



Institutional and Legal Migratory Framework of the United Mexican States: A Working Paper

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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.

I. Institutional Framework

The Mexican 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 under different immigration categories.

This system is comprised of the Secretariat of the Interior, the National Institute of Migration, the Mexican Commission for Refugee Assistance, the Secretariat of Foreign Affairs, and the Interagency Commission for Comprehensive Assistance in Migration Matters.

- **The Secretariat of the Interior** (*Secretaría de Gobernación*, SEGOB) is the federal ministry that oversees the design and implementation of Mexico's migration policy.¹
- **The National Institute of Migration** (*Instituto Nacional de Migración*, INM) is a decentralized agency of the federal government within SEGOB and it is the authority that implements and enforces Mexico's migration policy.² INM is the agency in charge of monitoring the entry and exit from the national territory, managing and executing deportations and assisted returns, enforcing migration sanctions, maintaining the National Register of Foreigners, bringing migrants to detention centers, and coordinating organizations that aid migrants in the country.³ The agency oversees the issuance of documents for

¹ Article 18 of Mexico's Migration Law, *Ley de Migración* (2011).

² Article 19 of the Migration Law.

³ Article 20 of the Migration Law.

foreigners such as residency cards,⁴ and changes in their immigration status (from temporary to permanent residents, personal information, etc.).⁵

The main authorities in charge of implementing Mexico's humanitarian protection system policies are:

- **The Mexican Commission for Refugee Assistance** (*Comisión Mexicana de Ayuda a Refugiados*, COMAR), which is a decentralized agency of the federal government within SEGOB⁶ that decides upon and grants refugee status and complementary protection.
- **The Secretariat of Foreign Affairs** (*Secretaría de Relaciones Exteriores*, SRE), which is a federal ministry that decides upon and grants political asylum.

Mexico's Migration Law of 2011 (*Ley de Migración*) establishes that SEGOB is the authority responsible for formulating and overseeing Mexico's migration policy. However, in September 2019, the administration of President Andrés Manuel López Obrador issued an executive decree to create the Interagency Commission for Comprehensive Assistance in Migration Matters. The executive decree temporarily shifts the responsibility for migration management from SEGOB to the Interagency Commission for Comprehensive Assistance in Migration Matters.⁷

- **The Interagency Commission for Comprehensive Assistance in Migration Matters** (*Comisión Intersecretarial de Atención Integral en Materia Migratoria*, "the Commission") is presided over by SRE and is comprised of 16 government agencies.⁸ Its main objective is to ensure coordination across federal agencies on the design and implementation of policies, programs, and actions related to immigration. The Commission is temporary in nature and the decree is valid until September 30, 2024.

⁴ Article 59 of the Migration Law.

⁵ Article 62 of the Migration Law.

⁶ Article 2 of the Internal Regulations of the Secretariat of the Interior, *Reglamento Interior de la Secretaría de Gobernación* (2019).

⁷ Andres Manuel Lopez Obrador, "Decreto por el que se crea Comisión Intersecretarial de Atención Integral en Materia Migratoria," *Diario Oficial de la Federación* (September 19, 2019).

⁸ According to the executive decree above, the ministries and agencies that comprise the Commission are the Secretariat of the Interior (*Secretaría de Gobernación*, SEGOB), the Secretariat of Foreign Affairs (*Secretaría de Relaciones Exteriores*, SRE), the Secretariat for Citizen Security and Protection, the Secretariat of Finance and Public Credit, the Secretariat for Welfare, the Secretariat for Health, the Secretariat of Labor and Social Security, the Secretariat of Tourism (all equivalent to Ministries), the Mexican Agency for International Cooperation for Development, the General Coordinator of the Mexican Commission for Refugee Assistance (*Comisión Mexicana de Ayuda a Refugiados*, COMAR), the Institute for Administration and Valuation of National Assets, the National Institute of Migration (*Instituto Nacional de Migración*, INM), Tax Administration Service, National Institute for Women, Institute for the Administration of Property and Assets, and the National System for the Integral Development of the Family.

The Migration Law also contemplates auxiliary authorities for migration management and enforcement, such as the Secretariat of Tourism, the Secretariat of Health, the System for the Integral Development of Families (*Sistema para el Desarrollo Integral de la Familia*, DIF), the Attorney General's Office (*Procuraduría General de la República*, PGR), and the Federal Police, which has been replaced by the National Guard, created in 2019.⁹

2. Legal Framework

The Mexican migration legal framework has its origins in the Mexican Constitution,¹⁰ which establishes that there will be no distinction between Mexican nationals and foreigners with regards to protection and respect for their human rights.¹¹ The principles of the country's migration policy are established in the Migration Law of 2011 and its implementation procedures are established in the Regulations on the Migration Law.¹²

The principles and implementation procedures regarding humanitarian protection are also decided at the federal level and are established in the Law on Refugees, Complementary Protection, and Political Asylum and its regulations.¹³

The migration legal framework is also comprised of additional complementary laws and executive orders further explained in this document.

3. Migratory Categories and Adjustment Processes

The Migration Law defines “foreigner” as a person who does not have Mexican nationality per the qualifications established in the Mexican Constitution, and “migrant” as an individual who exits, transits, or arrives, for any reason, to the territory of a state different than their state of residence.¹⁴ A legal analysis of the provisions in the law lead to the interpretation that all foreigners are considered migrants if they are not residents. Both terms are used interchangeably throughout the Migration Law.

Foreigners can remain in Mexico under three statuses: (1) visitor; (2) temporary resident; or (3) permanent resident,¹⁵ with the following subcategories, conditions, benefits, and documents.

⁹ Transitional article 7 of the National Guard Law, *Ley de la Guardia Nacional* (2019).

¹⁰ Article 11 of the Mexican Constitution, *Constitución Política de los Estados Unidos Mexicanos*.

¹¹ Article 1 of the Mexican Constitution.

¹² Article 2 of the Migration Law.

¹³ Article 3 of the Law on Refugees, Complementary Protection, and Political Asylum, *Ley sobre Refugiados, Protección Complementaria y Asilo Político* (2011).

¹⁴ Article 3 of the Migration Law.

¹⁵ Article 52 of the Migration Law.

