

# Regional Guidelines for the Comprehensive Protection of Boys, Girls and Adolescents in the Context of Migration



Regional Conference on Migration

**20  
YEARS**

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Fostering and strengthening regional dialogue and cooperation

# Regional Guidelines for the Comprehensive Protection of Boys, Girls and Adolescents in the Context of Migration

Approved in San Pedro Sula, Honduras,  
during the the XXI Vice-Ministerial Meeting  
of the Regional Conference on Migration (RCM)  
in November of 2016.  
See paragraph 12 of the Vice-Ministers' Declaration



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# ACRONYMS\*

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BID	Best Interest Determination
CRC	Convention on the Rights of the Child
ILO	International Labour Organization
IOM	International Organization for Migration
OAS	Organization of American States
OPI	Child Protection Officer (Spanish acronym)
RCM	Regional Conference on Migration
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children’s Fund

[\*Translator’s Note: The following acronyms or abbreviations that appear in the Spanish version of the text have not been included in this list of acronyms, since they are not used throughout the English text: **Corte IDH**, spelled out as “Inter-American Court of Human Rights”; **CRC**, spelled out as “Committee on the Rights of the Child” (this acronym is used for “Convention on the Rights of the Child” in the English text); **NNA**, spelled out as “boy, girl or adolescent”, “boys, girls or adolescents” or “boys, girls and adolescents”, depending on the context; and **OC**, acronym for “Opinión Consultiva”, spelled out as “Advisory Opinion”.]



# FOREWORD

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With 20 years of existence, the Regional Conference on Migration (RCM) has provided a process through which Member Countries have shared strategies to evolve and adjust to the new dynamics and challenges of migration in the region and to effectively respond to these challenges. One of the primary challenges has been to protect migrant boys, girls and adolescents<sup>1</sup>.

As a result, the issue of boys, girls and adolescents in the context of migration in the region has been included by Member Countries in the agenda of the RCM since its inception. The issue was consolidated under the Plan of Action of the RCM during the VIII Meeting of the Conference, and efforts were initiated by the Member Countries to further address the matter through various meetings, workshops, seminars and, above all, the development of initial regional response mechanisms such as the following:

- Regional Guidelines for Special Protection in Cases of the Repatriation of Child Victims of Trafficking, approved at the XII RCM, held in the United States in 2007.
- Regional Guidelines for the Assistance to Unaccompanied Children in Cases of Repatriation, approved at the XIV RCM, held in Guatemala in 2009.
- Regional Guidelines for the Preliminary Identification and Referral Mechanisms for Migrant Populations in Vulnerable Situations, approved at the XVIII RCM, held in Costa Rica in 2013.

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<sup>1</sup> We are referring to boys, girls and adolescents as populations included in the concept of “child” of the International Convention on the Rights of the Child, that is, every person under 18 years of age.



Parallel to these regional instruments, the RCM Member Countries sought to address the topic of protection for migrant boys, girls and adolescents in greater depth through two seminars/workshops held in San José, Costa Rica in March 2012 and Antigua, Guatemala in August 2013. A characteristic of these activities is that child and adolescent protection institutions were included in the work of the RCM for the first time, with the support and technical cooperation of the International Organization for Migration (IOM), the United Nations High Commissioner for Refugees (UNHCR), the International Labour Organization (ILO) and the United Nations Children’s Fund (UNICEF).

As a result of the seminars/workshops, a document entitled “Toward a Regional Mechanism for the Comprehensive Protection of Migrant and Refugee Boys, Girls and Adolescents” was developed, with the primary objective of guiding RCM Member Countries in their efforts to protect the human rights of migrant boys, girls and adolescents and thus, take effective measures at a national and regional level to achieve the comprehensive protection of these populations throughout every phase of their migration process. This document serves as the basis for these Guidelines.

The document was approved at the XIX RCM, held in June 2014 in Managua, Nicaragua, during a fundamentally relevant year in regard to migration of boys, girls and adolescents, especially those that were unaccompanied or had been separated from both parents or their legal or customary guardians.<sup>2</sup>

In May and June of that same year, these migration flows – mainly from the countries of the northern triangle of Central America (El Salvador, Guatemala and Honduras) to the United States – reached such magnitude that the States affected by these flows, including the sending, transit and receiving countries, declared an *urgent humanitarian situation*.<sup>3</sup> Furthermore, at the XIX RCM the Member Countries approved a first-of-its-kind “Extraordinary Declaration” in which the Member Countries acknowledged the urgent and

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<sup>2</sup> The full definition of the term “unaccompanied and separated boys, girls and adolescents” is included in the glossary of this document.

<sup>3</sup> OAS Press Release: OAS Permanent Council Adopts by Acclamation a Declaration on “Central American Unaccompanied Child Migrants”.

Source: [http://www.oas.org/en/media\\_center/press\\_release.asp?sCodigo=E-313/14](http://www.oas.org/en/media_center/press_release.asp?sCodigo=E-313/14)

dangerous situation of unaccompanied boys, girls and adolescents and committed to a number of actions to address this challenge regionally and within each Member Country.

One of the items called for in the XIX RCM “Extraordinary Declaration” was the establishment of an Ad Hoc Group for Migrant Boys, Girls and Adolescents, with the primary goal of seeking and generating shared responses and strategies to protect migrant boys, girls and adolescents.

