadores lingüísticos y mediadores interculturales; identificación de líderes de colonias y grupos organizados migrantes, y diversas actividades comunitarias y de participación; alianzas con gobiernos locales, academia y organismos internacionales, jardines infantiles, y la articulación efectiva de distintos sectores del sistema de salud; rondas de salud en postas rurales con pertinencia cultural para este grupo.

from its scope the children of foreign nationals who are in Chile in the service of their Government and the children of foreign transients born in Chile, although they have the option of applying for Chilean nationality within one year of reaching the age of majority.

164. Since there is no explicit definition of the concept of “transient” (*transeúnte*) in national law, the migration authorities have had to interpret the term on a case-by-case basis, exercising the power accorded them under article 91 (11) of Decree-Law No. 1.094 to make their own determination, in cases of doubt, as to whether a person is a foreign national. As a result, until August 2014, the term “foreign transients” was interpreted for administrative purposes as being applicable to persons with the migration status of tourist or crew member, persons with an irregular migration status, foreign nationals who had entered the country illegally and persons facing an administrative penalty such as expulsion or an order to leave the country, since all such persons were deemed to have no intention of settling in Chile. As a result, a large number of children of migrants in an irregular migration situation were left unable to claim Chilean nationality, putting them at risk of statelessness.

165. To remedy this situation, the Aliens and Migration Department of the Ministry of the Interior and Public Security, in direct application of the treaties ratified by Chile that recognize the right to nationality,⁹⁵ reinterpreted the concept and decided that the term “foreign transient” should henceforth be considered to mean any person passing through Chile without any intention of living there, in other words, tourists and crew members only. The children of migrants without regular status are thus protected from statelessness and are granted Chilean nationality. This reinterpretation was established in official communication No. 27.601, issued by the Aliens and Migration Department on 14 August 2014, which, with regard to a specific case of nationality determination, ruled that only tourists and crew members may be considered to be foreign transients, thus laying the foundations for future determinations in cases presenting similar circumstances. The Civil Registry and Identity Service issued a decision along the same lines.

166. With regard to the aforementioned case, as stated in the minutes of the conciliation hearing held on 16 December 2015, as part of the nationality appeal⁹⁶ before the Supreme Court, the administrative authorities proceeded to remove the annotation “child of a foreign transient, article 10 (1) of the Constitution” from the personal files of the 167 persons in respect of whom the appeal was filed, thus granting them all Chilean nationality.

167. In view of the change in the criterion used to define a foreign transient, the Civil Registry and Identity Service began a concerted drive to raise awareness of the new interpretation among civil servants. In addition, a national information campaign was launched to encourage all persons registered as the child of a foreign transient on the basis of the old criterion to request an amendment of their birth certificate and thus have their Chilean nationality recognized.

168. Building on the awareness-raising activities described above, the Aliens and Migration Department, the Civil Registry and Identity Service, the National Human Rights Institute, the national UNHCR office in Chile, the Human Rights Centre of Diego Portales University, the Migrants Clinic at Alberto Hurtado University and the Jesuit Refugee Service, among other institutions, developed and successfully implemented an inter-institutional cooperation project entitled “*Chile Reconoce*” (Chile Recognizes) within the framework of the UNHCR #IBelong campaign, the aim of which is to end statelessness by 2024, and the Brazil Declaration and Plan of Action 2014–2024.

169. As part of this project, current administrative procedures for confirming nationality (nationality determination and birth certificate rectification procedures) were analysed and subsequently enhanced by improvements to accessibility and the establishment of a shorter lead time for case resolution, and an approximate count was made of the number of persons registered as children of foreign transients and efforts made to ascertain their current address in Chile.

⁹⁵ Tales como, la Convención sobre los Derechos del Niño, Convención de Protección de los Derechos de Todos los Trabajadores Migratorios y sus Familiares, Convención Americana de Derechos Humanos, entre otros.

⁹⁶ Rol núm. 24089-2015.

170. The immigration authorities continue to comply strictly with the criterion established by the Supreme Court and have requested the Civil Registry and Identity Service to rectify the birth certificates of all persons registered as the child of a foreign transient even if their parents are in an irregular situation and regardless of whether they have acquired the nationality of their parents through the principle of *jus sanguinis*.

171. In accordance with the Committee's recommendation, Chile concluded the process of acceding to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness on 11 April 2018, having deposited the relevant instruments with the Secretary-General of the United Nations.

172. The country's accession to these conventions is in line not only with the fundamental principles of its foreign policy, namely, the promotion of democracy and respect for human rights, but also with Presidential Instruction No. 5 of 2015.⁹⁷ Their ratification is a clear demonstration of the country's commitment to implementing public policies that promote non-discrimination and the social inclusion of migrants through a cross-cutting, rights-based approach.

173. The country's ratification of the 1954 and 1961 conventions laid the foundations that cement the country's commitment to the protection of stateless persons. Further building on its commitment to end statelessness Chile is currently working towards the formulation of national regulations that set out the procedure for recognition of stateless status.

Reply to the issues raised in paragraph 24

Paragraph 24 (a) and (c)

174. Through Aliens and Migration Department Circular No. 16 of 2017, a special visa was established that is available to all children and adolescents free of charge and grants them unrestricted access to the education system regardless of the migration status of their parents. To implement the visa programme, a plan for joint action with municipalities and schools to encourage families to apply for their visas was drawn up. In addition, Circular No. 30.722, issued on 10 September 2014, prohibits the punishment of minors irrespective of the offence committed, thereby expressly preventing their expulsion from the country.

175. Since April 2017, the Migrant Board, in conjunction with the Ministry of the Interior and Public Security and the Ministry of Justice and Human Rights, has been developing a plan to facilitate the regularization process for migrant students in an irregular situation that places particular emphasis on work on the ground in which educational institutions are actively involved, specifically orientation and information days designed for the entire educational community, and especially parents and guardians, and intended to help students in an irregular situation to obtain temporary visas (whether student visas, visas for the dependants of permanent residents and visas for dependants applying for the first time) in accordance with current regulations. The aim of the plan is to encourage, facilitate and support the regularization and inclusion of migrant students in an irregular situation by involving all of the educational community.

176. To this end, the Ministry of Education will work directly with the educational institutions and will provide the information needed to identify students in an irregular situation on the basis of their provisional school identification number.

177. Administrative regulations have also been issued.⁹⁸

⁹⁷ En el cual se reconoce a Chile como un país de migración, con responsabilidades en la movilidad humana internacional. Al asegurar que todas las personas puedan tener una nacionalidad, se favorece la cohesión social, la integración y la posibilidad de que las sociedades capitalicen las capacidades y los talentos de sus ciudadanos, creando sociedades inclusivas que permiten la prosperidad de las comunidades y de las naciones.

⁹⁸ Decreto Exento 2.272/2007 – Procedimientos para el reconocimiento de estudios básicos, medios, modalidad adultos y educación especial; Instructivo Presidencial 2015 sobre Migración; ORD. 894/2016 – Instrucciones sobre el ingreso, permanencia y ejercicio de derechos de estudiantes extranjeros en establecimientos educacionales; ORD. 329/2017 – Complementa ORD. 984/2016; ORD. 608/2017 – Lineamientos internos para la inclusión de estudiantes extranjeros; ORD. 747/2017

Articles 31 to 33**Reply to the issues raised in paragraph 25**

178. In addition to the information provided in response to paragraph 21, it should be noted that the agreement concluded between Chile and Peru allows for funds to be transferred between the relevant pension fund administrators on the request of the person concerned, provided that they cite the relevant agreement.⁹⁹

4. Part IV of the Convention**Article 37****Reply to the issues raised in paragraph 26**

179. See paragraph 20.

Article 40**Reply to the issues raised in paragraph 27**

180. The Constitution guarantees the right of association¹⁰⁰ and unionization¹⁰¹ for all inhabitants, whether Chilean or foreign. The Labour Code, in articles 212 et seq., cements the right of all private sector workers to freely form, join or withdraw from a union and be part of its executive bodies, without placing any form of restriction on the participation of migrant workers. Thus, in relation to this guarantee, they enjoy the same rights as national workers. This equality is reinforced by the provisions of the Labour Code that enshrine the principle of non-discrimination and by the protection afforded by the judicial mechanism for upholding labour rights that protects all workers against acts of discrimination on grounds of race or nationality, among other characteristics.¹⁰²

Articles 43 to 45**Reply to the issues raised in paragraph 28**

181. The migration bill maintains the rule that no more than 15 per cent of an employer's workforce may be composed of foreign nationals unless the employer has fewer than 25 workers. Without prejudice to the foregoing, the bill introduces new exceptions to the 15

– Validación de estudios jóvenes y adultos extranjeros; ORD. 615/2017 – Procedimientos transitorio estudiantes haitianos año escolar 2017; Convenio Chile-Haití para el reconocimiento y convalidación de estudios generales; Convenio Chile-Ecuador para el Reconocimiento de Títulos Profesionales.