A. Visitors

- **Visitor without Authorization to Perform Compensated Activities.** Allows foreigners to transit or remain in the country for a maximum of 180 uninterrupted days with a Visitor's Permit or Multiple Migration Form (*Forma Migratoria Múltiple*, FMM),¹⁶ and a visa.
- **Visitors with Authorization to Perform Compensated Activities.** Foreigners who have a job offer, an invitation from an authority or institution, or are entering the country to perform a seasonal compensated activity through an inter-institutional agreement, are eligible for a visa with authorization to perform compensated activities. This visa allows foreigners to remain for a maximum of 180 uninterrupted days.¹⁷
- **Regional Visitor.** Nationals and residents of Belize, El Salvador, Guatemala, and Honduras can request a Regional Visitor Card (*Tarjeta de Visitante Regional*, TVR) to transit or visit the states of Campeche, Chiapas, Quintana Roo, Tabasco, and Yucatan.¹⁸ TVR holders may remain in those five states for up to seven consecutive days,¹⁹ and the TVR is valid for five years. TVRs are issued by Mexican consulates in eligible countries, are free, and do not entitle holders to work in Mexico. Through an administrative provision, SEGOB determines the term of validity of this status as well as the municipalities and states that are considered to be in the border region.
- **Border Worker Visitor.** Foreigners under this category hold the Migrant Border Worker Card (*Tarjeta de Visitante Trabajador Fronterizo*, TVTF). The TVTF grants nationals from Belize, El Salvador, Guatemala, and Honduras²⁰ the right to work in the southern states of Campeche, Chiapas, Quintana Roo, and Tabasco, as long as they are 16 years or older and have a valid job offer. The

¹⁶ A Multiple Migration Form (*Forma Migratoria Múltiple*, FMM) can be obtained in official points of entry (by land) or can be requested online (e-FMM). Foreigners must hold a valid passport or passport card and a valid visa (if applicable). The latest information on the FMM is available from SEGOB, "[Multiple Immigration Form](#)," accessed February 12, 2021.

¹⁷ The latest fees and requirements can be found from SEGOB, "[Visa de visitante con permiso para realizar actividades remuneradas](#)," accessed February 12, 2021.

¹⁸ When Regional Visitor Cards (*Tarjetas de Visitante Regional*, TVR) were introduced in 2013 to replace Border Cards (*Formas Migratorias de Visitante Local*, FMVL), Belize and Guatemala were the only eligible countries; El Salvador and Honduras were added in April 2019. The states that TVR holders could visit originally were Campeche, Chiapas, Quintana Roo, and Tabasco; Yucatan was later added. Current eligible countries and states were established in SEGOB, "[Acuerdo por el que se reforman los lineamientos para trámites y procedimientos migratorios](#)" *Diario Oficial de la Federación* (April 23, 2019).

¹⁹ Article 52 of the Migration Law establishes that TVR holders can remain in the country for seven consecutive days. Nonetheless, article 154 of the Regulations on the Migration Law determines that they may remain in the country for up to three days.

²⁰ In January 2019, SEGOB's Secretary, Olga Sánchez Cordero, extended the eligibility for nationals of El Salvador and Honduras even though they do not share a border with Mexico.

TVTF allows for multiple entries and exits from the Southern border states and is valid for one year. It is unclear from the legal framework if the TVTF is renewable. Eligible applicants can request the TVTF in the official points of entry in Chiapas, Quintana Roo, and Tabasco. SEGOB also determines the areas covered by this status through an administrative provision.

- **Visitor for Humanitarian Reasons.** This condition is granted to foreigners under the following categories:
 - Those who are victims, aggrieved subjects (passive subjects of criminal behavior), or witnesses of a crime committed in Mexico. Foreigners under this category may remain in the country until the criminal process finishes. They can legally work and have multiple entries and exits. Once the criminal process has finished, they must exit or request a new status. They are eligible to request permanent residency.
 - Migrant children and adolescents.²¹ The government will provisionally grant migrant children and adolescents Visitor for Humanitarian Reasons status until the Special Attorney's Office for the Protection of Children and Adolescents determines what is in their best interest. In the case of accompanied minors who have been separated from the responsible adult, the temporary humanitarian visitor status shall be granted to the accompanying adult as well.²²
 - Those who request political asylum, refugee status, or complementary protection. While their request is being resolved by the appropriate authority, the government will temporarily grant foreigners Visitor for Humanitarian Reasons status. If their request is accepted, the government will grant permanent resident status.
 - SEGOB can also grant this status to foreigners who are not under the previously mentioned categories but there is a humanitarian cause, or it is of public interest. Humanitarian causes, per the law, are when a person's life or health are at risk and they must remain in the country; when a person has a family member under their care and must make medical decisions or retrieve their corpse; or when a person must look after a family member who is in the country and in dire medical conditions. In such cases, they will be allowed to legally work.

²¹ This article was amended in November 2020 to include all migrant children and adolescents, regardless of whether they are accompanied or unaccompanied. The previous provision only included unaccompanied minors. Per the Migration Law, children are those ages 0 to 12 and adolescents are those ages 12 to 17.

²² Article 52 of the Migration Law, as amended by Andrés Manuel López Obrador, "Decreto por el que se reforman diversos artículos de la Ley de Migración y de la Ley sobre Refugiados, Protección Complementaria y Asilo Político, en materia de Infancia Migrante," *Diario Oficial de la Federación* (November 11, 2020).

Foreigners who are visitors for humanitarian reasons may request to renew their migration document as many times as needed until the process has concluded or until the cause that originated protection under this status no longer exists. Foreigners under this status are allowed to work.²³ The migration document that grants this status will allow holders multiple entry and exit from the country.²⁴

- **Visitor for the Purpose of Adopting.** Foreigners who are involved in a process to adopt a child or adolescent in Mexico can remain in the country with a visa until the process is resolved, the adoptee's birth certificate is registered, and all of the necessary formalities and paperwork for the adoptee to leave Mexico are finalized, including holding a passport. This migration status and the respective visa can only be granted to citizens of countries with which Mexico has an agreement regarding international adoption.

