



# **Institutional and Legal Migratory Framework of the Republic of El Salvador: A Working Paper**

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By María Sol Pikielny and María Jesús Mora

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As part of its project on regional migration systems and capacities, the Migration Policy Institute (MPI) developed country profiles for six countries (Costa Rica, El Salvador, Guatemala, Honduras, Mexico, and Panama). These working papers were preparatory for the final report MPI published in April 2021, *Laying the Foundation for Regional Cooperation: Migration Policy and Institutional Capacity in Mexico and Central America* by Andrew Selee, Ariel G. Ruiz Soto, Andrea Tanco, Luis Argueta, and Jessica Bolter. The full report and other country profiles can be found here: [www.migrationpolicy.org/research/regional-cooperation-migration-capacity-mexico-central-america](http://www.migrationpolicy.org/research/regional-cooperation-migration-capacity-mexico-central-america).

## I. Institutional Framework

The Salvadoran immigration system is the set of state institutions that oversee the entry and exit of migrants, regulation of nationals and foreigners, as well as the transit, stay and permanence of foreigners in national territory under different immigration categories.

This system is comprised of the Ministry of Justice and Public Security, the Consultative Council on Migration and Foreigners, and the General Directorate of Migration and Foreigners with the support of the National Civil Police.

- **The Ministry of Justice and Public Security** (*Ministerio de Justicia y Seguridad Pública*) executes the country's comprehensive migration policy. It exercises migration control through the General Directorate of Migration and Foreigners, orders the expulsion of foreigners in the cases determined by law, and is in charge of both the opening and closing of immigration control posts.<sup>1</sup>
- **The Consultative Council on Migration and Foreigners** (*El Consejo Consultivo de Migración y Extranjería*) is an advisory and consultative body to the Presidency on matters related to immigration and foreigners. It prepares, recommends, monitors and evaluates the country's comprehensive migration policy and its action plan, as well as the measures and actions necessary for its implementation.<sup>2</sup> The Council is chaired by the head of the General Directorate of Migration Foreigners.<sup>3</sup>
- **The General Directorate of Migration and Foreigners** (*Dirección General de Migración y Extranjería*) applies immigration regulations, executes the country's comprehensive

<sup>1</sup> Article 6 of the Special Law on Migration and Foreigners, *Ley Especial de Migración y Extranjería* (Legislative Decree No. 286-2019).

<sup>2</sup> Article 7 of the Special Law on Migration and Foreigners.

<sup>3</sup> Article 7 of the Special Law on Migration and Foreigners.

migration policy,<sup>4</sup> and carries out, with the support of the National Civil Police, immigration control.<sup>5</sup> To do so, it adopts and applies the necessary measures to prevent and control irregular migration,<sup>6</sup> and to enable and manage comprehensive care centers for migrant foreigners subject to deportation, repatriation, expulsion, or refugee status determination processes. Likewise, the General Directorate cancels or suspends the legal stay of foreigners in the country,<sup>7</sup> and orders and executes the corresponding deportations or expulsions.<sup>8</sup>

## 2. Legal Framework

The Salvadoran immigration system derives from the National Constitution, the international treaties ratified by El Salvador, as well as the Special Law on Migration and Foreigners (Legislative Decree No. 286-2019),<sup>9</sup> and its regulations,<sup>10</sup> and the Organic Law of the National Civil Police (Decree No. 653-2001).

Humanitarian protection and refugee matters are outlined in the Law for the Determination of the Status of Refugees (Decree 918-2002)<sup>11</sup> and its regulations (Decree 79-2005).<sup>12</sup> Anything related to actions against human trafficking is established in the Special Law against Human Trafficking (Decree 824-2014), its regulations (Decree 61-2016), and the Inter-Institutional Action Protocol for the Immediate Comprehensive Care of Victims of Human Trafficking of 2018. Finally, there do not appear to be specific regulations in El Salvador on the matter of statelessness.

## 3. Migratory Categories and Adjustment Processes

Foreigners in El Salvador are categorized as either **non-residents**<sup>13</sup> or **residents**.<sup>14</sup>

- Non-resident foreigners can be:
  - ➔ Travelers in transit, passengers in transshipment vessels, and tourists;
  - ➔ Foreign people invited to conferences and others;
  - ➔ Personnel engaged in the international transport of passengers and goods;

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<sup>4</sup> Article 12 of the Special Law on Migration and Foreigners.

<sup>5</sup> Article 13 of the Special Law on Migration and Foreigners.