⁹⁹ El convenio "reconoce el derecho de los trabajadores de transferir el saldo acumulado en sus cuentas... de una Parte Contratante a otra, con el fin que sean administrados" por la AFP de su elección (Art. 18 núm. 1), en tanto traslade su residencia de forma permanente.

Para garantizar el carácter previsional de la transferencia, se debe acreditar aportación al sistema al menos 60 meses o tener la calidad de pensionado en el país de destino de los fondos. "Las Autoridades Competentes, de común acuerdo, podrán establecer la ampliación o reducción del mencionado límite" (art. 18).

Los fondos por traspasar son la totalidad de las cotizaciones obligatorias, voluntarias, depósitos convenidos o aportes del empleador, que el afiliado mantenga en su cuenta individual, a la fecha del traslado. Ellos ingresan a la cuenta individual como cotizaciones obligatorias. Tratándose de cotizaciones voluntarias, éstas pueden traspasarse, estando afectas a tributación.

Transferidos todos los fondos, se produce desvinculación del sistema del país de origen. Se considera la opción de cotizaciones voluntarias en ambos países, independiente de donde se fije a la residencia, sin perjuicio de cumplir además con la legislación local relativa a la obligación de cotizar. En el caso de trabajadores peruanos que opten por este beneficio, quedan exentos de cotizar para prestaciones de salud en Perú.

¹⁰⁰ Artículo 19 núm. 15.

¹⁰¹ Artículo 19 núm. 19.

¹⁰² De esta manera, se recoge en la legislación chilena el espíritu de la Convención y los convenios internacionales de la OIT en la materia.

per cent rule for companies that engage in seasonal activities and require a substantial increase in staffing levels at certain times of the year. However, in order to prevent fraud, such companies must request prior authorization from the Labour Directorate to benefit from this exception.

182. As an additional anti-fraud measure, the rules for determining whether or not this quota has been met have also been amended, with the result that foreign nationals with permits authorizing residence or sojourn for a period of less than one year without the right to apply for permanent residence are no longer included in the calculation.¹⁰³

Reply to the issues raised in paragraph 29

183. The Constitution provides that foreign nationals residing in Chile have the same rights and obligations as nationals by virtue of their common status as natural persons.¹⁰⁴ It further provides that the family is the fundamental unit of society, without distinction on the basis of race, origin or nationality. The State has a constitutional obligation to “protect and help to strengthen” all families, whether composed of Chileans or foreign nationals. In the light of the foregoing, migrants who hold a Chilean residence visa may claim as dependants their spouses, parents and children, whether born of both spouses or one only, provided that the family members in question are financially dependent upon the visa holder.

184. Circular No. 6 of 26 February 2015 provides that temporary residence visas may be granted to any person who has entered into a civil union agreement or other form of civil partnership contract with a Chilean national or foreign national with permanent resident status, irrespective of whether the union was concluded in Chile or abroad.

185. By way of Circular No. 16 of 26 July 2017, staff of the Aliens and Migration Department, regional administrations and provincial governments were instructed to grant temporary residence visas to children and adolescents to ensure that their rights are guaranteed irrespective of their parents’ migration status.

186. The special regularization process that began on 23 April 2018 was intended to integrate migrants in an irregular situation into Chilean society and to recognize their rights, the minimum requirement for regularization being the absence of a criminal record in the migrant’s country of origin. Through this process, more than 155,707 persons who had been in an irregular situation, including many entire families, were able to regularize their migration status.

187. The new migration policy¹⁰⁵ also provides for the issuance of temporary residence visas to facilitate family reunification for Haitian nationals. Such visas may be requested for the spouses, civil partners, minor children and adult children up to the age of 24 who are still studying of any Haitian national who has been granted temporary or permanent residence in Chile.

188. In view of the situation of extreme vulnerability in which some foreign nationals in Chile find themselves, in 2018 the Ministry of the Interior and Public Security rolled out a humanitarian repatriation programme to help foreign citizens who wish to return to their country freely and voluntarily in order to be reunited with their families.

Reply to the issues raised in paragraph 30

Paragraph 30 (a)

189. The Ministry of Health, as the authority responsible for health and safety, has put forward a proposal for regulations to address the issue of overcrowding in terms of its

¹⁰³ En la Cámara de Diputados se presentó una indicación, por diputados oficialistas, con el objeto de aumentar este guarismo, la que fue rechazada. Dicho proyecto se encuentra en plena discusión, por lo que según la decisión soberana de los parlamentarios, podría darse dicho cambio.

¹⁰⁴ Artículo 19 núms 2 y 3.

¹⁰⁵ Cuya implementación fue anunciada en abril de 2018

implications for conditions of hygiene. The proposal is part of the plan of action on migration and health that is currently being prepared by the Ministry.¹⁰⁶

Paragraph 30 (b)

190. The Ministry of Health's budget for the implementation of migrant health policy is currently \$60,000,000 for the Office of the Undersecretary for Public Health¹⁰⁷ and \$703,980,000 for the Office of the Undersecretary for Welfare Networks.¹⁰⁸

191. The plan of action on migration and health currently in preparation, through which the health policy for international migrants will be implemented, will be allocated a budget sufficient to cover its activities.

Article 49

Reply to the issues raised in paragraph 31

192. The Aliens and Migration Department stopped accepting applications for temporary visas for employment purposes on 23 April 2018. However, this change did not affect the processing of postal applications for temporary work visas sent to the Aliens and Migration Department or submitted to a provincial government prior to the aforementioned date.¹⁰⁹ It also had no impact on the validity of temporary visas for employment purposes issued prior to and still valid on this date. In both cases, the visa holders concerned retained the right to request a one-time extension or permanent residence.

193. All other possible options for lawfully residing and working in the country provided for by law remain valid, specifically:

- Subject-to-contract visas: This type of permit is granted to foreign nationals who enter the country to fulfil an employment contract with a named employer. Should the employment relationship be terminated, the visa expires and the foreign national has 30 days to submit a new residence permit application. After two years of continuous work, it is possible to apply for permanent residence.
- Temporary residence visas: This type of permit is granted to foreign nationals who have proven family ties or interests in Chile, provided that their residence is deemed useful and desirable. Holders of this type of visa are permitted to engage in all forms of activity, subject to the limitations determined by law. The visa is valid for a maximum period of one year, renewable once, after which time the holder must apply for permanent residence or leave the country. The following categories of foreign national are eligible: persons with family ties with Chileans or foreign nationals with permanent residence; members of a religious order; pensioners and persons of independent means; investors and traders; former residents (foreign nationals whose Chilean residence permit has expired); the children of foreign transients (non-resident foreign nationals); senior professional and technical personnel; workers who have concluded two or more contracts; workers who receive a foreign income; journalists and media professionals; pregnant women and persons receiving medical treatment; nationals of Argentina, Bolivia, Brazil, Paraguay and Uruguay; and persons in a civil union with a Chilean or permanent resident of Chile.
- Student visas: Student-visa holders may obtain a work permit only if they plan to engage in work that is relevant to their studies and/or if they need to work to pay for their studies.
- Special work visas for tourists.

¹⁰⁶ "Reglamento para el ejercicio de la facultad del MINSAL en materia de condiciones sanitarias y de seguridad que deben cumplir una casa, edificio o local, para ser habitada u ofrecidos en arrendamiento y la determinación del número máximo de personas que pueden ocuparlos y establecer sanciones asociadas (Artículo núm. 77 del Código Sanitario)".

¹⁰⁷ División de Políticas Públicas.

¹⁰⁸ División de Atención Primaria de Salud.

¹⁰⁹ Que continuaron siendo tramitadas y otorgadas conforme a la normativa.

- Temporary “opportunities” visas: This type of permit is available to migrants from all countries who wish to come to Chile to start a business or work. Applications must be submitted from outside Chile.

194. All of the residence permits described above may also be granted to family members who are financially dependent upon the permit holder, that is, to the permit holder’s spouse and parents and to any children of the permit holder and/or spouse.

5. Part VI of the Convention

Articles 64 to 68

Reply to the issues raised in paragraph 32

195. To ensure compliance with the United Nations Convention against Transnational Organized Crime, and in particular the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (the Trafficking in Persons Protocol), in 2008 the Government created the Intersectoral Panel on Trafficking in Persons.¹¹⁰ The Panel is a permanent advisory committee with a cross-sector, cross-ministry membership and is responsible for coordinating measures, plans and programmes to prevent, suppress and punish trafficking in persons, especially women and children. It is divided into three subcommittees, focused on prevention and awareness-raising, the detection and prosecution of offences, and victim protection and assistance, and has officers in every region of the country.

196. Act No. 20.507, which defines the offences of smuggling of migrants and trafficking in persons and establishes norms to prevent and more effectively prosecute these offences, was enacted subsequently on 8 April 2011. As a result of this new law, the offence defined in article 411 *quater* of the Criminal Code now encompasses the elements necessary to classify trafficking in persons as an offence at both the national and international levels.

