



Factsheet to the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families CHILE

REPORT N°	<ul style="list-style-type: none"> ▪ Second Periodic Report on the CMW
SESSION	<ul style="list-style-type: none"> ▪ Session: 28th (9 – 20 April 2018)
LAWS (THC-1993, GUIDELINES, DOMESTIC LAWS)	<ul style="list-style-type: none"> ▪ UNCRC: ratified in 1990 as well as its Optional Protocols in 2003 and 2015 ▪ 1993 Hague Convention: ratified on 13 July 1999; ▪ <i>Ley sobre Adopción de Menores N°19.620</i> of 5 August 1999 and subsequent amendments; ▪ <i>Reglamento de la Ley N° 19.620</i> of 8 March 2000; ▪ <i>Ley de Menores N°16.618</i> of 8 March 1967 and its subsequent amendments; ▪ <i>Ley que crea los tribunales de familia N°19.968</i> of 30 August 2004 and subsequent amendments; ▪ Ley 21.013 que sanciona el maltrato infantil, of 6 June 2017 ▪ Ley 20.430 on Protection of Refugees, 2010 <p>There are several bills in the congress to empower children’s rights and to build better social policies. For a general perspective about the bill process, see: http://www.consejoinfancia.gob.cl/agenda-legislativa/.</p> <ul style="list-style-type: none"> - Proyecto que crea el sistema de Garantía de los derechos de la niñez (Boletín N° 10315-18); - Proyecto que crea la defensoría de los derechos de la niñez (Boletín n° 10584-07). This project was approved by Parliament on 11 December 2017; - Proyecto de ley que otorga nuevas atribuciones al Ministerio de Desarrollo Social en materia de niñez y crea la Subsecretaría de la Niñez, dependiente del mismo (Boletín n° 10314-06); - Proyecto de ley que regula entrevistas grabadas en video y, otras medidas de resguardo a menores de edad, víctimas de delitos sexuales (Boletín n° 9245-07); - Proyecto de ley que crea el Servicio Nacional de Protección Especializada de Niños y Niñas y modifica normas legales que indica (Boletín n° 11176-07); - Proyecto de ley que crea el Servicio Nacional de Reinserción Social Juvenil e introduce modificaciones a la ley N° 20.084, sobre responsabilidad penal de adolescentes, y a otras normas que indica (Boletín n° 11174-07); - Proyecto de <i>Bill of Immigration</i> (Boletín n° 8970-06). For migration legislation, please consult: http://www.extranjeria.gob.cl/legislacion-migratoria/.
GENERAL SITUATION OF CHILDREN DEPRIVED OF THEIR FAMILY, INCLUDING MIGRANT CHILDREN	<ul style="list-style-type: none"> ▪ Since 2015, the Chilean government has established a new <i>National Policy on Childhood and Adolescence 2015-2025</i> aimed at creating an Integrated system guaranteeing the rights of children and adolescents. For that purpose various legislative initiatives above mentioned have been brought before the National Congress (Information provided in December 2017 by SENAME). Creation of a Consejo Nacional de la Infancia in 2014, aimed at leading the national policy on children and adolescents and at acting as the coordinating mechanism among the various ministries in charge of children’s issues. ▪ According to SOS Children’s Villages, in Chile, there are over 19,000 children, who have been abandoned by their parents. SENAME has a programme for mothers, who are considering relinquishing their child for adoption; also in cooperation with a limited number of organisations. ▪ According to the Departamento de Extranjería y Migración (DEM) in Chile, there are 441,529 migrants, mainly from Peru, Argentina, Colombia, Ecuador due to economic and social reasons (see http://www.crececontigo.gob.cl/columna/ninos-ninas-y-familias-inmigrantes-en-chile/). As of April 2017, almost 30,000 children were in an irregular migration situation, of which 18,664 have now received legal residency permits. The Government is organising extraordinary open door days in order to massively process visa applications (http://www.extranjeria.gob.cl/noticias/2018/01/22/casi-500-ninos-migrantes-recibieron-visa-gratuita-y-accederan-a-beneficios-sociales/). The country has a solidarity