<sup>6</sup> Article 13 of the Special Law on Migration and Foreigners.

<sup>7</sup> Article 13 of the Special Law on Migration and Foreigners.

<sup>8</sup> Article 13 of the Special Law on Migration and Foreigners.

<sup>9</sup> Special Law on Migration and Foreigners, *Ley Especial de Migración y Extranjería* (Legislative Decree No. 286-2019).

<sup>10</sup> Regulation of the Special Law on Migration and Foreigners, *Reglamento de la Ley Especial de Migración y Extranjería* (*Diario Oficial*, May 2019).

<sup>11</sup> Law for the Determination of the Status of Refugees, *Ley para la Determinación de la Condición de Personas Refugiadas* (Legislative Decree No. 918-2002).

<sup>12</sup> Regulation of the Law for the Determination of the Status of Refugees, *Reglamento de la Ley para la Determinación de la Condición de Personas Refugiadas* (*Diario Oficial*, September 2005).

<sup>13</sup> Article 77 of the Special Law on Migration and Foreigners.

<sup>14</sup> Article 77 of the Special Law on Migration and Foreigners.

- Ship crews, foreign investors, business and commercial representatives;
  - Personnel who work in the media, foreign artists; people receiving specialized medical treatment;
  - Foreigners who have received invitations; people undergoing neighborhood transit along the border.<sup>15</sup>
- Foreigners under the resident category, depending on the reason behind their stay, can be:
- Transitory Residents: Foreigners admitted under the categories of transitory residents can change their category while in the country, as long as they meet the requirements established by law. Temporary residence does not grant the rights of permanent stay.<sup>16</sup> Transitory residents are granted a term of six consecutive months, except for legal exceptions, up to one year. If they wish to stay longer than the aforementioned time, they must submit the application for temporary residence one month before the expiration of the period of temporary residence and may not request permanent residence, as long as they are employed by a transnational company.<sup>17</sup>

In relation to transit in the border area, the Regulation of the Special Law on Migration and Foreigners outlines the procedure that children and adolescents must carry out to acquire<sup>18</sup> and renew<sup>19</sup> a border neighborhood transit card, and also describes the procedures adults must follow.<sup>20</sup>

In relation to naturalization, according to the Constitution of El Salvador, the following can become naturalized Salvadorans:<sup>21</sup>

- Individuals of Spanish and Hispanic-American origin who have resided in the country for one year;
- Foreigners of any origin who have completed five years of residence in the country;
- Those who, due to notable services rendered to the Republic, obtain this status from the legislative branch;
- Male foreigner married to a Salvadoran or female foreigners married to a Salvadoran who reach two years of residence in the country, before or after the celebration of marriage.

## Central American Free Mobility Agreement

The Central American Free Mobility Agreement, commonly known as CA-4, was signed by the Presidents of El Salvador, Guatemala, Honduras and Nicaragua. It allows the transit of nationals of the signatory countries without the need of a passport and with expeditious immigration instruments.

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<sup>15</sup> Article 78 of the Special Law on Migration and Foreigners.

<sup>16</sup> Article 104 of the Special Law on Migration and Foreigners.

<sup>17</sup> Article 104 of the Special Law on Migration and Foreigners.

<sup>18</sup> Article 134 of the Regulation of the Special Law on Migration and Foreigners.

<sup>19</sup> Article 135 of the Regulation of the Special Law on Migration and Foreigners.

<sup>20</sup> Articles 136 and 137 of the Regulation of the Special Law on Migration and Foreigners.

<sup>21</sup> Article 92 of the Constitution of El Salvador, *Constitución de la República de El Salvador*.

This agreement established the creation of the Central American Single Visa for Free Mobility, which grants citizens of a third country the facility to move within the four signatory countries without additional visa requirements, as long as the person has a valid visa to enter one of the signatory countries.<sup>22</sup> Likewise, the uniform requirements and procedures for the entry of foreigners are approved based on country classifications:

- “A” Category: for visa-exempt foreigners;
- “B” Category: for foreigners who require a consular visa or one without consultation, and;
- “C” Category: for foreigners who require the approval of the General Directorate of Migration and Foreigners to obtain an entry visa (consulted visa).<sup>23</sup>

In addition, the agreement defines the intermediate and peripheral migratory delegations, and establishes the creation of the Visa Homologation Commission (*Comisión de Homologación de Visas, VUCA*) made up of the Migration Directorates and the Consular Affairs Directorates of the foreign ministries of the signatory states. Its operations are technically regulated through approved procedure manuals and is freely adhered to by any member state of the Central American Integration System (*Sistema de la Integración Centroamericana, SICA*).