197. According to the Intersectoral Panel’s statistical report on trafficking in persons in Chile 2011–2018 (annex VI), 37 criminal cases of trafficking in persons were recorded between the date of the Act’s adoption and 21 December 2018, involving 228 victims, of whom 122, or 54 per cent, were men and 106, or 46 per cent, were women. Of the total number of registered victims, 16 were identified as children or adolescents. All the victims identified up to December 2015 were foreign nationals. In 2016, three Chilean women were identified as victims of sex trafficking; in 2018, all the victims were foreign nationals. The victims identified during the reporting period were primarily of Bolivian (32.9 per cent), Paraguayan (26.8 per cent), Colombian (6.6 per cent) and Ecuadorian (6.1 per cent) nationality.

198. In the same period, a total of 140 visas were issued to victims of trafficking in persons¹¹¹ and, under the Intersectoral Protocol on Assistance for Victims of Trafficking in Persons coordinated by the Office of the Undersecretary for Crime Prevention, 164 cases were registered, 44 involving sex trafficking (27 per cent) and 120 involving labour trafficking (73 per cent).

199. There have been 16 convictions – 10 for sex trafficking and 6 for labour trafficking – and 25 persons, including 8 Chilean nationals, have been sentenced. Investigations into this offence were concentrated in the centre of the country, with 30 per cent taking place in the Maule Region, 25 per cent in the Libertador General Bernardo O’Higgins Region and 25 per cent in the Metropolitan Region.

200. Regarding the offence of smuggling of migrants,¹¹² in 2017 the Public Prosecution Service registered a total of 315 formal judicial investigations, of which 82 per cent were ordinary migrant smuggling offences, 15 per cent were aggravated offences and 3 per cent were unclassified offences. These investigations took place primarily in the regions of

¹¹⁰ Decreto Exento núm. 2821 de 2008.

¹¹¹ Art. 33 bis Ley de Extranjería.

¹¹² Tipificado en el artículo 411 *bis* del CP en el año 2011.

Arica y Parinacota (24 per cent) and Tarapacá (41 per cent) and in the central northern jurisdiction of the Metropolitan Region (14 per cent).

Paragraph 32 (a)

201. On 18 December 2018, the Intersectoral Panel concluded the 2015–2018 National Plan of Action against Trafficking in Persons, which had comprised four main strategic areas: prevention and awareness-raising, detection and prosecution of offences, victim protection and assistance, and inter-agency coordination and cooperation. The work carried out between 2015 and 2018 equates to implementation of 94 per cent of the Plan of Action. For details of the activities undertaken and the outcomes achieved, see annexes VII and VIII.

202. As part of these activities, in 2018 the Subcommittee for Prevention and Awareness-Raising held training sessions at the Labour Welfare Centre of the Labour Directorate and for the remote services network, which were attended by representatives of the National Service for Women and Gender Equality, the National Service for Minors, Chile Atiende and Fundación Todo Mejora (“Everything gets better” Foundation). The Subcommittee for the Detection and Prosecution of Offences held talks on the subject at the Police Training School, the Police Sciences Academy, the School for Investigative Police and the Higher Academy for Police Studies. This Subcommittee also published guidelines on good practices in criminal investigations. Lastly, the Subcommittee for Victim Protection and Assistance updated the online information guide on inter-agency services for the assistance of victims of trafficking in persons and developed a procedure for the protected and assisted return of victims of trafficking in persons,¹¹³ which includes a return plan and ensures the informed consent of victims.

203. With regard to measures adopted to prevent, suppress and punish trafficking in persons, international cooperation and coordination activities have also been carried out in conjunction with Ecuador, Peru, Colombia and Argentina.¹¹⁴

204. Additionally, the Intersectoral Panel organizes and consistently participates in activities relating to the prevention, suppression and punishment of trafficking in persons, coordinating with its regional offices around the country and liaising with international organizations and other States. For example, it takes part in the workshops and meetings held as part of the “Knowledge Management Network on Human Trafficking in South America for Judges, Prosecutors and Investigators” project, run by the International Organization for Migration and the Government of the United States of America.

Paragraph 32 (b)

205. The Intersectoral Panel’s Subcommittee for Prevention and Awareness-Raising is responsible for training public officials, civil society and other relevant stakeholders and for conducting prevention and awareness-raising campaigns in cooperation with non-governmental organizations (NGOs) serving as members of the Panel. As part of the 2015–2018 Plan of Action, a public information leaflet was produced, regular prevention

¹¹³ Este último documento será anexado al plan de acción 2019-2022, para ser validado por los Servicios cuando se valide el nuevo plan de acción, en el que se encuentra trabajando actualmente la Secretaría Ejecutiva de la Mesa.

¹¹⁴ A saber: en mayo de 2015 se suscribió el Memorándum de entendimiento entre el MININT de la República de Chile y el Ministerio del Interior de la República del Ecuador para la prevención e investigación del delito de trata de personas y la asistencia y protección de sus víctimas, aprobándose en octubre de 2018 el plan binacional de implementación del mismo para el periodo 2018-2019. En el mismo sentido, en julio del año 2017 se suscribió el “Acuerdo entre la República de Chile y la República del Perú para fortalecer la lucha contra la trata de personas, el tráfico ilícito de migrantes y los delitos conexos”, aprobándose en 2018 el plan binacional de trabajo entre ambos países. Asimismo, durante el año 2018 el plan de trabajo desarrollado en el marco del “Memorandum de entendimiento entre la República de Chile y la República de Colombia sobre cooperación en la prevención y control de trata de personas y tráfico ilícito de migrantes”, estuvo enfocado en el delito de trata de personas. Por último, en el ámbito de la cooperación internacional contra la trata de personas, el mes de agosto de 2018 se firmó también el Memorando de entendimiento entre las Repúblicas de Chile y Argentina.

activities were carried out with the regional offices and a specialized spot on trafficking in persons was developed, which the Ministry of Health incorporated into the training programme for its officials. To mark World Day against Trafficking in Persons, the Subcommittee runs mass media campaigns to raise awareness of the serious nature of this offence and of the State complaint mechanisms available for reporting cases.

206. The Aliens and Migration Department has added a special module on trafficking in persons into its training plan, introduced in 2015, under which a total of 1,576 public officials have been trained around the country.

207. The Carabineros and the Directorate General of Investigative Police have also carried out prevention and awareness-raising campaigns in conjunction with various local governments and at high-traffic locations, including bus terminals, airports and border crossings.

Paragraph 32 (c)

208. With regard to temporary shelters, the Casa Josefina Bahati home, which is managed by the National Service for Women and Gender Equality, has 10 places for women victims and their children aged under 18 years and has national coverage, despite being located in Santiago. In April 2019, it provided shelter to six women victims, including one with a minor child.

209. The National Service for Women and Gender Equality also has shelters around the country for women victims of violence, including in the regions of Arica y Parinacota and Magallanes y de la Antártica Chilena, where women victims of trafficking have received shelter whenever necessary and depending on availability.

210. In the light of their particular vulnerabilities and need for protection and redress, child and adolescent victims are provided with assistance and shelter, regardless of gender, in the residential homes of the National Service for Minors network.

211. With regard to protection programmes, the Victim Support Programme run by the Office of the Undersecretary for Crime Prevention of the Ministry of the Interior and Public Security is designed to help to repair the damage caused to victims of crime through prompt, free and timely contact with the persons affected and the provision of comprehensive and specialized assistance from professionals such as lawyers, psychologists, social workers and psychiatric doctors. The purpose of the Programme is to encourage victims of crime to exercise their rights and, in so doing, overcome the adverse effects of the crime committed against them, and to prevent their revictimization. The services offered under the Programme include services specifically for trafficking victims.

212. The Victim Support Programme includes first-line services providing appropriate and multidisciplinary contact, either in-person or by telephone, and second-line services offered through victim support centres nationwide, where specialized and interdisciplinary assistance (psychological, social, psychiatric and legal) can be provided in person to victims who are particularly severely affected by the crime.

213. The Public Prosecution Service has the authority to order any protection measures that it deems necessary for victims of cases of trafficking that are subject to judicial investigation.

214. In urgent cases where financial resources are required to provide a service requested by a trafficking victim, an application for funding can be submitted to the Regional Social Welfare Organization Fund of the Social Welfare Department of the Office of the Undersecretary of the Interior.