Visitors may not change their status while they remain in Mexico and must exit the country once the allowed period of stay has expired. Exceptions apply for those visitors for humanitarian reasons and family members of a Mexican national or a foreigner with regular residency in Mexico.²⁵

B. Temporary Residents

Foreigners under a Temporary Resident Visa are allowed to remain in Mexico for more than 180 days and up to four years, and are allowed multiple entries and exits during this period. This visa is issued in Mexican consulates abroad. The Migration Law states that foreigners under this status who have a job offer may request authorization to work and receive compensation. SEGOB's website specifies that foreigners under this status can work in Mexican territory as long as their salary is received abroad, or may work in Mexico and receive compensation in Mexico but, in such case, a Mexican company or person must request INM to authorize their visa.²⁶ Temporary residents have the right to preserve the family unit. They may enter the country with or request the admission into the country of: (1) their children and the children of their spouse or domestic partner (as long as they are unmarried children or adolescents or are under their care), (2) their spouse or domestic partner, and (3) their parents. Family members who enter the country under this condition will also have a temporary resident status, will be allowed multiple entries and exits, and may request work authorization if they have a job offer. Foreigners who are granted temporary resident status may bring their personal property with them.

²³ Article 164 of the Regulations on the Migration Law, *Reglamento de la Ley de Migración* (2012).

²⁴ Article 153 of the Regulations on the Migration Law.

²⁵ Article 53 of the Migration Law.

²⁶ The latest information and document requirements for the Temporary Resident Visas can be found from SEGOB, "[Visa de residencia temporal](#)," published July 23, 2015.

Temporary Student Resident

Foreigners who have a letter of admission or an invitation letter from an educational institution within the national education system may remain in the country for the length of their studies, coursework, degree, or research project. They will be allowed multiple entries and exits. Those pursuing higher education or graduate studies and those conducting research assignments will be allowed to legally work if they have a job offer in a field that is related to their studies and with approval of their host institution. The student visa must be renewed every year provided that students prove that the initial conditions by which the visa was granted remain in place. Temporary Student Residents have the right to preserve family unity and bring into the country the same family members that temporary residents are allowed to bring.

C. Permanent Residents

Foreigners who become permanent residents may remain in Mexico indefinitely and are allowed to work and receive compensation.²⁷ Permanent resident status can be granted to foreigners in the following cases:

- To those who are granted political asylum, refugee status, complementary protection, or if their statelessness is determined.
- To family members of a permanent resident under the right to preserve family unity: parents, spouse, domestic partner,²⁸ their children and the children of their spouse or domestic partner (as long as they are unmarried children or adolescents or are under their care), and their siblings (as long as they are unmarried children or adolescents or are under their care). The right to preserve family unity of people to whom political asylum or refugee status is granted will be subject to the international treaties entered into by Mexico.²⁹
- To retirees or pensioners who receive an income from a foreign government, international organization, or company for services carried out abroad, that is sufficient to live in Mexico.
- To foreigners to whom INM has granted permanent resident status under the points system.³⁰
- To temporary residents who have had such status for four years.
- To foreigners who have children of Mexican nationality by birthright.
- To direct ascendants or descendants up to the second degree of consanguinity of a Mexican national by birthright.

²⁷ Article 54 of the Migration Law.

²⁸ Spouses or domestic partners are granted temporary residency for two years. After two years, they are granted permanent residency as long as the marriage or domestic partnership is still ongoing, as per Article 55 of the Migration Law.

²⁹ Article 54 of the Migration Law.

³⁰ Article 57 of the Migration Law.

The law stipulates that INM can utilize a points system as an expedited pathway to provide temporary residents the opportunity to become permanent residents before the required four years of residency. Foreigners must submit a request to INM to be considered under this system, and INM evaluates the applicant's potential to contribute to the country's welfare.³¹ Selection criteria include: level of education, work experience in areas that have high demand and low supply in the country, potential to become investors in the country, capabilities in the areas of science and technology, Spanish-speaking skills, international awards record, and knowledge of Mexican culture.³² Every three years SEGOB is required to publish the administrative procedures of the points system in the *Diario Oficial de la Federación*. As of the writing of this working paper, the points system regulations were not available. When reviewing cases through the points system, INM is called upon to consider the quotas of admitted foreigners that SEGOB determines every year.³³ Per the Regulations on the Migration Law, SEGOB must determine these quotas in coordination with the Secretariat of Labor and Social Welfare (*Secretaría del Trabajo y Previsión Social*), and according to (1) occupational or professional groups established in the National Classification of Occupations (*Sistema Nacional de Clasificación de Ocupaciones*); (2) specific geographical regions; (3) migration statuses; (4) a combination of these criteria.³⁴

Foreigners cannot have two migration statuses simultaneously.³⁵

D. Eligibility and Adjustment Process for Irregular Migrants

Foreigners in an irregular migration status may request their regularization from INM if: (A) they lack the documents to prove their regular status; (B) the documents that prove their regular status expired; or (C) they no longer meet the requirements for the status they had.³⁶ In addition to these requests, people in the following circumstances will be able to regularize their status: (1) spouses or domestic partners of a Mexican national or a permanent resident; (2) parents, legal guardians, and children of a Mexican national or a permanent resident; (3) victims or witnesses of a felony; (4) people whose vulnerability makes their assisted return or deportation unfeasible; and (5) children and adolescents who have been victims of child abduction.³⁷ Those individuals in categories 1 and 2 (spouses, domestic partners, parents, legal guardians, or children of a Mexican national or permanent resident) will be subject to a fine of 20 to 40 minimum wages.³⁸ Foreigners whose initial

³¹ Article 57 of the Migration Law.

³² Article 125 of the Regulations on the Migration Law.

³³ Article 122 of the Regulations on the Migration Law.

³⁴ Articles 119 and 120 of the Regulations on the Migration Law.

³⁵ Article 61 of the Migration Law.

³⁶ Article 132 of the Migration Law.

³⁷ Article 133 of the Migration Law.