The *Regional Manual of Migration Procedures of the Central American Single Visa*<sup>24</sup> establishes a classification of visas according to the type of travel document and / or activity to be carried out in the region.

- Ordinary: for normal or ordinary passports.
- Official: for official or service passports.
- Courtesy: for ordinary, special, or service passports in official, cultural, sports missions, to service personnel of diplomatic or consular missions, participants in seminars or courses, among others. This should include specification of the reason for entry.
- Diplomatic: for diplomatic passports.

And classification according to the valid duration of stay.

- Transit: valid to enter and leave the region, within a period of 96 hours from the moment of entry to a peripheral border of any of the signatory states. It does not apply to the “C” Category, which requires the normal visa extension process for transit.
- Simple: valid for one entry to the region. It is valid for 60 days from its issuance.
- Multiple: valid for multiple entries to the region. It is valid for up to one year.

The period of stay granted by the immigration authority of the first signatory state is the basis for the conditions of their transit and permanence in their territories. A foreigner who remains in the territory of one of the signatory states for a longer time than authorized is subject to an evaluation by the General Directorate of Migration and Foreigners of the country in which the

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<sup>22</sup> Governments of El Salvador, Guatemala, Honduras and Nicaragua, “[Convenio de creación de la Visa Única Centroamericana para la libre movilidad de extranjeros entre la repúblicas de El Salvador, Guatemala, Honduras y Nicaragua](#)” (Agreement for the Creation of the Single Central American Visa).

<sup>23</sup> Article 4 of the Agreement for the Creation of the Single Central American Visa.

<sup>24</sup> Governments of El Salvador, Guatemala, Honduras and Nicaragua, [Manual Regional de Procedimientos Migratorios de la Visa Única Centroamericana CA-4](#) (procedural manual, May 26, 2011).

person is located in accordance with national legislation. Likewise, if an extension of stay is required, it must be requested from the immigration authority of the signatory state where the person is located.

Foreigners residing in one of the signatory states may not carry out any remunerated or commercial activity in the territory they visit. However, with the creation of the Central American Resident Card, it was agreed that, in terms of free mobility, foreigners who are residents in any of the countries of that region would be treated as nationals, regardless of their nationality.<sup>25</sup>

The Central American Single Visa does not mean temporary or permanent residence in the territories of the signatory states. Consequently, foreigners who wish to enjoy a different status other than that obtained at entry, must meet the requirements established by the legislation of each of the mentioned states.

On the other hand, foreigners who have visas in the United States, Canada and in the countries that belong to the Schengen agreement are exempted from a tourist visa to travel to the Central American region CA-4 and all their visa categories are considered improved.

## 4. Humanitarian Protection

### A. Refugee Protection<sup>26</sup>

#### Process for Determining Refugee Status

The application process for the recognition of refugee status begins in two different ways, depending on whether the applicant is at the border trying to enter or already present in Salvadoran territory.

When the applicant is located at an official port of entry,<sup>27</sup> it is sufficient for the applicant to express to the immigration authority a fear of returning to their country of origin or habitual residence, or the need to apply for refugee status.<sup>28</sup> The refugee application form is then delivered after completion to the Secretariat of the Commission for the Determination of the Status of Refugees (*Comisión para la Determinación de la Condición de Persona Refugiada*, CODER),<sup>29</sup> within

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<sup>25</sup> Governments of El Salvador, Guatemala, Honduras and Nicaragua, *Manual Regional de Procedimientos Migratorios de la Visa Única Centroamericana CA-4* (procedural manual, May 26, 2011).

<sup>26</sup> According to the Law for the Determination of Refugee Status and the regulation of that law: A refugee is defined as a) any person who, due to well-founded fears of being persecuted for reasons of race, ethnicity, gender, religion or belief, nationality, belonging to a certain social group or holding certain political opinions, is outside the country of their nationality, and cannot, because of said fears, or does not want to, avail to the protection of such country; b) that lacking nationality and being outside the country of habitual residence, due to well-founded fears of being persecuted for reasons of race, ethnicity, gender, religion or belief, belonging to a certain social group or holding certain political opinions, because of these fears cannot, or does not want to, return to it; and, c) those who have fled their country of origin because their life, security, or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violations of human rights or other circumstances that have seriously disturbed public order.