Paragraph 32 (d)

215. The Intersectoral Protocol on Assistance for Victims of Trafficking in Persons¹¹⁵ is consistent with the Trafficking in Persons Protocol¹¹⁶ in terms of services aimed specifically

¹¹⁵ A diciembre de 2018, las instituciones que forman parte del protocolo son las siguientes:
• Ministerio Público.

at assisting victims and calls for coordination between the institutions that provide different types of assistance to victims of trafficking in order to ensure the effective exercise of their rights. The 2012 National Survey on Trafficking in Persons in Chile brought to light a number of challenges in this area,¹¹⁷ including the need to develop a protocol on assistance for victims. In response, the Intersectoral Protocol provides for intersectoral coordination and contains specific procedures for bringing to fruition institutional commitments to ensuring adequate access to services in due time and manner, based on the needs of trafficking victims. The Intersectoral Protocol refers solely to assistance for victims of trafficking in persons and will need to be effectively aligned with policies on prevention and criminal prosecution. Responsibility for its implementation is shared between all signatory institutions, without any hierarchy between them.

216. The objective of the Intersectoral Protocol is to guarantee the effective exercise of the rights of trafficking victims, and thus to ensure their care, protection, compensation, and to prevent revictimization. In all efforts made in pursuit of this objective, the constitutional and legal provisions that regulate each institution that has signed the Intersectoral Protocol will be respected, and will provide the parameters for interpretation of the terms in which the Protocol is formulated. The Intersectoral Protocol is applicable to all trafficking victims, irrespective of age, sex, ethnicity, nationality, socioeconomic status and type of exploitation

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- Ministerio del Interior y Seguridad Pública (Subsecretaría de Interior – Departamento de Extranjería, Subsecretaría de Prevención del Delito – Programa Apoyo a Víctimas).
 - Ministerio de Justicia y Derechos Humanos (Corporaciones de Asistencia Judicial, Servicio Nacional de Menores y Servicio Médico Legal).
 - Carabineros de Chile.
 - Policía de Investigaciones de Chile.
 - Ministerio de Salud.
 - Servicio Nacional de la Mujer.
 - Ministerio de Educación.
 - Corporación Humanas.
 - Fundación Ciudadano Global Servicio Jesuita a Migrantes y Refugiados.
 - Instituto Católico Chileno de Migración (Incami).
 - Clínica Jurídica, Universidad Diego Portales.
 - Instituto Nacional de Derechos Humanos (INDH).
 - Junta Nacional de Jardines Infantiles (JUNJI).
 - Fundación Integra.
 - Organización Internacional para las Migraciones (OIM).
 - Organismos colaboradores de SENAME.
 - Alto Comisionado de las Naciones Unidas para los Refugiados (ACNUR).

¹¹⁶ Protocolo para prevenir, reprimir y sancionar la Trata de personas, especialmente en mujeres y niños, que complementa la Convención de las Naciones Unidas contra la Delincuencia Organizada Transnacional.

¹¹⁷ Estos desafíos eran:

- El desarrollo de un protocolo de asistencia integral a víctimas de Trata de personas que defina los componentes, contenidos y fases de la intervención de 2 cada institución, especialmente en la reparación integral, y la manera en que las diversas instituciones se coordinarán para proveerla, ya sea conjuntamente o por separado.
- El sistema de intervención diseñado debe, necesariamente, incluir a las organizaciones pertenecientes a la sociedad civil y organismos internacionales que han intervenido en la materia.
- El sistema de asistencia debe coordinarse adecuadamente con las políticas migratorias y de persecución penal a fines de garantizar la adecuada protección y asistencia a las víctimas, sin encontrarse ésta condicionada a la participación de las víctimas en los procesos para determinar o sancionar las responsabilidades penales. Lo anterior es sin perjuicio de las medidas de protección que otorga al Ministerio Público que necesariamente están vinculadas a una investigación criminal.
- Por último, la asistencia debe considerar el necesario apoyo a la provisión de las necesidades básicas de las víctimas, como son el acceso a alojamiento, alimentación y acceso a condiciones de vida mínimas que impliquen una mejora sustancial en relación a su situación previa de explotación.

suffered and regardless of the existence or outcome of any criminal proceedings, except in relation to any measures ordered by the Public Prosecution Service.

Paragraph 32 (e)

217. In recognition of the need for the State to be proactive in detecting cases and, in so doing, prevent victims of this offence from being denied their rights, prevention and awareness-raising features as one of the strategic areas of the 2015–2018 National Plan of Action against Trafficking in Persons. Drawing on the recommendations of the Work Plan against Trafficking in Persons in the Western Hemisphere 2015–2018 and comparative experiences, the Plan of Action contains awareness-raising strategies for segments of civil society and the private sector that may come into contact with or have background knowledge of cases of trafficking. Other channels through which the public can obtain information on the subject, such as the website or advice and complaints hotlines, are also given prominence. Since the media is a vehicle for educating the public, it is important that media outlets are aware of the offence and understand its characteristics in order to ensure that the information that reaches the public is appropriate and does not confuse concepts or use phrases that victims may find stigmatizing or discriminatory. Lastly, as the Subcommittee for Prevention and Awareness-Raising believes that tackling the ignorance of individual rights that compounds the vulnerability of certain groups is another way to prevent this crime, awareness-raising activities under the Plan also encompass the rights of migrants, the labour rights of all workers in the country and the sources of assistance currently available.¹¹⁸

Paragraph 32 (f)

218. The Intersectoral Protocol, adopted in 2014, provides for coordination between the various institutions that provide different types of assistance to victims of trafficking, with the aim of ensuring the effective exercise of victims' rights. As soon as the protocol is activated, the victim has the right to a host of services that are built on a set of principles intended to ensure that trafficking in persons is tackled from a gender and human-rights-based perspective and that victims receive comprehensive protection which takes account

¹¹⁸ Respecto de estos objetivos identificados, durante el periodo comprendido entre 2015 y 2018, se realizaron las siguientes acciones:

Objetivo 1: Fortalecer de manera transversal la capacidad estatal de detectar situaciones de trata de personas

- i) Preparación de funcionarios de los servicios e instituciones que componen la MITP como formadores en materia de trata de personas;
- ii) Diseño e implementación del plan nacional de capacitación en sensibilización, detección y derivación de casos de trata de personas para funcionarios públicos a ejecutar por formadores;
- iii) Elaboración de la Guía de Detección y Derivación de Víctimas de trata de personas;
- iv) Realización de alianzas con sectores privados que son considerados prioritarios para la sensibilización y detección de posibles víctimas de trata de personas.

Objetivo 2: Informar, educar y sensibilizar a la población sobre la trata de personas

- i) Diseño y ejecución de campaña nacional de sensibilización sobre la trata de personas;
- ii) Diseño e implementación de la página web de la MITP:
<http://tratadepersonas.subinterior.gov.cl>;
- iii) Difusión de material informativo sobre la trata de personas por todas las instituciones miembro de la MITP en el Día de Acción contra la Trata de Personas;
- iv) Elaboración y distribución de material informativo y orientador sobre trata de personas en distintos idiomas para los usuarios de los servicios públicos;
- v) Desarrollo e implementación de estrategia de sensibilización en instituciones o servicios que brinden atención a grupos vulnerables frente a la trata de personas;
- vi) Promoción de derechos ante grupos vulnerables a la trata de personas;
- vii) Incorporación de la temática en líneas telefónicas públicas de orientación;
- viii) Generación de instancias de conocimiento para medios de comunicación en la materia de trata de personas.

of their specific needs, based on their sex, age, nationality, socioeconomic status, sexual orientation, health status, the type of exploitation they were subjected to, the existence of family or social support networks and their opinion. As a result, the measures taken for their protection and the restoration of their rights vary from case to case, taking care to avoid any form of revictimization and to protect the dignity and rights of the victim at all times while also assessing whether family reunification is relevant to the case in question.

219. One of the undertakings made under the victim protection and assistance strategic component of the 2015–2018 National Plan of Action against Trafficking in Persons was to create mechanisms for coordinating with consulates on issues relating to the assisted and protected return of victims of trafficking. For this purpose, the Subcommittee for Victim Protection and Assistance has been working to draft a procedure for the protected and assisted return of victims of trafficking.¹¹⁹

Paragraph 32 (g)

220. Data on trafficking victims is collected and processed by the Victim Support Programme of the Office of the Undersecretary for Crime Prevention, the coordinating body of the Intersectoral Protocol. It uses the Victim Support Network, which is composed of different public and private bodies and services, to ensure automatic registration of the coordinated measures taken in every case of trafficking identified, thus maintaining a record of the services provided to the victims concerned. The system also provides a comprehensive overview of certain factors characteristic of this criminal phenomenon, thus enabling empirical data to be produced, which is useful when evaluating public policy on trafficking.

221. Regarding residence permits for trafficking victims, pursuant to Act No. 20.507, article 33 *bis* was inserted into Legislative Decree No. 1094 of 1975, which established rules on foreign nationals in Chile, and states that: “Victims of the offence provided for in article 411 *quater* of the Criminal Code who are not nationals or permanent residents of Chile shall have the right to apply for temporary residence for a minimum period of six months, during which time they shall be able to decide whether to proceed with criminal or civil prosecutions in the respective judicial proceedings and/or to initiate the process for regularizing their legal residence status. At no time shall repatriation be ordered for victims who request residency owing to a serious threat to their physical or psychological integrity attributable to the circumstances in which the offence was committed in their countries of origin.”

