

Complementary Recommendations for the Protection of Migrant Children and Adolescents in the Context of COVID-19



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Background

The Regional MERCOSUR Guide for the Identification and Care of the Special Protection Needs of the Rights of Migrant Children and Adolescents (hereinafter, the ‘Regional Guide’) was drafted in 2016 with the support of the MERCOSUR Institute of Public Policies on Human Rights (hereinafter, ‘IPPDH’, for its Spanish acronym) based on the international and regional legal framework, as well as on the standards established in advisory opinion OC-21/14¹. This instrument was a specific output of the regional bloc, drafted in the framework of the coordination between the Specialized Forum on Migration of MERCOSUR and Associate States (FEM, in Spanish) and the Permanent Commission Niñ@sur of the MERCOSUR Meeting of High Authorities on Human Rights (RAADH, in Spanish).

The Regional Guide aims at establishing common criteria and lines of action for State authorities to identify the violation of rights or the international needs of migrant children and adolescents, and to coordinate adequate case referral and reference mechanisms so that the competent agencies for the protection of children’s rights can assist and care migrant adolescents and children. It also seeks to facilitate the harmonisation of migration, reference and protection procedures involving children and adolescents, and to generate an adequate articulation among the MERCOSUR countries.² The Regional Guide, even though it is a specific output of the regional bloc, is a document that has been referred to by other regional spaces, such as the South American Conference on Migration.³

In the framework of the Argentine Republic’s Pro Tempore Presidency (PTP) of the South American Conference on Migration (SACM), a working network was established to address the impacts of the COVID-19 pandemic and its resulting increased vulnerabilities in migrant children and adolescents. Among the lines of action, the PTP raised to the Member States the need to draft a set of common guidelines with the support of the IPPDH and the International Organization for Migration (IOM) regarding the situation of migrant children and adolescents in the context of the COVID-19 pandemic, on the basis of the guidelines established in the Regional Guide.

This document is based on the various principles stated in the Regional Guide, such as the best interests of children and adolescents, their special protection and the need to implement comprehensive protection measures, and it takes into

¹Advisory opinion OC-21/14 entitled ‘Derechos y Garantías de niñas y niños en el contexto de la migración y/o en necesidad de protección internacional’ [Rights and guarantees of children in the context of migration and/or in need of international protection], in response to the request submitted in July 2011 by Argentina, Brazil, Paraguay and Uruguay.

²MERCOSUR Specialized Forum on Migration. 2016, ‘Guía regional del MERCOSUR para la identificación y atención de necesidades especiales de protección de los derechos de niños, niñas y adolescentes migrantes’ [Regional MERCOSUR Guide for the Identification and Care of the Special Protection Needs of the Rights of Migrant Children and Adolescents] in ‘Iniciativas regionales para la identificación y atención de niños, niñas, y adolescentes migrantes’ [Regional initiatives for the identification and care of migrant children and adolescents], p. 60, <https://publications.iom.int/es/books/iniciativas-regionales-para-la-identificacion-de-ninos-ninas-y-adolescentes-migrantes-memorias>

³South American Conference on Migration, Final Statement of the XVII Conference: ‘La inclusión e integración de las personas migrantes más allá de las fronteras territoriales’ [Including and integrating migrants beyond territorial borders], Montevideo, Uruguay, November 14-16, 2017, and also the Sucre Declaration at the XVIII Conference: ‘Ciudadanía suramericana: nueva cultura de libre movilidad humana hacia la ciudadanía universal’ [South American citizenship: new culture of free human mobility towards universal citizenship], Sucre, Bolivia, November 22-23, 2018.

account that, according to the available information, the protection needs of children and adolescents have changed as a consequence of the COVID-19 pandemic. Therefore, considering that the current situation of the pandemic increases and further complicates the protection needs of migrant children and adolescents, this document aims at providing some recommendations and guidelines for the competent authorities on this matter.