	<p>resettlement programme. It is estimated that about 1,151 refugees have benefitted from this programme in the five Southern Cone countries, especially from Ecuador and Costa Rica. Another 363 refugees were from Palestine and Syria.</p> <ul style="list-style-type: none"> ▪ Between 2010 and 2013, the average number of applications from Colombia was of 86.7% of all refugee applications, with very low rates of acceptance (17.9%). 21.1% of refugee claims were related to children aged between one and 10 years, and 31% for children and young people aged between 11 and 20 years. (Instituto Nacional de Derechos Humanos INDH report 2015) ▪ In 2015, the CRC Committee highlighted several issues related to migrant children: persistent discriminatory attitudes and practices against immigrant children, denial of birth registration of children born on Chilean territory of parents with irregular migrant status and stateless children based on nationality law (systematic application of exception to the <i>jus soli</i> principle for foreign parents in transit to migrant children permitting nationality acquisition only after many years). The latter concern was also stressed by the CEDAW Committee in 2012. In addition, with regard to Chile's migration legislation, the CRC Committee was concerned about procedures hindering migrant children to fully access education and health-care services, and general policies not sufficiently fostering social inclusions. ▪ The INDH found that there is a great need to train border officials on children's rights and the principle of best interests and the right to family reunification. ▪ Trafficking (Ley 20.507) of children for purposes of labour and sexual exploitation: 16 identified children out of 214 victims between 2011 and end of 2017. In 2003, there were 3,719 child victims of sexual exploitation and abuse, of which 78.1% were girls (data by SENAME and ILO). The Ministry of Justice had then committed to update the qualitative and quantitative assessment of situation of commercial sexual exploitation in Chile of children and adolescents.
<p>ALTERNATIVE CARE OPTIONS</p>	<ul style="list-style-type: none"> ▪ SENAME has a foster care programme called Programa Familias de Acojida. The involved families have several profiles (simple, specialised, for children with special needs), which is provided through 24 accredited agencies. ▪ Chile has issued guidelines for its deinstitutionalisation process for 2014-2017: to progressively deinstitutionalise children under the age of 8 years; to prevent the separation of children under the age of 8 years from their family and community of origin; to strengthen the primary option of foster care for children under the age of 8 years; and to ensure that judicial decisions on residential care for children under the age of 8 years are exceptional and provisional. ▪ Since 2012, the <i>Red Latinoamericana de Acogimiento Familiar</i> (RELAF), with UNICEF and the Chilean Government, have been working on the preparation of the Initiative to end the institutionalisation of children under the age of three years, by supporting the State and the local actors in the identification of difficulties in the implementation of the rights of children without parental care and by generating strategies for better actions. Two main NGOs (Santa Catalina and ADRA) have been involved in the deinstitutionalisation of these children and in their placement with foster families. ▪ Migrant children are being cared for in various Chilean residential care institutions. Children with disabilities, children in conflict with the law as well as migrant children are placed in segregated and different parts of a same complex. According to SENAME, residential care is a transitional form of care, as it promotes family reintegration, and provides quality care and good treatment. SENAME has developed a series of minimum standards of operation for its various institutions – for infants, assessments centres... - as well as for its family strengthening and foster care programmes. However, most children in alternative care remain in institutions (see Statistics below). ▪ In the last six years (2011-2016), the number of children in residential care has decreased of 30% and, at the same time, the number of children in foster care has increased by 35% thanks to the efforts undertaken to remove the effects of institutionalisation in accordance with to the 2009 UN Guidelines for the Alternative Care of Children.

	<ul style="list-style-type: none"> ▪ A 2016 evaluation report mentions that 11,492 children are still being cared for in residential care settings.
ADOPTION	<ul style="list-style-type: none"> ▪ Since 2013 and until 2017, a new Adoption Bill (Bulletin N°9119-18) is still under discussion. However, the intended reforms concerning adoptions were suspended in September 2015, when the new Law on the System guaranteeing children’s rights was proposed. The latter will cover more broadly the proceedings related to all child protection measures - once family separation has not been avoided. This decision was adopted to give due consideration to the principle of subsidiarity (Information provided in December 2017 by SENAME). ▪ The declarations of the child’s adoptability have decreased by 50% in the last five years, generating a decrease in the total number of adoptions of around 15%. ▪ Considerable promotion of domestic adoption. Intercountry adoption has become truly subsidiary to domestic adoption. Intercountry adoption is aimed at children over the age of five years, groups of siblings, children with special needs, children with lengthy experience in institutions, and children with other complex situations.
STATISTICS	<ul style="list-style-type: none"> ▪ SENAME is working on the next two yearbooks (2016, 2017) where statistics will be presented with more details, nevertheless, at the moment a public account has been issued with general results on Children’s Protection, Criminal Liability of adolescents and adoption for 2016 (see http://www.sename.cl/web/cuenta-publica-2016/). For now, only the 2015 yearbook prepared by SENAME is available. ▪ By 30 September 2014, there were 3,891 children in foster care. According to the database Senainfo, there has been an increase in the number of children in foster care (5,298 as per 31 October 2017). The number of children in residential care amounted to 7,057 at the same time. ▪ According to the statistics provided by Chile to The Hague Conference on Private International Law, 109 intercountry adoptions and 487 domestic adoptions were undertaken in 2013. Data for 2016 – provided by SENAME - indicate that there were 397 domestic adoptions and 76 intercountry adoptions (Source: Senainfo). ▪ Between January and September 2014, 1,200 children were subject to some stage of the adoption process. ▪ According to the <i>misión del Consejo de la infancia</i>, a report named “<i>Política Nacional de la Niñez y Adolescencia: Sistema Integral de Garantías de Derechos de la Niñez y Adolescencia 2015 – 2025</i>” has been issued. This research exposes new projects for children’s rights based on children’s population statistics for the purpose of improving better social policies in the next 10 years.
RISKS	<ul style="list-style-type: none"> ▪ Regulation of migrant’s children legal situation is challenging in some cases, and hinders the respect of concerned children’s rights. ▪ Limited access to basic services, such as education and health sector for migrant children. ▪ There is still a very high number of children placed in residential care, and there is a need to strengthen family-based alternative care.
POTENTIAL QUESTIONS	<ul style="list-style-type: none"> ▪ What is concretely being done to trace and eventually reunite unaccompanied and separated children with their family members? ▪ Are there any cross-border case management systems in place to protect and care for concerned migrant children? ▪ What is being undertaken to strengthen family-based care, including for migrant children, and to reduce the institutionalisation of children? What actions are undertaken under the country’s Deinstitutionalisation Plan for this period and this group of children? ▪ What is being undertaken to ensure a better integration of migrant children into Chilean society, and to combat persistent stigmatisation? ▪ What is the current status of the legal reforms (e.g. Bill of <i>Immigration, Special Protection and Youth Social reinsertion, Adoption Bill</i>)?