<sup>27</sup> The border procedure is a series of institutional steps implemented from the moment a person presents their application at one of the land, sea or air border posts of the country, until their admission is decided.

<sup>28</sup> Article 11 of the Regulation of the Law for the Determination of the Status of Refugees.

<sup>29</sup> Article 5 of the Law for the Determination of the Status of Refugees.

four business hours. This institution will notify the Reception and Evaluation Subcommittee in order to present the application at the corresponding port of entry,<sup>30</sup> within a maximum term of 72 hours and proceed to interview the applicant. Meanwhile, the General Directorate of Migration and Foreigners requests that the Border Division of the National Civil Police retain custody of refugee applicants for a maximum term of 72 hours during which their human rights must be respected, with a prohibition to confine any applicant to prison.<sup>31</sup> Then, the Subcommittee will evaluate the refugee applications to verify that they meet the requirements, and will declare them admissible or inadmissible.<sup>32</sup>

If the refugee applicant is admitted, a request needs to be filed to the General Directorate of Migration and Foreigners in order to allow entry into the national territory for a period of one month, so that the Commission can definitively resolve the applicant's refugee status.<sup>33</sup>

If, on the other hand, the request is inadmissible,<sup>34</sup> the applicant may file an appeal before the Commission, within three business days following notification. The Commission must make a decision within three business days after the appeal has been filed by the applicant.<sup>35</sup> While the appeal is unresolved, the applicant will be authorized to remain in the national territory and must appear every 48 hours before the Secretariat in person. If the resolution of inadmissibility is final and the applicant is still in custody, the applicant will not be authorized by the General Directorate of Migration and Foreigners to enter the national territory. However, if applicable, the person can request another immigration status.<sup>36</sup>

When the applicant is already in the national territory, the application needs to be presented to the Secretariat<sup>37</sup> within five business days following the date of entry into the country. However, in the event of supervening circumstances, the foreign person may request refugee status before the Secretariat of the Commission within 15 business days.<sup>38</sup>

Then, the Secretariat opens a file and sends it along with the request to the Subcommittee for the scheduling of personal interviews, within a period of no more than 15 business days after the request has been submitted. Before the interview, the applicant must have completed the application form.<sup>39</sup> Within a term of five business days after the conclusion of the last interview, the Subcommittee determines whether the request is accepted or declared inadmissible to be admitted for processing.<sup>40</sup> Illegal entry into national territory will not be grounds for the rejection of refugee status, as long as the aforementioned conditions have been met.

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<sup>30</sup> Article 13 of the Regulation of the Law for the Determination of the Status of Refugees.

<sup>31</sup> Article 17 of the Regulation of the Law for the Determination of the Status of Refugees.

<sup>32</sup> Article 14 of the Regulation of the Law for the Determination of the Status of Refugees.

<sup>33</sup> Article 28 of the Regulation of the Law for the Determination of the Status of Refugees.

<sup>34</sup> This occurs: a) when it is manifestly unfounded, (clearly fraudulent or not related to the criteria for the recognition of refugee status); b) when the elements established in Article 57 of the Law for the Determination of the Status of Refugees are met.

<sup>35</sup> Article 16 of the Regulation of the Law for the Determination of the Status of Refugees.

<sup>36</sup> Article 18 of the Regulation of the Law for the Determination of the Status of Refugees.

<sup>37</sup> Article 20 of the Regulation of the Law for the Determination of the Status of Refugees.

<sup>38</sup> Article 22 of the Regulation of the Law for the Determination of the Status of Refugees.

<sup>39</sup> Article 21 of the Regulation of the Law for the Determination of the Status of Refugees.

<sup>40</sup> Article 23 of the Regulation of the Law for the Determination of the Status of Refugees.



Once the request is approved, the Subcommittee presents a technical recommendation to CODER.<sup>41</sup> Then, the Secretariat of the Commission will request authorization of a provisional permit for a period of one month from the General Directorate of Migration and Foreigners.<sup>42</sup> Once the file is completed,<sup>43</sup> the Secretariat summons the Commission within the following seven business days to decide by reasoned resolution under unanimity criteria. The resolution is then notified to the applicant,<sup>44</sup> and communicated to the UNHCR Regional Office, to register an official record of it.<sup>45</sup>

Once the recognition has been granted, the General Directorate of Migration and Foreigners issues the Special Temporary Permanence Card for Refugee Status, which will be valid in national territory for a period of one year, and may be renewed for the same period, upon the refugee's request, to the Secretariat of the Commission, 15 days before its expiration.<sup>46</sup>