General considerations

The critical situation faced by the countries in the region as a result of the COVID-19 pandemic, which cross-cuts several dimensions, such as the social, economic and health ones, as well as the lockdown measures and restrictions imposed by Governments, have led to a major impact on the rights of many persons, especially migrants who have lost their jobs and whose working conditions have deteriorated.⁴ In a context of high levels of vulnerability, migrant children and adolescents are exposed to a serious violation of their rights, such as child labour and/or trafficking in persons.⁵

The situation briefly described above has not only resulted in increased poverty, but also in greater infringement of multiple rights in the context of a situation where migrants are affected on a larger scale.⁶

The pandemic has also affected the mental health of children and adolescents, with an increased number of anxiety, depression and stress cases in children. In the case of migrant children and adolescents, they face further psychological harm, such as trauma caused by their migration status, the stigma that may exist in the host communities and the scarce access to psychosocial care.⁷ In view of this, the Committee on the Rights of the Child has emphasised that migrant children and adolescents are in an even higher vulnerability situation due to the exceptional circumstances caused by the pandemic,⁸ and also called upon the States to ensure access to mental health care for children, especially in the context of COVID-19.⁹

The suspension or interruption of face-to-face classes at schools and the inclusion of virtual classes as part of the learning process have hindered the access to learning, especially for those migrant children and adolescents whose families do not have the necessary technological means. This unequal access to digital educational resources is widening the digital gap and reinforcing the inequalities that existed before the pandemic.¹⁰

In addition, educational institutions are spaces where many of the situations of maltreatment, abuse and/or exploitation are usually identified. A report by UNICEF states that in many countries there has been an increase in domestic violence, online sexual exploitation of children and the demand of emergency shelters; the pandemic has also led to the interruption

⁴ UN Committee on the Protection of the Rights of All Migrant Workers and Members of their Families, 2020, 'Joint Guidance Note on the Impacts of the COVID-19 Pandemic on the Human Rights of Migrants', p. 3, https://www.ohchr.org/Documents/Issues/Migration/CMWSPMJointGuidanceNoteCOVID-19Migrants_SP.pdf

⁵Unicef.2020, 'Migrant and displaced children in the age of COVID-19: How the pandemic is impacting them and what can we do to help', Migration Policy Practice, (2), p. 34, <https://data.unicef.org/resources/migrant-and-displaced-children-in-the-age-of-covid-19/>

⁶Unicef. 2020, Op.cit, p. 35.

⁷Idem.

⁸Committee on the Rights of the Child, 2020.Declaration of the Committee on the Rights of the Child,INT_CRC_STA_9095, dated April 8, 2020, para. 8.

⁹Committee on the Rights of the Child, 2020. Report of the Committee on the Rights of the Child, p. 9,

¹⁰Unicef. 2020, Op.cit, p. 3.

of the management of cases and the home visits of those children and adolescents at risk of being abused at home.¹¹In the absence of face-to-face classes, many of those situations may not be detected, thus reducing both the possibility to report them and the possibility for children and adolescents, especially migrants, to leave violent and abusive settings.¹²Additionally, and bearing in mind the guiding principle of family unit of the Regional Guide, closing borders and other movement restrictions, according to some reports, may have affected the capacity to provide humanitarian aid to displaced and vulnerable populations. As a result of this, migrant families were separated or stranded in transit places without support networks or possibilities to access adequate livelihoods. The family reunification programmes for migrants, including victims of trafficking and refugees, have also been affected, with an adverse effect on the wellbeing of migrant children and adolescents.¹³

In addition, the situation of the COVID-19 pandemic has implied a significant reduction of migrants' remittance flows, which has caused concern in the international community.¹⁴It is estimated that all of the foregoing can have a negative impact on children and adolescents who are affected by international migrations and who live in families who depend on this income as remittances are a vital source of income for many of those families.¹⁵

As can be seen, the situation faced by children and adolescents in migration contexts is complex and requires that authorities adopt special measures for an adequate protection of their rights, taking into consideration the special vulnerability situation that they are in.

Recommendations

Even though the Guide is a current instrument to understand and address the protection needs of migrant children and adolescents, it has been considered that it is necessary to bear in mind the impact of the COVID-19 pandemic and to develop an approach that is appropriate to the new context. Therefore, a set of guidelines and recommendations for the protection of the rights of children and adolescents in migration contexts are provided below.