³⁸ Article 145 of the Migration Law.

authorization to remain in the country has expired will also be allowed to request to regularize their status.³⁹

SEGOB can implement temporary measures to guarantee the foreigners' right to request to regularize their migration status.⁴⁰ In previous years, SEGOB has launched temporary migration regularization programs that ease the process for migrants under certain circumstances. SEGOB may determine and change the conditions for each program. In previous editions, SEGOB has made individuals under the following categories ineligible for the program: those who are being subject to a deportation or assisted return process; those with pending migration processes (in such cases, individuals should withdraw their previous process and adhere to the program); those who provided false information or documents to INM; those who have been deported and have a restriction on re-entry; those who are subject or sentenced in a criminal procedure, and those who might compromise national security. Benefits of the programs include being granted temporary residency for four years and the possibility of applying for permanent residency after the four-year period, having the right to request work authorization as a temporary resident, not being subject to the fines determined by law, the right to family reunification, and immunity from being presented to a detention center.⁴¹

E. General Provisions on Migration Statuses and Benefits

Temporary and permanent residents (except for political asylum seekers, asylum seekers, or stateless persons) can enter the country with a visa, and will then have 30 days from the day they entered the country to request their residency cards from INM.⁴² Once they hold a residency card, temporary and permanent residents have the right to request a Unique Population Registration Code (*Clave Única de Registro de Población*, CURP) from SEGOB.⁴³ The CURP grants individuals the right to an identity, established in article 4 of the Mexican Constitution, and allows individuals to access rights and services, such as the right to education, health services, and inclusion in the country's economic, cultural, and political life.⁴⁴

The Migration Law establishes that no administrative migration act can stipulate more restrictions on foreigners with regards to accessing health services and

³⁹ Articles 134 and 145 of the Migration Law.

⁴⁰ Article 143 of the Regulations on the Migration Law.

⁴¹ Examples of these programs can be found in SEGOB and INM, "[Programa Temporal de Regularización Migratoria](#)," accessed February 12, 2021.

⁴² Article 59 of the Migration Law.

⁴³ The Unique Population Registration Code (*Clave Única de Registro de Población*, CURP) is an identification number which allows Mexicans and foreigners with residency to register individually. For more information, see Dirección General del Registro Nacional de Población e Identificación Personal, "[Instructivo Normativo para la asignación de la Clave Única de Registro de Población](#)," *Diario Oficial de la Federación* (June 18, 2018).

⁴⁴ Secretariat of the Interior, "[Derecho a la identidad, la puerta de acceso a tus derechos](#)," published November 2, 2020.

education than those established for Mexican nationals.⁴⁵ According to article 8 of the Migration Law, all foreigners, regardless of their migration status or condition, can access education services, whether provided by the public or private sector.⁴⁶ Additionally, migrants have the right to receive any type of health care, whether provided by the public or private sector. Regardless of their migration status or condition, migrants have the right to receive free and unrestricted urgent medical care that is necessary to preserve their life.⁴⁷

Regardless of their migration status or condition, Mexico is required to guarantee migrants the right to personal safety.⁴⁸

Foreigners must have a regular migration status to open a bank account, to own interests in the capital stock of a company, to purchase real estate, to carry out entrepreneurial or economic activities, and to request any permit, service, or product from the relevant authorities.⁴⁹ Foreigners with a regular migration status can, personally or by a proxy, and without authorization from INM, purchase fixed-interest and equity shares, make bank deposits, and purchase urban real estate,⁵⁰ and must prove their migration status in legal acts that involve notaries.⁵¹

4. Humanitarian Protection

Per the Mexican Constitution, every person has the right to request and be granted asylum, if the claim is found valid.⁵² The main principles of Mexico's humanitarian protection system are nonrefoulement, nondiscrimination, best interest of the child, right to family unity, nonsanction for irregular entry to the country, and confidentiality.⁵³

The Mexican Humanitarian Protection System grants three primary types of protection: (1) refugee status; (2) political asylum; and (3) complementary protection. Mexican law reserves the term asylum (*asilo político*) for protection provided to individuals fleeing political persecution and refers to "refugee status seeker" (*solicitante de la condición de refugiado*), which corresponds to the term "asylum seeker" that is commonly used internationally as a broad descriptor for this kind of humanitarian protection.

⁴⁵ Article 8 of the Migration Law.

⁴⁶ Ibid.

⁴⁷ Ibid.

⁴⁸ Article 66 of the Migration Law.

⁴⁹ Article 140 of the Regulations on the Migration Law. The article does not provide further definition of the "permits, services, or products" referred to in the provisions.

⁵⁰ Article 60 of the Migration Law.

⁵¹ Article 65 of the Migration Law.

⁵² Article 11 of the Mexican Constitution.

⁵³ Article 5 of the Law on Refugees, Complementary Protection, and Political Asylum.

Mexico is a signatory of the 1951 Refugee Convention and the 1967 Protocol Relating to the Status of Refugees, as well as the 1984 Cartagena Declaration on Refugees. Thus, Mexico provides humanitarian protection using broad eligibility criteria.

A. Refugee Status

Foreigners can apply for refugee status if they have a well-founded fear of persecution for reasons of race, religion, nationality, political opinion, or membership in a particular social group; or have fled their country because their lives were threatened by generalized violence, foreign aggression, internal conflicts, or a massive violation of human rights. Refugee status seekers must file an application within 30 business days after the first business day upon their arrival to the country. Another person may file the application on the petitioner's behalf, but the refugee status seeker must appear in-person before SEGOB no more than three business days later to reaffirm their intent.⁵⁴ Once the application has been filed, applicants may not be returned to their country of origin.⁵⁵ The filing process is free.⁵⁶

Refugees are entitled to the following rights and obligations:⁵⁷

- Right to receive assistance from public institutions.
- Access to health care.
- Access to education.
- Authorization to work in any legal activity.
- Right to request family reunification.
- Ability to be granted an official ID and travel document by SRE.
- Ability to be granted an official migratory document by SEGOB that attests their permanent residency status.

SEGOB may grant refugee protection to refugees recognized by third countries when it deems that the protection granted in said third country was not effective.⁵⁸

B. Complementary Protection

This *sui generis* form of protection is granted to individuals that are not eligible for refugee status, but their lives may be in danger if they return to their country of origin.⁵⁹ The Mexican law only excludes perpetrators of crimes against humanity, other crimes considered serious committed outside of the Mexican territory, and acts against the United Nations principles from being granted any of the three types of humanitarian protection. Even though SEGOB oversees and recognizes

⁵⁴ Article 11 of the Law on Refugees, Complementary Protection, and Political Asylum.

⁵⁵ Article 22 of the Regulations for the Law on Refugees, Complementary Protection, and Political Asylum, *Reglamento de la Ley sobre Refugiados y Protección Complementaria*.

⁵⁶ Article 18 of the Law on Refugees, Complementary Protection, and Political Asylum.

⁵⁷ Article 44 of the Law on Refugees, Complementary Protection, and Political Asylum.