## Benefits and Rights of the Refugee

Refugees have the right to exercise economic activities and will be granted the same treatment as nationals with regard to public health and assistance, social security, and access to public education without any type of restriction.<sup>47</sup> CODER provides the refugee applicant with health, educational, and social assistance. Financial support is provided through non-governmental organizations that have established agreements with UNHCR.<sup>48</sup>

## B. Asylum<sup>49</sup>

In accordance with its Constitution, El Salvador grants asylum to anyone who wants to reside in its territory and who meets eligibility criteria, except in the cases provided by law.<sup>50</sup> In that sense, it can grant diplomatic asylum<sup>51</sup> or territorial asylum.<sup>52</sup> To do this, the Ministry of Foreign Affairs conducts an investigation of each request, which allows it to determine the urgent circumstances

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<sup>41</sup> Article 29 of the Regulation of the Law for the Determination of the Status of Refugees.

<sup>42</sup> Article 38 of the Regulation of the Law for the Determination of the Status of Refugees.

<sup>43</sup> Article 27 of the Regulation of the Law for the Determination of the Status of Refugees. In addition to the refugee application, the individual or collective file must contain the following documents: a) minutes of the confidential interview with the interested persons and, in the case of a family unit, the minutes of the interview of both spouses or partners; b) photocopy of the passport or any other identity document of the interested persons, or failing that, a sworn statement that they lack such documents, issued to the competent official of the Secretariat; c) two photographs for each interested person; d) any document or means of proof that the interested person provides, where appropriate, which serves to verify the facts expressed in their request; and, e) evaluation report of the case completed by the Secretariat of the Commission. The Commission will have a maximum period of 30 working days to hear and resolve the presented case, and in exceptional cases this term may be extended.

<sup>44</sup> Article 28 of the Law for the Determination of the Status of Refugees.

<sup>45</sup> Article 30 of the Regulation of the Law for the Determination of the Status of Refugees. In the case of evidentiary doubts, favor to the applicant will apply. The procedure is confidential. No information related to the case will be shared with the country of origin or habitual residence.

<sup>46</sup> Article 33 of the Law for the Determination of the Status of Refugees.

<sup>47</sup> Article 42 of the Regulation of the Law for the Determination of the Status of Refugees.

<sup>48</sup> Article 37 of the Regulation of the Law for the Determination of the Status of Refugees.

<sup>49</sup> It is the protection granted to a foreign person persecuted for political reasons or crimes.

<sup>50</sup> Article 28 of the Constitution of El Salvador.

<sup>51</sup> Asylum granted at the headquarters of the diplomatic missions or permanent embassies of El Salvador, the residences of the Heads of Mission of the Republic of El Salvador and the premises enabled by them for the residence of asylees, in warships, camps or aircrafts.

<sup>52</sup> Article 134 of the Special Law on Migration and Foreigners.

motivating the request and to verify adherence to the international instruments adopted by El Salvador.<sup>53</sup> The President of the Republic is the only one who can grant asylum, although he or she is not obliged to grant it or to declare the reasons for denying it.<sup>54</sup>

### C. Victims of Human Trafficking<sup>55</sup>

The immediate comprehensive care of the victim and their families, as well as protection of their physical integrity, are provided for in the Special Law against Human Trafficking and its regulations and rely on the interlocking work of institutions through the Inter-Institutional Action Protocol for the Immediate Comprehensive Care of Victims of Human Trafficking.<sup>56</sup>

### D. Protection Limitations for Applicants in Other Countries

The Asylum Collaboration Agreement signed between the United States and El Salvador does not apply to Salvadoran asylum seekers or stateless persons with habitual residence in El Salvador.<sup>57</sup> On the other hand, to ensure the protection of applicants transferred to El Salvador, this country agrees not to return or expel them for requiring Salvadoran protection and the United States is responsible for the transferred persons until the completion of the transfer.<sup>58</sup> Notwithstanding, El Salvador reserves the right to evaluate requests for protection on a case-by-case basis.

When an unaccompanied minor or person with a valid issued visa or other valid document arrives in the United States, or in cases where the United States does not require a visa, the United States has the responsibility to determine protection in its territory. Both countries express commitments to cooperate in strengthening Salvadoran institutions and jointly developing standardized operating procedures.

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<sup>53</sup> Article 135 of the Special Law on Migration and Foreigners.

<sup>54</sup> Article 133 of the Special Law on Migration and Foreigners.