The obligation of special protection of the rights of children and adolescents derives from international law and, especially, from the Convention on the Rights of the Child, among other relevant instruments. When fulfilling this duty, in keeping with the applicable standards, rights must be guaranteed without discrimination based on gender, race, ethnicity, age, national origin, economic status, health condition, and sexual or religious orientation.

¹¹Unicef. 2020. 'Evitar una generación perdida a causa de la COVID-19' [Averting a lost COVID generation], p. 14. <https://www.unicef.org/es/informes/evitar-una-generacion-perdida-a-causa-de-la-covid>

¹²South American Conference on Migration, s.f. Red de Trabajo sobre Niñez y Adolescencia Migrante [Working network on migrant childhood and adolescence], p. 2

¹³Idem.

¹⁴ See "Call to Action on Socioeconomic Impacts of COVID-19 on Remittances" (2020), supported by the International Organization for Migration (IOM), the World Bank, the United Nations Capital Development Fund (UNCDF), the United Nations Development Programme (UNDP), among other agencies. Available at: <https://www.iom.int/es/news/la-oim-se-une-un-llamamiento-la-accion-sobre-los-impactos-socioeconomicos-de-la-covid-19-en-las>.

¹⁵World Bank (2020), World Bank Predicts Sharpest Decline of Remittances in Recent History. Available at: <https://www.bancomundial.org/es/news/press-release/2020/04/22/world-bank-predicts-sharpest-decline-of-remittances-in-recent-history>.

- Ensuring the continuity of residence and regularisation procedures of migrant children and adolescents and their families, and, as appropriate, adopting prompt regularisation channels and work, study and other visa extension mechanisms so as to guarantee the protection of rights.¹⁶
- Ensuring entry into the country of migrant children and adolescents seeking international protection in spite of border closures, creating mechanisms that allow them to be safe despite the existing restrictions.
- Also ensuring the continuity of asylum processes, considering the principle of non-refoulement and other protection mechanisms for migrant children and adolescents and their families, and unaccompanied or separated migrant children and adolescents.¹⁷
- Having staff from childhood protection and health systems that can assist, free of charge, migrant children and adolescents; especially in those cases where COVID-19 symptoms are verified, performing PCR tests according to the criteria established in each country.
- Where applicable, in the conditions determined by the national regulations and considering the principle of the best interests of children and adolescents, providing temporary shelters in adequate conditions to those migrant children and adolescents and their families, and unaccompanied or separated children and adolescents who enter the country and must quarantine.
- Assisting those families with migrant children and adolescents, and unaccompanied or separated children and adolescents so that they can return to their countries of origin if they wish to, providing them with protection, aid and access to information.
- Explicitly providing for the migrant population's access to social programmes, especially those which have been established to deal with the situation caused by the COVID-19 pandemic, so as to address their needs and those of migrant children and adolescents, regardless of their migration status.
- Ensuring access to and availability of services for migrant children and adolescents who live in rural areas and far from the main cities, among other circumstances that may affect access to them.
- Having disaggregated information, according to various profiles, making it possible to understand the geographical distribution, age, sex and gender of migrant children and adolescents, and adjusting preventive measures against COVID-19.¹⁸
- Including working migrants in economic assistance programmes, especially those which have been established to deal with the situation caused by the COVID-19 pandemic, as the economy of migrant families directly affects the wellbeing of children and adolescents.

¹⁶Ibidem, p. 3,

¹⁷Idem.

¹⁸Unicef.2020, 'Evitar una generación...' [Averting a lost COVID generation], Op.cit, p. 2.

- Creating mechanisms that facilitate the transfer of remittances in this new context, avoiding high costs and ensuring that the money reaches its destination as fast as possible, so as to minimise the impact of the remittance decline on the wellbeing of children and adolescents that are affected by international migrations.¹⁹
- Ensuring the access of migrant children and adolescents to health systems, especially ensuring their access to COVID-19 diagnostic tests, as well as to medication, medical treatment and prevention items, such as masks and sanitisers,²⁰ including the access to mental health and psychological support services, considering the principle of the best interests of children and adolescents, with a gender approach, an intercultural perspective and under the responsibility of specialised staff.
- Ensuring the inclusion of migrant children and adolescents and their families in the COVID-19 vaccination plans,²¹ prioritising specific populations, according to the provisions of health authorities, on an equal footing with nationals and regardless of their migration status or the documents that migrants have.
- Providing social protection with a gender approach and an intercultural perspective, and, especially, ensuring food assistance for migrant children and adolescents who need it in the framework of the COVID-19 prevention protocols established by the authorities, including food for children under two years of age that allows them to maintain good nutrition and health.²²
- Publishing information on the measures to be taken to prevent the COVID-19 infection, in different languages and in a manner that migrant children and adolescents can understand. Publishing it in various media so as to reach a higher number of people.²³
- Ensuring access of migrant children and adolescents to educational systems on an equal footing with nationals, regardless of their migration status or the documents that migrant children and adolescents have, considering a gender approach and an intercultural perspective, including access to technological tools, electricity and the Internet.²⁴