⁵⁸ Articles 46 and 47 of the Law on Refugees, Complementary Protection, and Political Asylum.

⁵⁹ Article 48 of the Regulations for the Law on Refugees, Complementary Protection, and Political Asylum.

complementary protection, it should consider SRE's opinion. Complementary protection should be granted in the same resolution that denies the refugee status.⁶⁰ SEGOB may rescind complementary protection if the applicant omitted or provided false information or if the conditions that led to the status recognition change.⁶¹

Refugees and foreigners with complementary protection are considered permanent residents. They may reside wherever they wish unless SEGOB deems it necessary to restrict refugee status seekers' residence when they arrive in a group.⁶² Nonetheless, the application process for refugee status is always considered and granted on an individual basis.

The process to apply for refugee status or complementary protection is as follows:⁶³

1. Migrants must apply for protection in person at any COMAR or INM office within 30 business days of entering Mexico.
2. COMAR provides a receipt to applicants as proof that they have a pending case. This receipt allows applicants to remain in Mexico legally while their case is pending and includes a temporary CURP, which is associated with the file number assigned by COMAR.⁶⁴ This temporary CURP is valid for up to 180 days and shall become permanent if the status is granted.⁶⁵ With this receipt, applicants can request a humanitarian visa from INM,⁶⁶ which allows them to work.⁶⁷
3. Unless permission is granted to relocate, applicants must remain in the state where they submitted their application, and check in weekly at the local COMAR or INM office to confirm with a signature that they have not abandoned their protection claim.
4. Applicants must explain their reasons for leaving their country of origin and for not seeking to return during an in-person interview with a COMAR officer. During the interview, COMAR must provide an interpreter or translator for non-Spanish speakers.

⁶⁰ Articles 29 and 30 of the Law on Refugees, Complementary Protection, and Political Asylum.

⁶¹ Article 32 of the Law on Refugees, Complementary Protection, and Political Asylum.

⁶² Articles 49 and 26 of the Law on Refugees, Complementary Protection, and Political Asylum.

⁶³ Article 18 of the Law on Refugees, Complementary Protection, and Political Asylum and Article 38 of the Regulations for the Law on Refugees, Complementary Protection, and Political Asylum.

⁶⁴ Per article 39 of the Regulations for the Law on Refugees, Complementary Protection, and Political Asylum, COMAR must assign a file number called a Unique Refugee Code (*Clave Única de Refugiados, CUR*).

⁶⁵ SEGOB, "Instructivo Normativo para la asignación de la Clave Única de Registro de Población," published June 12, 2018.

⁶⁶ Referred to in the Law as a "Card for Visitors for Humanitarian Reasons" (*Tarjeta de Visitante por Razones Humanitarias*).

⁶⁷ UNHCR, "¿Cómo solicitar ser refugiado en México?" accessed February 12, 2021.

5. COMAR must resolve applications within 45 business days, but may seek an extension for an additional 45 business days in some cases.⁶⁸ Applicants must be notified within ten business days after a decision has been made.⁶⁹
6. Successful applicants must apply for permanent residency at an INM office. Rejected applicants may appeal to COMAR within 15 business days after being notified of the outcome.⁷⁰ A second review can take up to 90 days, and rejected applicants can appeal again to a judge.

C. Political Asylum

Political asylum is granted by SRE following the advice of SEGOB and COMAR to foreigners that have fled their country for reasons of political persecution, or their lives are at risk due to political reasons. While their applications are underway, Mexican officials must grant protection to political asylum seekers.⁷¹ If an applicant requests political asylum at a port of entry, SEGOB must decide whether the applicant's request corresponds to refugee status or a political asylum request.⁷²

To file for political asylum, applicants must appear in-person before SRE or any of its diplomatic posts.⁷³ The applicant must expressly request asylum; it is not sufficient to be present at the diplomatic post. The request must be filed in writing, unless applicants are unable to do so, in which case, they can file it verbally. Additionally, the applicant must be subject to imminent danger and should be a public figure.⁷⁴

Political asylum may be terminated if political asylees request it by writing, if they become permanent residents of another country, or if they commit crimes against humanity or other serious crimes.

5. Implementation and Compliance with the Legal Migratory Framework

A. Regulations, Guidelines, and Authorities Pertaining to the Detention of Migrants

INM is the authority in charge of surveilling and monitoring entries and exits from the country, determining and conducting deportations and assisted returns, and "apprehending" or "presenting" migrants.⁷⁵ The National Guard, a security force

⁶⁸ Article 24 of the Law on Refugees, Complementary Protection, and Political Asylum.

⁶⁹ Article 45 of the Regulations for the Law on Refugees, Complementary Protection, and Political Asylum.

⁷⁰ Article 25 of the Law on Refugees, Complementary Protection, and Political Asylum.

⁷¹ Article 66 of the Law on Refugees, Complementary Protection, and Political Asylum.

⁷² Article 70 of the Law on Refugees, Complementary Protection, and Political Asylum.

⁷³ Articles 63 and 65 of the Law on Refugees, Complementary Protection, and Political Asylum.

⁷⁴ SRE, *Lineamientos para Atender Solicitudes de Asilo y Refugio* (p.26), published July 2016.

⁷⁵ Article 20 of the Migration Law.

created in 2019 under the Secretariat for Citizen Security and Protection, aids INM in the performance of its migration control actions.

INM may perform three actions for border control and immigration regulation: (1) migration control actions; (2) migration verification; and (3) migration checks.