<sup>55</sup> According to Article 3, section b of the Special Law against Human Trafficking: a victim of trafficking is a person who, directly or indirectly, has suffered any of the effects of the crime of human trafficking and related activities, which includes damages, physical or psychological injuries, damage to one's image, emotional suffering or impairment of their fundamental rights; regardless of whether the person responsible for the crime is identified, apprehended, prosecuted or convicted. A direct victim of this crime is anybody who personally suffers the effects of it. Indirect victims are the nuclear family or dependents of the victim.

<sup>56</sup> Article 29 of the Special Law against Human Trafficking, *Ley Especial Contra la Trata de Personas*; National Council against Human Trafficking in El Salvador, the European Union, Foundation Paniamor, and Save the Children, *Protocolo de Actuación Interinstitucional para la Atención Integral Inmediata de las Víctimas de Trata de Personas* (El Salvador, 2018).

<sup>57</sup> Governments of the United States and El Salvador, "[Agreement Between the Government of the United States of America and the Government of the Republic of El Salvador for Cooperation in the Examination of Protection Claims](#)" *U.S. Department of Homeland Security* (December 21, 2020).

<sup>58</sup> Article 3 of the United States and El Salvador Asylum Collaboration Agreement.

## 5. Implementation and Compliance with the Legal Migratory Framework

Under the General Directorate of Migration and Foreigners, the Immigration Protection Officers verify compliance with the rights and obligations of the foreign person in the national territory.<sup>59</sup> While the Border Immigration Officers exercise immigration control at the legally authorized ports of entry,<sup>60</sup> the Immigration Officers for the Protection of Children and Adolescents specialize in the protection of the rights of children and adolescents.<sup>61</sup>

### *Types of Return, Fines and Re-entry Prohibitions*

**The repatriation** of refugees is voluntary and manifested individually, constituting an inviolable right.<sup>62</sup>

**Assisted voluntary return** will proceed when the person wants to return voluntarily, when an international organization intervenes, and if the person is in a vulnerable condition.<sup>63</sup>

**The resettlement process** proceeds when the victim, their dependents, or guardians cannot return to their country of origin or residence and cannot remain in El Salvador due to a reasonable threat or danger that affects their life, integrity and personal freedom. This process will be carried out based on international cooperation and ratified conventions on the matter, and the opinion of the victim will be respected at all times throughout the process.<sup>64</sup>

**Deportation** is the act issued by the General Directorate of Migration and Foreigners by which a foreign person is ordered to leave the national territory for:<sup>65</sup>

- Having entered the national territory irregularly;<sup>66</sup>
- Having remained in Salvadoran territory, through false declaration or presentation of false or altered documents;<sup>67</sup>
- Refusing to leave the country when ordered;<sup>68</sup>
- Fraudulently exercising a profession or trade;<sup>69</sup>
- Giving a false declaration to obtain a visa.<sup>70</sup>

If the deportable foreign person is at the border with their travel document and has the intention of leaving the country, an abbreviated deportation procedure may be applied, which will have the effect of immediate departure and the payment of a fine equivalent to 10 percent of a current

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<sup>59</sup> Article 17 of the Special Law on Migration and Foreigners.

<sup>60</sup> Article 17 of the Special Law on Migration and Foreigners.

<sup>61</sup> Article 17 of the Special Law on Migration and Foreigners.

<sup>62</sup> Article 38 of the Law for the Determination of the Status of Refugees.

<sup>63</sup> Article 325 of the Regulation of the Special Law on Migration and Foreigners.

<sup>64</sup> Article 43 of the Special Law against Human Trafficking.

<sup>65</sup> Article 239 of the Special Law on Migration and Foreigners.

<sup>66</sup> Article 230, subsection 1 of the Special Law on Migration and Foreigners.

<sup>67</sup> Article 230, subsection 2 of the Special Law on Migration and Foreigners.

<sup>68</sup> Article 230, subsection 3 of the Special Law on Migration and Foreigners.

<sup>69</sup> Article 230, subsection 4 of the Special Law on Migration and Foreigners.