222. The Ministry of the Interior and Public Security has made a number of specific commitments¹²⁰ that are contained in the Intersectoral Agreement for the implementation of

¹¹⁹ Este documento será validado y anexado al nuevo Plan de Acción Nacional contra la Trata de Personas 2019-2022, que se encuentra en proceso de elaboración por parte de la Secretaría Ejecutiva de la MITP. Este procedimiento contempla la posibilidad de que la víctima retorne al lugar donde reside su familia, para lo cual se recomienda reconstruir los vínculos familiares y comunitarios con antelación al retorno, informando oportunamente tanto a la víctima como a su entorno familiar, pudiendo prever las dificultades de su reinserción y el impacto que ésta pueda generar en el microsistema.

¹²⁰ a) Sistematizar a través del Centro Estratégico de Análisis Delictual (CEAD) información estadística sobre el delito de Trata de Personas, aportada por miembros de la Mesa Intersectorial sobre Trata de Personas, en la forma prevista en el documento “Recolección de datos estadísticos del delito de trata de personas en Chile”, anexo al señalado convenio y que forma parte integrante del mismo.

b) Eximir a las víctimas de trata de personas del pago de derechos del permiso de residencia temporal establecido en el artículo 33 bis del Decreto-ley núm. 1.094.

c) Establecer a través del DEM un mecanismo especial de solicitud del permiso de residencia temporal establecido en el artículo 33 bis del Decreto-ley núm. 1.904 de 1975 para víctimas de trata de personas, que atienda a las necesidades de celeridad, oportunidad, y prevención de la victimización secundaria.

d) Incorporar, a través del Departamento de Acción Social de la SI, en los convenios de transferencia de recursos con agencias implementadoras del programa de asistencia para inmigrantes vulnerables, la asistencia social para víctimas de trata de personas, previo cumplimiento de los requisitos establecidos en los mismos.

the National Plan of Action against Trafficking in Persons of the Intersectoral Panel on Trafficking in Persons, which was signed on 6 December 2013.

223. The Aliens and Migration Department defines the procedures and requirements for granting temporary visas to victims of trafficking on the basis of the information provided in the preceding paragraphs, particularly the paragraph concerning visas for trafficking victims, in conformity with current immigration law and its enabling regulations.¹²¹

e) Coordinar el protocolo Intersectorial de Atención a Víctimas de Trata de Personas a través del Programa Apoyo a Víctimas de la SPD, en conformidad a lo establecido en dicho Protocolo.

¹²¹ Aspectos Generales

- Los requisitos para solicitar la visa establecida en el artículo 33 bis son definidos por la autoridad migratoria nacional en función de la normativa vigente.
- La información asociada al acceso y requisitos para obtener la visa 33 bis serán difundidos a las instituciones que forman parte del Protocolo Intersectorial de Atención a Víctimas de Trata, las cuales la darán a conocer solo a él/la extranjero(a) que haya sido calificado(a) como víctima del delito de trata de personas por dicha institución con los instrumentos³ y antecedentes disponibles para ello.
- La visa 33 bis, podrá solicitarla cualquier institución pública u ONG que forma parte del Protocolo Intersectorial de Atención a Víctimas o directamente él/la extranjero(a) que requiere el beneficio.
- Este permiso de residencia habilita a su titular a residir en el país y a realizar cualquier actividad lícita, sin limitaciones especiales
- La condición de víctima del delito de trata de personas de un extranjero(a), se hará a partir de la valoración que realice la institución integrante del Protocolo Intersectorial, ello será explicitado en el “Informe de Valoración Integral”. Éste informe, deberá remitirse a la Coordinación Nacional de Casos del Protocolo.
- La Coordinación Nacional de casos revisará dicho informe y emitirá un certificado que acredita el ingreso del caso al Protocolo Intersectorial, el cual constituye un requisito fundamental para el análisis y otorgamiento de éste permiso temporal, por tanto éste es, un documento obligatorio al momento de presentar la solicitud de visa al DEM.
- Si los antecedentes son suficientes, es decir cumple los requisitos correspondientes y adjunta antecedentes, el DEM gestionará la visa, y notificará a el/la extranjero(a) interesado e informará al Coordinador Nacional de Trata del resultado de la gestión.
- Si los antecedentes no son suficientes o se requiriese de documentos complementarios, se solicitarán mediante oficio dirigido a él/la extranjero(a) o a la institución acompañante, según quién hubiese presentado la solicitud, sin perjuicio de lo anterior el DEM deberá comunicarlo⁴ vía mail o telefónicamente al Coordinador Nacional de Trata.
- Si se cumple con los requisitos de acceso y documentación requerida, el DEM concederá al extranjero(a) interesado(a) la visa prevista en el artículo 33 bis del DL1.094, la que será extendida por un plazo de seis meses, contados desde la fecha del estampado de la visa y podrá ser prorrogada sucesivamente por seis meses, con un límite de dos años, siempre y cuando se mantenga vigente el caso investigativo o la causa judicial por el delito establecido en el artículo 411 quater del Código Penal.
- Si no procede la prórroga de la visa o las prórrogas sucesivas de hasta dos años ya hubiesen sido otorgadas, el/la extranjero(a) deberá solicitar otro tipo de visa dentro de los 90 días anteriores a la fecha de vencimiento de ella.
- Si el/la extranjero/a se encuentra imposibilitado de obtener pasaporte, la autoridad migratoria evaluará los antecedentes para el otorgamiento de un título de residencia que le serviría SOLO para estampar la visa y cedularse.
- Respecto al pago de multas por infracciones migratorias cometidas por las víctimas del delito de trata de personas, el DEM propenderá a que su aplicación no constituya un obstáculo para la regularización migratoria, sin embargo, si procediere la sanción, el pago de éstas se gestionará desde la Coordinación Nacional de casos del protocolo con la agencia implementadora Ciudadano Global.
- En el caso que una persona se presentare sin acompañamiento a las oficinas de atención de público en el nivel central, solicitando una visa en virtud del referido art. 33 bis y dicha presentación tampoco estuviese patrocinada por una institución parte del Protocolo intersectorial. El funcionario que la atendió la derivará con la analista nominada para atender estos casos especiales, quien a su vez coordinará la derivación con el Coordinador Nacional de Trata de personas del Protocolo

Article 69

Reply to the issues raised in paragraph 33

224. In current legislation, article 91 (8) of Legislative Decree No. 1094 sets out the basic procedure for regularization of the migratory status of foreign nationals who may have entered or may be residing in Chile on an irregular basis. Under this procedure, which falls under the remit of the Office of the Undersecretary of the Interior, foreign nationals in an irregular situation in Chile have a number of options for regularizing their status.

225. Persons who have overstayed their permits may be sanctioned with a fine, which is calculated in accordance with the length of time that they have overstayed. After paying the fine, they can either apply for a residence permit in compliance with the general rules or leave the country voluntarily. Any person who is engaged in a remunerated activity in Chile without first having obtained the corresponding authorization from the administrative authorities, and is caught or reported by the police, will be cautioned or fined, as appropriate. However, these persons can still apply to the authorities for a special work permit or for a change in the status of their residence permit for the purposes of regularizing their situation.

226. As for persons who have entered the national territory illegally or by crossing an unauthorized border point, migratory regulations provide for criminal or administrative sanctions. However, the Office of the Undersecretary of the Interior has the authority to regularize their status and, upon occasion, to grant residence permits, taking into account the facts of each case, especially those involving humanitarian issues, family reunification or the need to safeguard the best interests of the child.

227. Under President Sebastián Piñera's new migration proposals, a number of government measures aimed at achieving orderly, regular and safe migration have been implemented or are currently under way,¹²² including the extraordinary regularization procedure of 2018.¹²³ The aim of this procedure, which is the third procedure for the mass regularization of foreign nationals in Chile, is to register and regularize the status of foreign nationals who either entered the country before 8 April 2018 and are still in an irregular situation or entered the country in an irregular manner, bypassing border control, or overstayed a tourist visa or residency permit. The procedure enables them to obtain a temporary visa and identity card in order to work and live in the country, in compliance with immigration law, for a period of one year, which may be extended in accordance with the general rules.

228. Although children and adolescents cannot be subject to sanctions for breaching immigration law, children and adolescents whose migration status is irregular may be registered under this extraordinary procedure, thus paving the way to their regularization.

Intersectorial radicado en la Subsecretaría de Prevención del Delito a objeto de que la víctima reciba la asistencia requerida.

¹²² El final del proceso está fijado para el 22.07.2019.