1. **Migration Control Actions (*Control Migratorio*)**. At points of international transit, INM can conduct the migration control actions of (1) inspecting the documents of individuals who wish to be admitted into or exit from the country and (2) inspecting the means of transportation used for such purposes. The National Guard shall act in coordination with and aid INM for these actions. INM might conduct migration control actions in places other than those for international transit by request of the Secretariat for Communications and Transportation.⁷⁶ When INM suspects that an individual's documents are not authentic or when a foreigner does not satisfy legal requirements, they shall be subject to a second inspection.⁷⁷ INM might determine if an individual cannot be admitted into the country and shall record the reasons for inadmissibility in writing and based on legal grounds. All points of entry are required to have adequate spacing for the temporary stay of foreigners whose situations are being addressed.⁷⁸ INM is the main authority responsible for legal migration screenings at ports of entry and thus directs these actions, except for the provision of sanitation services, which is under the responsibility of the Secretariat of Health.⁷⁹
2. **Migration Verifications (*Verificación Migratoria*)**. INM may perform verifications in places that are not points of international transit to assess if foreigners are in compliance with the migration framework in the following scenarios: (1) when INM wishes to verify the authenticity of information provided in a migration process; (2) when INM becomes aware that foreigners' legal stay in the country has expired; (3) to gathered necessary elements to implement the Migration Law, its regulations, and complementary legal instruments. These scenarios are considered to be in the public interest. Thus, INM may perform verifications by their own motion, but must issue an "order for verification" to conduct a verification visit.⁸⁰ Foreigners are required to provide proof of their regular migration status in the country when requested by INM.⁸¹ INM may not conduct verifications in places where migrants are sheltered by civil-society organizations or by people who carry out humanitarian aid or migrant protection acts.⁸²

⁷⁶ Article 81 of the Migration Law.

⁷⁷ Article 87 of the Migration Law.

⁷⁸ Articles 88 and 89 of the Migration Law.

⁷⁹ Article 82 of the Migration Law.

⁸⁰ Article 92 of the Migration Law.

⁸¹ Article 94 of the Migration Law.

⁸² Article 76 of the Migration Law.

3. **Migration Checks (*Revisión Migratoria*)**. INM may conduct migration checks in places that are not points of international transit to assess foreigners' migration situation. After analyzing the law, the difference between the scenarios in which INM conducts a migration verification or a migration check is not clear. Nonetheless, they are separate legal terms in the Migration Law.

By law, migration authorities should only withhold foreigners' identity or migration documents when there are elements to believe that they are apocryphal, in which case they must notify the appropriate authority to act upon it.⁸³ Additionally, migration authorities must consult and inform national security authorities of individuals who are identified as being linked with organized crime, terrorism, or any activity that threatens national security and shall cooperate with their investigations.⁸⁴ Likewise, judicial authorities must notify INM if foreigners are being subject to judicial processes in which they are the alleged perpetrator.⁸⁵

When foreigners cannot prove their legal status in the country, INM can bring them to a detention center (*estación migratoria*). This process, called "presentation"⁸⁶ (*presentación*), is a measure by which a foreigner is temporarily sheltered in a detention center.⁸⁷ The presentation of migrants who cannot prove a regular migration status is an administrative procedure in nature, can only be conducted by INM, and cannot exceed 36 hours.⁸⁸ After a foreigner is presented to the INM, Mexican authorities have 24 hours to issue a certificate of presentation. Once the certificate has been issued and until a decision regarding their migration status is rendered, foreigners will be brought to an institution devoted to the protection of human rights or, when applicable, to the diplomatic representation of their country of nationality. During the entire administrative migration process, foreigners must remain in an address within the jurisdiction of the detention center where they were presented.⁸⁹ While the administrative process is being carried out, in order to achieve legal stay in the country, foreigners can: (1) provide financial guaranty in an amount that the authority deems appropriate; (2) indicate the address where they will remain; (3) abstain from leaving the country without authorization from the authority; and (4) present a request letter with a Mexican citizen or civil-society organization taking responsibility for them.

When foreigners are presented, migration authorities have the obligation of informing them of their rights, the reason why they are being presented, the requirements for their regular admission, the possibility of regularizing their migration status, the possibility of providing financial guarantee, and must immediately notify the consulate of their country of origin, except in those cases where foreigners might

⁸³ Article 17 of the Migration Law.

⁸⁴ Article 80 of the Migration Law.

⁸⁵ Article 103 of the Migration Law.

⁸⁶ The words "apprehension" or "detention" are not used throughout the Migration Law.

⁸⁷ Article 99 of the Migration Law.

⁸⁸ Article 68 of the Migration Law.

⁸⁹ Article 101 of the Migration Law.

request political asylum or refugee status.⁹⁰ INM may not present foreigners who have approached the agency and requested to regularize their status. Nonetheless, if a foreigner is in a detention center, and prove that they are eligible for status regularization under the scenarios outlined in Section 3 in the subsection called “Eligibility and Adjustment Process for Irregular Migrants” of this working paper, the INM shall allow them to exit the detention center within 24 hours, and foreigners may approach the INM to request their status regularization. Once requested, the INM will have 30 calendar days to answer.⁹¹

SEGOB may also create migrant protection groups and sign cooperation agreements with the appropriate government entities, subnational governments, and civil-society organizations to guarantee migrant protection, as well as to aid in humanitarian assistance.⁹²

Complementary Authorities

Established in March 2019, the National Guard was created to replace Mexico’s Federal Police and take over its responsibilities.⁹³ Per the National Guard Law, the National Guard has, among others, the responsibility of safeguarding the safety of people and their belongings; guaranteeing, keeping, and establishing order and social peace; and preventing the commission of crimes in land border areas, with the exception of migration supervision and control checkpoints. Additionally, the National Guard has the obligation and responsibility of inspecting migration documents of foreigners, in coordination with INM, except in international points of transit, and, given the case, of presenting those foreigners who are in an irregular status. The National Guard also has a mandate of supporting INM in guarding detention centers and those foreigners who are being detained.⁹⁴ The National Guard cannot conduct border control and immigration regulatory actions independently; INM must always request their support.⁹⁵

Per the Migration Law, the National Guard will aid INM in the performance of its migration control actions, a responsibility previously assigned to the Federal Police.⁹⁶ Per an Executive Agreement, the Armed Forces are mandated to aid the National Guard in its public security functions for the first five years since its creation.⁹⁷

⁹⁰ Article 69 of the Migration Law.

⁹¹ Article 136 of the Migration Law.

⁹² Articles 71 and 72 of the Migration Law.

⁹³ Transitional articles 6 and 7 of the National Guard Law.

⁹⁴ Article 9 of the National Guard Law.

⁹⁵ Article 96 of the Migration Law.

⁹⁶ Article 81 of the Migration Law.

⁹⁷ Andrés Manuel López Obrador, “Acuerdo por el que se dispone de la Fuerza Armada permanente para llevar a cabo tareas de seguridad pública de manera extraordinaria, regulada, fiscalizada, subordinada y complementaria,” *Diario Oficial de la Federación* (May 11, 2020). This Executive Agreement authorizes the Armed Forces to carry out public security activities in a temporary, regulated, and supplementary manner.