¹⁹ *Ibidem*, pág. 3.

²⁰ Unicef. 2020, 'Perdidos en casa. Los riesgos y desafíos para los niños desplazados internos y las acciones urgentes necesarias para protegerlos' [Lost at home. The risks and challenges for internally displaced children and the urgent actions needed to protect them], p. 27, <https://data.unicef.org/resources/lost-at-home-risks-faced-by-internally-displaced-children/>

²¹ Unicef. 2020, 'Perdidos en casa...' [Lost at home...], *Op.cit.*, p. 17.

²² Save the Children. 2021, "Consolidación, análisis comparativo y presentación de los datos cuantitativos y cualitativos del Estudio Global 'La Salud, educación, derechos, protección y bienestar de niños y niñas durante la pandemia por COVID-19. Resultados sobre Salud y Nutrición' [Consolidation, comparative analysis and presentation of quantitative and qualitative data of the Global Study "Health, education, rights, protection and wellbeing of children during the COVID-19 pandemic. Results on Health and Nutrition"]], p. 40-41, <https://resourcecentre.savethechildren.net/library/impact-covid-19-childrens-education>

²³ Unicef. 2020, 'Niños migrantes y desplazados...' [Migrant and displaced children...], *Op. cit.*, p. 38, <https://data.unicef.org/resources/migrant-and-displaced-children-in-the-age-of-covid-19/>

²⁴ "Donde el aprendizaje ha cambiado a las entregas en línea, el acceso a recursos online y a la electricidad confiable está fuera del alcance de muchos, especialmente los que viven en ubicaciones remotas, campamentos de refugiados o entornos informales [Where learning has switched to online submissions, access to online resources and reliable electricity is out of reach for many, especially for those who live in remote locations, refugee camps or informal settings]." *Idem*, p. 36. Save the Children. 2021, "Consolidación, análisis comparativo y presentación de los datos cuantitativos y cualitativos del Estudio Global 'La Salud, educación, derechos, protección y bienestar de niños y niñas durante la pandemia por COVID-19", p. 43, <https://resourcecentre.savethechildren.net/library/impact-covid-19-childrens-education>

- Educating children and adolescents on discrimination and xenophobia²⁵ so as to avoid or eradicate any kind of social stigma that may relate COVID-19 to migrants.
- Educating migrant children and adolescents and their parents on the potential hazards of the Internet, so that they can use it safely and avoid situations of phishing, grooming, trafficking in persons, child pornography, among others.²⁶
- Ensuring access of migrant children and adolescents and their families to public housing policies on an equal footing with nationals, regardless of their migration status or the documents that migrant children and adolescents have, including access to social subsidy programmes so that families with children and adolescents can access decent housing and thus avoid remaining in overcrowded spaces where COVID-19 can spread.²⁷

²⁵ “La desinformación sobre la propagación de COVID-19 ha exacerbado la xenofobia y discriminación que los migrantes y los niños desplazados y sus familias se enfrentan.” [Disinformation on the spreading of COVID-19 has exacerbated the xenophobia and discrimination faced by migrants and displaced children and their families]. Idem.

²⁶ Save the Children.2020, ‘Protección digital para niños migrantes y desplazados’ [Digital Safeguarding for Migrant and Displaced Children], p. 16, <https://resourcecentre.savethechildren.net/library/digital-safeguarding-migrating-and-displaced-children-overview-current-context-and-trends>

²⁷ Save the Children.2020, Op.cit, p. 26.