¹²³ Este proceso se compone de dos etapas:

1° Etapa: Etapa de Registro, para extranjeros en situación irregular que hayan ingresado a Chile hasta el día 08.04.2018 como fecha máxima. El plazo de inscripción para aquellos que hubieren ingresado por pasos no habilitados o clandestinos (eludiendo control migratorio), fue desde el 23.04 hasta el 23.05.2018, y para registrarse debían presentar su documento de identificación (pasaporte o cédula de identidad del país de origen) y acudir presencialmente para tomar foto y huella dactilar y entregar datos de contacto. En cambio, aquellos extranjeros con permiso de turismo vencido, visación de residencia vencida, turismo vigente al 08.04, con solicitud de residencia o reconsideración en trámite y los que realicen actividades remuneradas sin autorización tuvieron como plazo de inscripción en el proceso el periodo entre el 23 de abril hasta el 22.07.2018, debiendo presentar además, su tarjeta de turismo o certificado de viajes emitido por Policía de Investigaciones de Chile. Una vez concluido el proceso de inscripción, quienes los inscritos debían presentar el certificado de antecedentes penales de su país de origen.

2° Etapa: Etapa de Procesamiento, para el procesamiento y resolución de las solicitudes de regularización por parte del DEM. Al 28.02.2019, se ha otorgado un total de 110.562 visas, habiéndose registrado un total de 155.707 personas en el proceso.

229. To facilitate the process and encourage immigrants to regularize their status, even if they lack some of the documents necessary for registration or if their documents have expired, they can still register for the process in the same way, through the extraordinary procedure. In this case, a verification check for any missing documents will be made at the processing stage. The person can then request a background certificate from the country of origin either at a consulate in Chile or directly in the country of origin, although in the latter case it must be legalized or certified by apostille. Lastly, persons whose appeal against a visa refusal is rejected will automatically be transferred to the regularization process while it remains in force.

Reply to the issues raised in paragraph 34

230. Alongside its work to devise a new migration policy and modernize current migration law, the Aliens and Migration Department has implemented a series of administrative improvements, both internally and externally, thereby giving effect to the recommendations made by the Committee regarding various issues and responding to the demands made by civil society and experts. These have included the following measures:

- (i) Reform of the regulations implementing the Aliens Act, pursuant to Supreme Decree No. 1930 of 3 December 2014, modifying Supreme Decree No. 597 of 1984 and Supreme Decree No. 296 of 1995. The amended regulations, which came into force on 7 March 2015, reduce the cost of residence permits for children and adolescents to 15 dollars (\$), regardless of nationality; establish free residence permits for victims of trafficking; remove restrictions on contracting foreign artists; fine-tune the system for refusing permits, particularly for reasons of lack of interest; formalize the system of granting residence permits to accused or convicted persons; promote the development of information systems; establish new payment systems for immigration fines; improve permit registration systems;¹²⁴ regulate the travel, validity and registration reports of the Directorate General of Investigative Police; and improve interoperability systems so that information can be shared between State agencies.
- (ii) Introduction of a residence permit for persons who marry abroad without registering the marriage in Chile or who enter into a civil union whether in Chile or abroad, without distinction as to the sex of the contracting parties.¹²⁵
- (iii) Definition of standard criteria for the payment of fines, receipt of money orders and deposit of securities.¹²⁶
- (iv) Establishment of a regional coordination office to support the immigration-related tasks carried out by regional administrations and provincial governments¹²⁷ and to streamline communication with the Aliens and Migration Department.
- (v) Elimination of immigration sanctions for children and adolescents,¹²⁸ recognizing that it is the responsibility of the parents, guardians or persons responsible for the care of minors to comply with the necessary procedures for regularizing their migration status.
- (vi) Removal of the requirement for foreign nationals who apply for a temporary residence permit to sit a standardized national test of medical knowledge.¹²⁹

¹²⁴ En cuanto establece que las personas extranjeras deben recurrir personalmente a la PDI para registrar solo el primer permiso de residencia obtenido, independiente de la autoridad que se lo haya otorgado, sin embargo, para prórrogas, cambio de calidad de residencia o permanencia definitiva deben inscribir su permiso solo ante el DEM o Gobernación Provincial, según corresponda.

¹²⁵ (Circular Interna núm. 6 de 26.02.2015).

¹²⁶ (Circular Interna núm. 14 de 04.03.2014 y Circular Interna núm. 57 de 03.09.2014).

¹²⁷ (Oficio núm. 24341 de 15.07.2014).

¹²⁸ (Circular Interna núm. 30722 de 10.09.2014).

¹²⁹ (Circular Interna núm. 36237 de 30.10.2014).

(vii) Establishment of a protocol for hardship cases¹³⁰ in an effort to standardize the processing of residence permits for persons who are in vulnerable situations and require special protection by the State.

(viii) Implementation of the Aliens and Migration Department plan for process management improvement and modernization,¹³¹ which was begun in March 2018 and is still under way, with the aim of streamlining processes and improving the standard of care for migrants and refugees.

(ix) Introduction of the following new temporary residence visas, in line with the national migration policy:

- Temporary “opportunities” visas, which must be applied for through Chilean consulates abroad and are aimed at foreign professionals, skilled technicians or qualified tradespersons who are seeking to come to Chile to start a business or find employment. The visa is granted according to a points system, with points awarded on the basis of defined criteria relating to education, age, language, occupation and country, with a focus on industry sectors considered to be priority areas for the country’s development and on the identified needs of each region. Initially, and until 20 November 2018, up to 3,000 of these visas will be granted to qualified applicants, at which point an evaluation of the new points system will be undertaken.
- Temporary overseas application visas, which must be applied for through Chilean consulates abroad and are aimed at foreigners who wish to start a business or find employment in Chile and have a postgraduate degree from one of the 150 leading foreign academic institutions, according to the Organization for Economic Cooperation and Development sub-area rankings used by the Scholarships Chile programme to award points to candidates. Applications for this visa can be made until 31 July 2019. Up to 300 visas will be awarded, in strict preferential order.
- Temporary national application visas, which must be applied for in Chile and are aimed at foreign nationals who, in the two years prior to their visa application, have completed postgraduate study and obtained a master’s or doctoral degree from an accredited Chilean university.
- Temporary Haitian family reunification visas, which must be applied for through the Chilean consulate in Haiti and are aimed at reunifying family members – limited to spouses, civil partners, minor children and children up to the age of 24 years who are still studying – with a Haitian national who is residing in Chile and has some form of temporary visa or permanent residency.

¹³⁰ Oficio Ordinario núm. 8638 de fecha 21.01.2019 del Departamento de Extranjería y Migración.

¹³¹ Este plan comprende, entre otras, las siguientes acciones:

- Sistema de Reserva de Cita Online para un proceso ordenado en atención a público. Sistemas de ingreso de documentación y cambio de información digital (por ejemplo Cambio de Domicilio), implementado durante el año 2018.
- Procesos de ingreso digitales de procesos extraordinarios como la regularización extraordinaria y regreso humanitario ordenado de país de origen.
- Digitalización de documentos históricos.
- Potenciar la comunicación de información a través de redes sociales, SMS y correo electrónico.
- Ingreso digital de la documentación de la Permanencia Definitiva.
- Interoperabilidad entre instituciones del estado en temas migratorios y creación bases de datos sobre migración.
- Ingreso digital de la documentación de la visa de menores de edad, nacionalización y Prórroga de Visas.
- Digitalización de los procesos de visaciones de residencia en gobernaciones.

- Temporary democratic responsibility visas, which must be applied for through Chilean consulates in Venezuela.¹³² Applicants must prove that they have Venezuelan nationality and that they do not have a criminal record in their country of origin.

Reply to paragraph 35 of the list of issues prior to reporting

231. In 2002, the Chilean Government signed the “Agreement on Residence in Southern Common Market (MERCOSUR) States parties, Bolivia and Chile” with Argentina, Brazil, Paraguay, Uruguay and Bolivia.

232. Utilizing its powers under the current regulations, the Aliens and Migration Department has adopted the principles of the Agreement in order to allow foreign nationals of the aforementioned countries to gain access to temporary residency permits on grounds of international reciprocity.¹³³

233. Provincial governors, the Directorate General of Consular Affairs, the Directorate General of Immigration of the Ministry of Foreign Affairs and the National Office of Overseas Affairs and International Police were given instructions regarding the application of the Agreement on Residence in MERCOSUR and Associated States by means of Circular No. 26465 of 4 December 2009. As a result, nationals of these States, irrespective of the activity they wish to undertake in Chile, may be granted a two-year temporary residence visa provided that they do not have a criminal record. This temporary residency can be made permanent by submitting the appropriate application to the Chilean migration authorities, in line with current immigration law.

Section II

Reply to the issues raised in paragraph 36

Paragraph 36 (a)

234. The bill on migration and aliens (Bulletin No. 8.970-06) was submitted on 4 June 2013 by President Piñera during his first term of office. Between 2014 and 2018, there was little progress on the bill in the Chamber of Deputies; however, on 10 April 2018, the President reactivated the process by issuing instructions for the bill’s amendment and assigning priority status to its consideration in the Senate. The bill was approved by the Chamber of Deputies on 16 June 2018 and is currently undergoing its second constitutional reading in the Senate.