Detention Conditions and Procedures

INM is responsible for establishing detention centers (*estaciones migratorias*)⁹⁸ and provisional accommodation centers (*estancias provisionales*) for the presentation of migrants.⁹⁹

Imprisonment facilities and preventative detention centers must never be used as detention centers.¹⁰⁰

INM must allow the National Commission for Human Rights to certify compliance with these requirements and allow civil-society organizations to access the facilities.

Foreigners who have been identified as victims of human trafficking must not be accommodated in detention centers and shall remain in shelters or institutions that can provide specialized assistance.¹⁰¹

After the foreigner is presented, the INM has 15 business days to address their situation. Foreigners can only remain in a detention center for more than 15 workdays in the following scenarios:¹⁰²

- There is not enough credible information on a person's nationality and/or identity or it is difficult to get the person's travel or identity documents.
- The consular agencies of the person's country of origin or residence require more time to issue the appropriate travel or identity documents.
- There is an obstacle for the person's transit through a third country or in the travel itinerary in general.
- The person is medically diagnosed with a disease or a physical or mental disability that prevents them from traveling.
- There is a pending judicial or administrative procedure regarding their migration status or a specific prohibition for them to exit the country.

In the case of the first four scenarios, foreigners' stay in a detention center should not exceed 60 business days. After those 60 business days, INM shall grant them the status of visitors with authorization to perform compensated activities as long as the situation that put them in that scenario is still ongoing. After that situation has been resolved, INM shall determine the person's migration situation.

Attention to Vulnerable Populations

⁹⁸ To see the minimum conditions that the detention centers must meet, see article 107 of the Migration Law and to see the rights that detainees have, see article 109 of the Migration Law and article 222 of the Regulations on the Migration Law.

⁹⁹ Article 106 of the Migration Law.

¹⁰⁰ Article 106 of the Migration Law.

¹⁰¹ Article 180 of the Regulations on the Migration Law.

¹⁰² Article 11 of the Migration Law.

Following an amendment to the Migration Law in November 2020, children and adolescents, whether accompanied or not, cannot be detained. They will be granted a temporary humanitarian visa and cannot be returned until the Special Attorney's Office for the Protection of Children and Adolescents determines what is in their best interest.

INM will take all necessary measures to ensure that pregnant women, elderly people, people with disabilities, indigenous people, and victims or witnesses of a felony, stay in a public or private institution that can provide them with adequate attention.¹⁰³

B. Types of Return, Fines and Re-entry Bans

Only the President of Mexico has the power to expel a foreigner from the national territory after a hearing has been conducted.¹⁰⁴ Nonetheless, INM does have the appropriate mechanisms to conduct deportations and assisted returns of foreigners who do not abide by the Migration Law and its regulations.¹⁰⁵

Assisted Returns

Foreigners who are in the national territory in irregular status and do not have a legal restriction to remain in the country, can request assisted return. Those who do not request this benefit, will be presented to a detention center. Assisted returns of foreigners over 18 years of age shall be conducted on the express request of the foreigner and observing human rights at all times.

SEGOB, in coordination with SRE, can enter into international agreements to conduct safe, orderly, and humane assisted returns. Once foreigners have been returned to their country of origin or nationality, they will be presented to the appropriate authorities in terms of the agreement. The right to preserve family unity and the special protection of people in a situation of vulnerability are meant to always be prioritized in assisted returns. INM can request support from the National Guard to transfer foreigners who are being presented or are in the process of returning voluntarily.¹⁰⁶ Only in cases of force majeure will assisted returns be suspended and they must be resumed as soon as the cause for suspension no longer exists.¹⁰⁷

Deportations

A deportation is a measure by which INM orders a foreigner to exit the country and establishes a period in which they cannot re-enter.¹⁰⁸

¹⁰³ Article 113 of the Migration Law.

¹⁰⁴ Article 114 of the Migration Law and article 33 of the Mexican Constitution.

¹⁰⁵ Article 115 of the Migration Law.

¹⁰⁶ Article 105 of the Migration Law.

¹⁰⁷ Article 125 of the Migration Law.

¹⁰⁸ Article 143 of the Migration Law.

INM can order the deportation of presented foreigners who:¹⁰⁹

- Enter the country without the appropriate documents or through a place that is not authorized as a point for international transit of people.
- Having already been deported, re-enter the country without having a readmission agreement even if they have been granted a legal status to remain in the country.
- Present themselves as Mexican without being Mexican.
- Are subject to a criminal process or have been sentenced for a serious felony under Mexican law or international treaties ratified by Mexico.
- Pose a threat to national security or public safety based on their record in Mexico or abroad.
- Provide false information, or present forged or illegitimate documents, or present legitimate documents obtained by fraudulent means.
- Fail to comply with an INM order to exit the country.

In all of these cases, INM will determine a period in which a foreigner cannot re-enter the country. When a foreigner poses a threat to national security, national sovereignty, or public safety, due to their record in Mexico or abroad, the deportation will be permanent.

During the deportation process, foreigners have the right to:¹¹⁰

- Be notified when the administrative migration process has begun.
- Receive consular assistance and be granted the ability to request it, except for cases in which foreigners have requested political asylum or refugee status.
- Communicate with their family or people they trust.
- Receive information about the process for deportation and their right to appeal INM's resolutions.
- Have a translator in case they do not understand or speak Spanish.
- Receive legal advice.

Foreigners who are subject to a deportation or assisted return process, shall remain in detention centers until the process is conducted. INM must then provide the means for transportation and provide water and food along the route. Foreigners under these processes must always be escorted by Mexican migration authorities, who should always respect their human rights.

Foreigners can only be deported or returned to the country of their nationality or residence except for those foreigners who requested political asylum or refugee status, for whom the principle of nonrefoulement will be applied.¹¹¹

¹⁰⁹ Article 144 of the Migration Law.

¹¹⁰ Article 122 of the Migration Law.

¹¹¹ Article 121 of the Migration Law.