<sup>70</sup> Article 230, subsection 5 of the Special Law on Migration and Foreigners.

monthly minimum wage defined by the Commerce and Services sector and up to four monthly minimum wages of said sector.<sup>71</sup>

Deportation entails the departure of the foreign person from the national territory and the impediment of entry for a term of one to three years and the incorporation of the complete name and nationality of the deportee into the system of immigration restrictions.<sup>72</sup>

Exceptionally, the Director General, through a reasoned resolution, may authorize entry before said term for humanitarian reasons.<sup>73</sup>

**Expulsion** is the act ordered by the Ministry of Justice and Public Security requiring a person to leave El Salvador for:

- Having participated directly or indirectly in the country's internal politics;<sup>74</sup>
- Having requested protection through diplomatic channels outside of the parameters established in the Constitution;
- Having lost Salvadoran naturalization status;<sup>75</sup>
- Having participated in activities contrary to the security of the state or that could harm the relations of El Salvador;<sup>76</sup>
- Having committed a malicious crime in national territory;<sup>77</sup>
- Having made attempts that go against public health, the economy, the environment and national or international peace;<sup>78</sup>
- Having re-entered the country while under an immigration restriction.<sup>79</sup>

The resolution that orders the expulsion will authorize the departure from national territory within the term determined by the Minister of Justice and Public Security, and result in a restriction from entering the national territory for a minimum term of five years and a maximum of ten and the loss of regular immigration status, without requiring an administrative procedure in addition to the cancellation of documents that prove regular immigration status.<sup>80</sup>

## Restrictions on the Duration of Migrant Detention

Foreigners in an irregular migratory situation are temporarily housed in comprehensive attention centers for migrants, after obtaining the proper resolution on the presented injunction and a corresponding medical evaluation.

The definitive departure of the foreign person from the center occurs when:

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<sup>71</sup> Article 239 of the Special Law on Migration and Foreigners.

<sup>72</sup> Articles 240 of the Special Law on Migration and Foreigners; Article 314 of the Regulations of the Special Law on Migration and Foreigners.

<sup>73</sup> Article 240 of the Special Law on Migration and Foreigners.

<sup>74</sup> Article 230, subsection 6 of the Special Law on Migration and Foreigners.

<sup>75</sup> Article 230, subsection 8 of the Special Law on Migration and Foreigners.

<sup>76</sup> Article 230, subsection 9 of the Special Law on Migration and Foreigners.

<sup>77</sup> Article 230, subsection 10 of the Special Law on Migration and Foreigners.

<sup>78</sup> Article 230, subsection 11 of the Special Law on Migration and Foreigners.

<sup>79</sup> Article 230, subsection 12 of the Special Law on Migration and Foreigners.

<sup>80</sup> Article 244 of the Special Law on Migration and Foreigners.

- There is an order of deportation, expulsion, repatriation, and voluntary or assisted return to leave the country;<sup>81</sup>
- There is duly accredited regular entry or stay in the country for the person;<sup>82</sup>
- There is a resolution for the foreign person to regularize their immigration status.<sup>83</sup>

Foreigners cannot stay in these centers for more than 45 business days. After this period, the General Directorate issues a special permit for their temporary stay and work permit in the country, as long as the assumption under which the release was granted subsists. Said permission will last a period of 60 business days, and once it has been exhausted the General Directorate must determine the immigration status of the foreign person.

The Comprehensive Attention Center must communicate with the foreign consular representative (except in the case of applicants for refugee status) and must inform the foreigner of the right to receive legal advice, have an interpreter or translator when required, access to free telephone communication, and visits from their relatives or their attorney.<sup>84</sup>

## 6. Migrants in the Labor Market

The foreign person who wishes to enter El Salvador in order to study or carry out unpaid research in a teaching center must request authorization from the General Directorate, demonstrate enrollment in an educational institution and for successive periods, and a certification of status as an active student. The General Directorate may authorize the stay to provide social services or professional trainings either for free or remunerated as required by the institution.<sup>85</sup>

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<sup>81</sup> Article 328, subsection 1 of the Regulation of the Special Law on Migration and Foreigners.