235. Laws in force:

- Act No. 20.430 of 15 April 2010 establishing provisions for the protection of refugees
- Decree No. 831 of 17 February 2011, the Refugee Regulations
- Act No. 20.507 of 8 April 2011, which criminalizes the smuggling of migrants and establishes rules aimed at preventing the offence and ensuring more effective criminal prosecution
- Act No. 20.609 of 24 July 2012, on anti-discrimination measures, which defines arbitrary discrimination as any unjustified distinction based on race, ethnicity or nationality
- Decree No. 1930 of 7 March 2015, modifying Ministry of the Interior Decree No. 597 of 1984, which approved the new regulations implementing the Aliens Act, and

¹³² Caracas y Puerto Ordaz.

¹³³ Lo anterior, considerando lo establecido en el Decreto Supremo núm. 597, Reglamento de Extranjería, en su artículo 50 letra f), que dispone “se estimará que la residencia del extranjero en Chile es útil o ventajosa o que sus actividades son de interés para el país, cuando se trate de: f) Otros que sean debidamente calificados por los Ministerios del Interior y Relaciones Exteriores, según proceda”.

Ministry of the Interior Decree No. 296 of 1995, which sets out the fees to be paid by foreign nationals for the administrative procedures indicated

- Act No. 20.888 of 8 January 2016, modifying, and reducing, the requirements for naturalization

Paragraph 36 (b)

236. Establishment of the National Advisory Council on Migration, under the Aliens and Migration Department of the Ministry of the Interior, through Exempt Resolution No. 10.330 of 11 December 2015. The Council's objective was to institutionalize civil society analysis and debate on the migration situation in Chile by means of civic participation in the design, implementation and evaluation of public policies and by adopting a multicultural management approach under which discrimination on the basis of race or culture is prohibited; celebrating, recognizing and respecting cultural diversity, and the right to this diversity; taking affirmative action; and producing disaggregated data that ensure the participation and empowerment of migrants. It was dissolved by Exempt Resolution No. 1.957 of 6 April 2018, following the establishment of the National Advisory Council of the Office of the Undersecretary of the Interior, for the purpose of harmonizing and coordinating civic participation.

237. Establishment of the National Advisory Council of the Office of the Undersecretary of the Interior, through Exempt Resolution No. 2.235 of 4 May 2018. This Council's objective is to institutionalize civil society analysis and debate on issues such as emergencies, migration and public security, through civic participation in evaluating, providing opinions on and making proposals for State plans, programmes and public policies.

Paragraph 36 (c)

238. These policies, programmes and action plans include the following:

- The bill on migration and aliens: designed to modernize the current regulations and bring them into line with international human rights standards
- Temporary civil union visa: see reply to the issues raised in paragraph 34
- Ordinance No. 894 permitting migrant children and adolescents to gain access to student benefits: updates the instructions governing the entry, stay and exercise of rights of children and adolescents and introduces provisional school identification numbers, which give migrant children and adolescents access to student benefits and make it possible to continuously monitor their educational path via the General Student Information System
- Ordinance No. 329 on the entry, stay and exercise of educational rights of migrant children, adolescents and young persons: updates the instructions governing the entry, stay and exercise of rights of young persons and adult migrants
- Revamp of the enrolment and student benefits systems: modifies the registration procedure for the university entrance examination in order to ensure that students who have not managed to regularize their migration status can take the exam using their provisional school identification number
- New Circular No. 4 of 2 March 2018: sets out the procedure for admitting foreign children and adolescents to the National Service for Minors care network, explicitly establishing the principle of equal treatment, irrespective of nationality or migration status in Chile, thus guaranteeing the right of foreign children and adolescents to gain access to the special protection system and ensuring proper management and handling of their cases. This circular was modified¹³⁴ to fully reflect the special measures that must be carried out for migrant children and adolescents receiving care, taking into account the specific situations that they may face as part of the

¹³⁴ Reformó la antigua circular núm. 10, de 2010.

immigration processes to which they themselves or members of their families are subject

- The Migrant Seal certification scheme: see reply to the issues raised in paragraph 4
- The “Chile Recognizes” project: see reply to the issues raised in paragraph 23
- Elimination of migration penalties for migrant children and adolescents: see reply to paragraph 34 of the list of issues
- National Plan to Regularize the Status of Children and Adolescents: provides for coordinated action to regularize the status of migrant children and adolescents living in Chile on the part of the Ministry of Education and the Aliens and Migration Department
- Guidelines for the education of foreign students re-entering school: offer educational and methodological guidelines for the establishment of re-entry schools that take a flexible pedagogical approach based on a model of support, shelter and remedial education and thus prevent students who enter the public education system from falling behind
- Facilitated access to rented accommodation for the migrant population¹³⁵

Paragraph 36 (e)

239. The following studies are worthy of note: the 2018 Annual Report of the National Human Rights Institute, chapter 2 on the rights of migrants and the new migration policy;¹³⁶ report of the Intersectoral Panel on Trafficking in Persons of the Aliens and Migration Department;¹³⁷ Comparison of regulations in Argentina, Canada and Chile: visa systems as determinants of access to migrants’ rights, Aliens and Migration Department;¹³⁸ Study on the process of integration and the exclusion of Colombian immigrants in the Metropolitan Region, Aliens and Migration Department;¹³⁹ “Second-generation” migrants in Chile: integration, rights and public policy, Aliens and Migration Department;¹⁴⁰ Newsletter on Dominican migration to Chile, Aliens and Migration Department;¹⁴¹ Newsletter on Haitian migration to Chile, Aliens and Migration Department;¹⁴² Migration reports on the migrant population in Chile, Aliens and Migration Department;¹⁴³ and Sources of information on the migrant population within State services, Aliens and Migration Department.¹⁴⁴

¹³⁵ Esto se efectúa por medio de: 1) el programa regular, flexibilizando los requisitos de postulación (solo deben contar con carnet de identidad para extranjeros, sin exigencia de permanencia definitiva); 2) la Glosa 03 establecida en la Ley de Presupuestos 2017; 3) y otras iniciativas que permitan disponer de viviendas sociales en arriendo para atender la etapa de inserción de la población extranjera que llega a Chile, que se encuentra en situación de vulnerabilidad social. Como parte de ello, se realizarán llamados especiales de los programas vigentes, para la adquisición o construcción de viviendas y para su mejoramiento o rehabilitación. Estas viviendas deberán ser destinadas a personas que cumplan con los requisitos del Programa de Subsidio de Arriendo (DS52).

¹³⁶ Disponible en <https://www.indh.cl/destacados-2/informe-anual-2018/>.

¹³⁷ Disponible en <https://www.extranjeria.gob.cl/media/2019/04/Informe-Estadistico-Trata-de-Personas-25.03.2019.pdf>.

¹³⁸ Disponible en <https://www.extranjeria.gob.cl/media/2019/04/DEMInvestiga3NormativacomparadaenArgentinaCanadayChile.pdf>.

¹³⁹ Disponible en <https://www.extranjeria.gob.cl/media/2019/04/DEMInvestiga2EstudiodelProcesodeIntegracionyExclusiondelosInmigrantesColombianosenlaRegionMetropolitanaChile.pdf>.

¹⁴⁰ Disponible en <https://www.extranjeria.gob.cl/media/2019/04/DEMInvestiga1SegundasGeneracionesdeMigrantesenChile.pdf>.

¹⁴¹ Disponible en <https://www.extranjeria.gob.cl/media/2019/04/Bolet%C3%ADN-N%C2%BA2-Migraci%C3%B3n-Dominicana-en-Chile-2.pdf>.

¹⁴² Disponible en <https://www.extranjeria.gob.cl/media/2019/04/boletin-1-Migraci%C3%B3n-Haitiana.pdf>.

¹⁴³ Disponible en <https://www.extranjeria.gob.cl/media/2019/04/Reporte-Migratorio-Poblaci%C3%B3n-Migrante-en-Chile.pdf>.

¹⁴⁴ Disponible en <https://www.extranjeria.gob.cl/media/2019/04/DEMInvestiga1Fuentes-de-Informaci%C3%B3n-Sobre-Poblaci%C3%B3n-Migrante-en-los-Servicios-del-Estado.pdf>.

Paragraph 36 (f)

240. The Aliens and Migration Department website has been updated to make access to information simpler and more intuitive. Information is constantly updated both on the website and on social networks.¹⁴⁵ Furthermore, the provisions of Act No. 20.285 are strictly respected,¹⁴⁶ in respect of both active and passive transparency requirements.

241. The Ministry of Education website¹⁴⁷ contains specific and up-to-date information on foreign students in the educational system and provides a link with civil society in general.

242. The National Human Rights Institute website contains information on migrants' rights to access health care and education.