In the case of unaccompanied children and adolescents and of victims or witnesses of a crime committed in the country, they will not be subject to deportation. Following their will or what is in their best interest, they will be subject to assisted return or regularization of their migration status.¹¹²

If a foreigner withdraws a request made to INM, or if the request is denied, or if the foreigner expressly requests to leave the country, INM shall issue an order of exiting the country. Foreigners may re-enter immediately.¹¹³

6. Labor Migration Arrangements

Legally Defined Visa Classifications

- **Visitor Visa without Authorization to Receive Compensation.** Can be granted for up to ten years and allows foreigners to remain in the country for up to 180 uninterrupted days.
- **Visitor Visa with Authorization to Receive Compensation.** Allows foreigners to remain in the country for up to 180 uninterrupted days.
- **Visitor Visa for Adoption Purposes.** This visa is granted to foreigners from countries with which Mexico has an adoption agreement. It is initially issued for a period of 180 days and allows for a single entry, but once foreigners have entered the national territory, foreigners will have 30 days to request a migration document that allows them to remain in the country until the adoption process is finalized.
- **Temporary Resident Visa.** It is granted to foreigners who intend to stay for a period longer than 180 days but for less than four years.
- **Temporary Resident Student Visa.** This visa is initially issued for a period of 180 days with a single entry, but once foreigners have entered the country, foreigners will have 30 days to request a resident card.
- **Permanent Resident Visa.** This visa is initially issued for a period of 180 days with a single entry, but once foreigners have entered the country, they will have 30 days to request a resident card.
- **Border Worker Visitor.** Foreigners under this category hold the Migrant Border Worker Card (*Tarjeta de Visitante Trabajador Fronterizo*, TVTF). The TVTF grants nationals from Belize, El Salvador, Guatemala, and Honduras¹¹⁴ the right to work in the southern states of Campeche, Chiapas, Quintana Roo, and Tabasco, as long as they are 16 years old or older and have a valid job offer. The TVTF allows for multiple entry and exit from the states in the Southern border and is valid for one year.

¹¹² Article 120 of the Migration Law.

¹¹³ Article 137 of the Migration Law.

¹¹⁴ On January of 2019, SEGOB's Secretary, Olga Sanchez Cordero, extended the eligibility for nationals of El Salvador and Honduras even though they do not share a border with Mexico.

All visas can be requested in the Mexican consulates abroad except for those visas under the right to family unity, a job offer, or for humanitarian reasons, which can be requested from INM in the national territory.¹¹⁵ Visa requests in consulates are required be resolved within ten business days.¹¹⁶

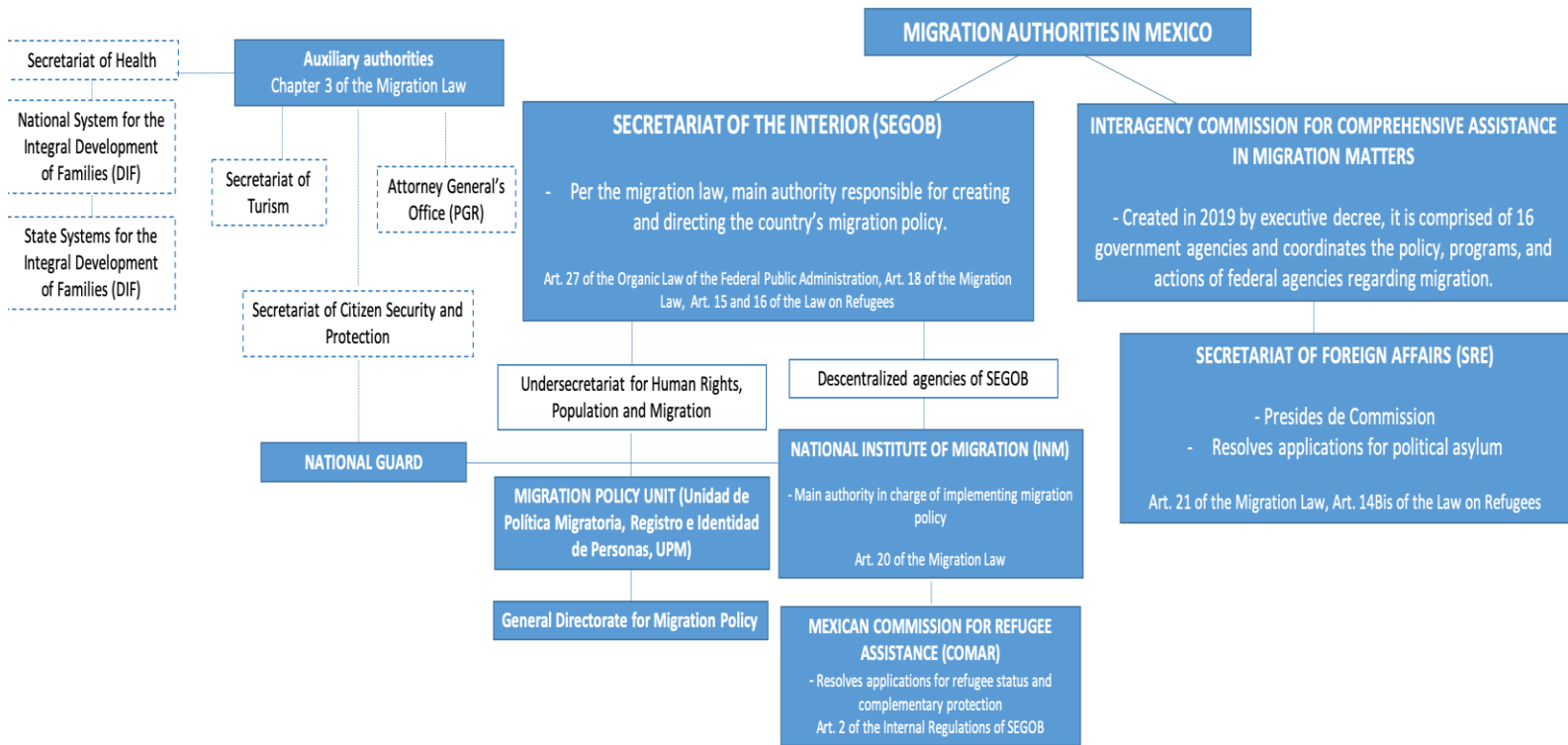
Migration authorities have up to 20 business days to solve any migration process. After said period, if the authority has not resolved the matter, it will be understood that the authority denies the requested matter.¹¹⁷

¹¹⁵ Article 41 of the Migration Law.

¹¹⁶ Article 129 of the Migration Law.

¹¹⁷ Article 128 of the Migration Law.

7. Mapping of the Migration System



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