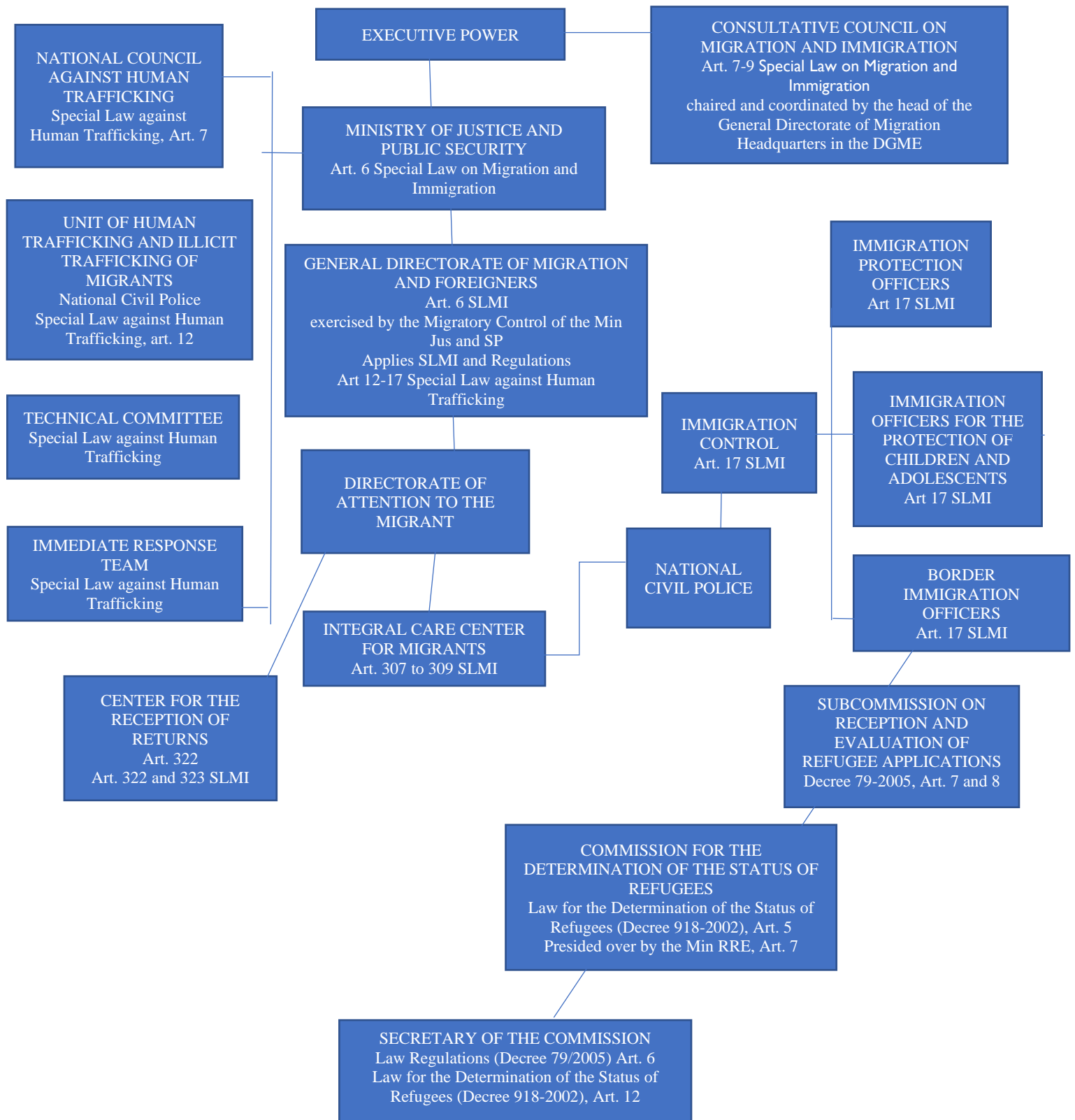
<sup>82</sup> Article 328, subsection 2 of the Regulation of the Special Law on Migration and Foreigners.

<sup>83</sup> Article 328, subsection 3 of the Regulation of the Special Law on Migration and Foreigners.

<sup>84</sup> Articles 329 and 330 of the Regulation of the Special Law on Migration and Foreigners.

<sup>85</sup> Article 125 of the Special Law on Migration and Foreigners.

## 7. Mapping of the Migration System



## About the Authors

### **Maria Sol Pikielny**

María Sol Pikielny is a public policy professor and a lawyer specialized in administrative law and international refugee law with experience in refugee status determination procedures, as well as asylum and immigration legal systems in Latin America. She has worked with the Inter-American Commission on Human Rights, the Organization of American States, and the Migration Policy Institute.

María Sol holds an L.L.M. from American University Washington College of Law, a master's degree in Administrative Law from Universidad Austral, as well as bachelor's degree in Law from Pontificia Universidad Católica Argentina.

### **María Jesús Mora**

María Jesús Mora is a research consultant whose experience spans migration, social mobility, and race in Latin America. She has been an intern for the Migration Policy Institute, The Nation, and the North American Congress on Latin America. She has a bachelor's degree in Sociology and History from New York University, where she graduated Phi Beta Kappa.

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