Section III

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

Reply to the issues raised in paragraph 37

Paragraph 37 (a)

243. According to data provided by the National Institute of Statistics, updated to December 2018, Chile has a migrant population of 1,251,225 persons, representing 6.6 per cent of the total population and originating primarily from Venezuela (23 per cent), Peru (17.9 per cent), Haiti (14.3 per cent), Colombia (11.7 per cent), Bolivia (8.6 per cent) and Argentina (6 per cent). It is estimated that around 60 per cent of the migrant population is aged between 20 and 39 years old.

244. The data attest to a disproportionate increase in immigrants between early 2017 and early 2018. According to the census of April 2017, there were 746,465 international migrants residing in Chile on that date, meaning that around 40 per cent of the current international migrant population had arrived in the country within just a year and a half. The increase in the number of immigrants is even more striking when one considers that, in the 2002 census, the number of migrants stood at a total of 339,546 persons.

Paragraph 37 (b)

245. None of the migrant workers in detention in Chile have been detained for immigration reasons, since this practice has been eradicated in Chile. These persons either have been convicted of ordinary offences or are awaiting trial.

246. Detention for migration reasons is for a maximum of 24 hours, after which expulsion is carried out.

Table 2

No. of nationals of other States convicted in Chile, to 6 May 2019

<i>Country</i>	<i>No. of persons</i>
Argentina	56
Bolivia	389
Brazil	5
Cameroon	1
Canada	3
Colombia	362
Cuba	2

¹⁴⁵ Instagram, Facebook, Twitter.

¹⁴⁶ Ley de Transparencia de la Función Pública y de Acceso a la Información de la Administración del Estado.

¹⁴⁷ <https://migrantes.mineduc.cl/>.

<i>Country</i>	<i>No. of persons</i>
Dominican Republic	27
Ecuador	44
Germany	3
Haiti	1
Italy	1
Mexico	2
Netherlands	1
Nicaragua	1
Nigeria	1
Paraguay	8
Peru	333
Romania	1
Spain	3
Sweden	1
Tanzania	1
Uruguay	4
Venezuela	7
Overall total	1 257

Source: Chilean Prison Service.

Paragraph 37 (c)

Table 3

No. of expulsions carried out

<i>Year</i>	<i>Administrative</i>	<i>Judicial</i>	<i>Total</i>
2015	929	412	1 341
2016	599	318	917
2017	978	420	1 398
2018	302	1 750	2 052
2019 (to 18 April)	98	472	570
Total	2 906	3 372	6 278

Source: Directorate General of Investigative Police.

Paragraph 37 (d)

247. After conducting the respective evaluations, it was found that many of the migrant children and adolescents recorded as being unaccompanied either are actually in the care of one of their parents or have been taken in by a member of their extended family. However, either a third party has applied for their visa because the father or mother does not have regular migration status in Chile or the minor cannot provide adequate proof that the family members concerned have assumed responsibility for their care.

Table 4

Children and adolescents who are unaccompanied by their parents or in the care of a third party who cannot prove responsibility for their care

<i>Year</i>	<i>No. of documents received by AMD</i>
2012	63

<i>Year</i>	<i>No. of documents received by AMD</i>
2013	53
2014	45
2015	76
2016	118
2017	174
2018	94
2019 (to date)	87

Source: National Service for Minors.

Paragraph 37 (e)

248. The following table provides a breakdown of remittances sent and received in the period 2006–2016.

Table 5

No. 85 Personal remittances from/to Chile.¹⁴⁸ Central Bank of Chile

Chile: remittances sent and received, 2006–2016

	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Total amount received (US\$ m)	238	291	311	281	307	316	306	302	288	265	248
No. of transfers (thousands)	713	835	849	843	820	802	777	730	725	775	895
Total amount sent (US\$ m)	121	176	211	229	326	393	572	641	625	615	606
No. of remittances (thousands)	502	688	838	867	1 032	1 279	1 634	2 015	2 190	2 398	2 876

Source: Own calculation based on information from the Central Bank of Chile for international money transfer companies.

Paragraph 37 (f)

249. See reply to issues raised in paragraphs 8 (d) and 20.

Reply to issues raised in paragraph 38

250. In addition to the information previously provided, the following may be of interest:

- The extraordinary regularization procedure has been effective since 23 April 2018, with more than 157,707 persons benefiting, broken down as follows:

Table 6

Foreign nationals registered by the extraordinary regularization procedure

<i>Country</i>	<i>Total</i>	<i>Country</i>	<i>Total</i>	<i>Country</i>	<i>Total</i>
Haiti	49 828	Mexico	137	Portugal	23
Venezuela	31 682	Spain	135	Germany	21
Peru	22 819	Uruguay	129	Canada	20
Colombia	17 968	United States	63	Guatemala	19
Bolivia	14 941	El Salvador	62	Nicaragua	16
Dominican Republic	6 767	Italy	56	Panama	16
Cuba	5 451	Bahamas	49	Republic of Korea	14
Ecuador	3 382	Pakistan	48	Russian Federation	13
Argentina	822	France	42	Syria	13

¹⁴⁸ Autores: Álvaro del Real y Alfredo Fuentes. Categoría: Estudios Económicos Estadísticos.

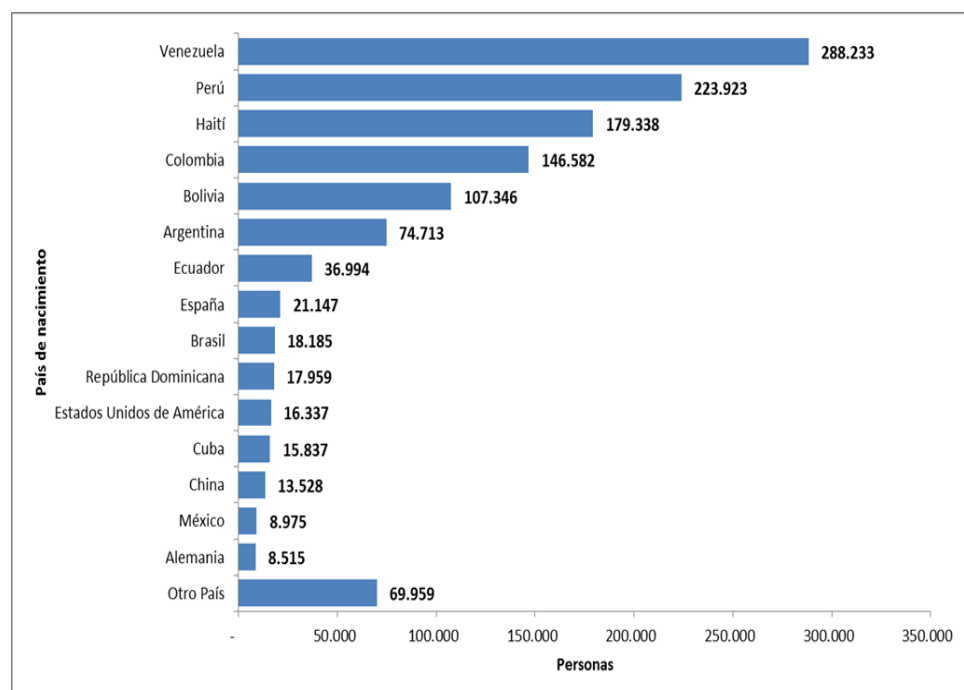
Country	Total	Country	Total	Country	Total
Paraguay	293	Senegal	39	Turkey	12
Brazil	269	Honduras	27	Others	271
China	237	Costa Rica	23		

Source: Aliens and Migration Department.

- The bill on migration has been adopted by the Chamber of Deputies
- The authorities have been able to produce an estimate of the number of migrant persons in Chile thanks to cooperation between the State institutions involved in producing, processing and analysing statistics on the movement of Chilean and foreign nationals within Chile. The project was led by the Aliens and Migration Department and the National Institute of Statistics, in cooperation with the Directorate General of Investigative Police, the Ministry of Foreign Affairs and the Civil Registry and Identity Service, and arrived at an estimate of 646,128 men and 605,097 women.

Table 7

Estimated No. of foreign nationals in Chile up to 31 December 2018



Source: National Institute of Statistics-Aliens and Migration Department.

251. Other initiatives of note (some of which have already been described) include the introduction of new temporary residency visas; the establishment of a democratic responsibility visa for Venezuelan citizens; the recognition of expired passports and identity documents of Venezuelan citizens as documents valid for two years; the Humanitarian Orderly Return programme; the modernization of the Aliens and Migration Department; the election of the members of the Civil Society Advisory Council; the establishment of a community and social integration section within the Aliens and Migration Department; and the launch of the Migration Impact competition.

Conclusion

252. This report refers to the situation of migrant workers and their families in Chile and has been prepared and submitted by the Government as evidence of its support for the

universal institutionalization of human rights and its unstinting commitment to respecting the human rights of all persons, irrespective of their race, ethnicity or origin.