The Ad Hoc Group, composed of officials from the migration offices, ministries of foreign affairs and child and adolescent protection institutes of RCM Member Countries, has met on three occasions: in Guatemala City, Guatemala (August 2014), Mexico City, Mexico (April 2015) and San Salvador, El Salvador (August 2015).

The primary conclusions and agreements from the meetings include the development of a regional handbook for the comprehensive protection of migrant boys, girls and adolescents. Therefore, at the request of the RCM Member Countries, IOM developed these proposed “Regional Guidelines for the Comprehensive Protection of Migrant Boys, Girls and Adolescents in the Context of Migration”, taking into account all the considerations from the document entitled “Toward a Regional Mechanism for the Comprehensive Protection of Migrant and Refugee Boys, Girls and Adolescents” as well as the input and recommendations developed by RCM Member Countries at the meetings of the Ad Hoc Group, including various national initiatives to protect migrant boys, girls and adolescents, and with the objective of establishing regional guidelines for the comprehensive protection of migrant boys, girls and adolescents. IOM submits this document as a collection of good practices and related recommendations, not necessarily a reflection of the views of the RCM Member States. The Guidelines have been designed to be used as the primary reference guide of the RCM regarding this matter. In addition, this document, which was discussed by the RCM Member Countries in El Salvador in March 2016<sup>4</sup>, is a tangible effort of the RCM to ensure that real comprehensive

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<sup>4</sup> Canada and the United States submitted written input prior to the workshop held in El Salvador (March 2016).

protection is provided to migrant boys, girls and adolescents in the region, demonstrating once more that the RCM is a process through which Member Countries can effectively and collectively respond to the new dynamics and challenges of migration in a coordinated manner, and especially, with a common regional approach.

A handwritten signature in black ink, appearing to be 'Salvador Gutiérrez', written in a cursive style.

Salvador Gutiérrez  
Ad interim Coordinator  
Technical Secretariat  
Regional Conference on Migration

# INTRODUCTION

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Migration of boys, girls and adolescents is a priority issue in the world debate on migration due to the relevance of the phenomenon, the complexity of its causes and consequences, the differentiated assistance and protection needs and the need for a comprehensive approach in order to effectively protect the human rights of members of these populations. Furthermore, a large number of migrant boys, girls and adolescents are unaccompanied or have been separated from their families and therefore, a specific approach is needed to be able to provide special protection for them.

This type of migration is not a new phenomenon in the region, and much less a new topic within the RCM. However, it has become increasingly visible in recent years and has been addressed by government institutions, international organizations and civil society organizations, due to the risks that boys, girls and adolescents face during migration and the recent rise in numbers of these migrants.

The Regional Guidelines have been designed as a guide for RCM Member Countries to consider as each takes steps to strengthen its actions and efforts concerning the protection of boys, girls and adolescents in the context of migration; and above all, the objective of the Guidelines is to become a helpful and practical tool which can help facilitate a coordinated and comprehensive regional response with a human rights-based approach.

The Guidelines are based, for the most part, on the document “Toward a Regional Mechanism for the Comprehensive Protection of Migrant and Refugee Boys, Girls and Adolescents”, developed as a collaborative effort together with various organizations (IOM, UNHCR, UNICEF, ILO) and approved by the RCM in 2014. In addition,

it draws on other instruments<sup>5</sup> and studies<sup>6</sup> on this matter, as well as various national efforts and protocols established by countries in the region.

Accordingly, the Guidelines outline the **basic principles** that should be considered in order to ensure the protection of the human rights of migrant boys, girls and adolescents, and suggests actions for the effective protection and comprehensive assistance for those in vulnerable situations and in need of international protection, always taking their best interests into consideration.

The suggested **protection actions** are described in detail according to the various phases of the migration process: prior to departure, during detection and reception in countries of transit and destination, and during integration or return and reintegration processes in countries of origin. In addition, a series of indicators for the identification of vulnerabilities are considered which will allow the users of the Guidelines to identify the most appropriate protection actions, according to the different vulnerabilities of each boy, girl or adolescent.

The suggested actions are addressed from different **approaches**: human rights, gender, diversity, generational, contextual, interculturality and comprehensive development. These approaches reflect principles enshrined in international human rights law and international and regional instruments on migration and children. In addition, the actions consider the necessary coordination with child and adolescent protection institutions, international organizations and civil society organizations and efforts to prevent migrant smuggling with the aim of protecting boys, girls and adolescents in vulnerable situations.

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<sup>5</sup> Proposals for actions of governments, international organizations and civil society are included, such as the guidelines of the Alliance Plan for the Prosperity of the Northern Triangle (2014), Cartagena+30 (2014), the proposals of the Regional Network for Civil Organizations on Migration (RNCOM) and proposals of civil society organizations collected by Instituto para las Mujeres en la Migración (INUMI) .

<sup>6</sup> Among others: IOM, *Curso especializado sobre niñez migrante, con énfasis en niñez migrante no acompañada o separada en el Triángulo Norte y México* (Specialized course on migrant children, with a focus on unaccompanied or separated migrant children in the countries of the Northern Triangle of Central America and Mexico) (2015); UNHCR, *Children on the run. Unaccompanied children leaving Central America and Mexico and the need for international protection* (2015).

Finally, it is very important to emphasize that this document is a non-binding guide for RCM Member Countries to consider as each seeks to provide comprehensive protection to migrant boys, girls and adolescents through intersectoral, inter-institutional, bilateral and regional coordination. To the extent that RCM Member Countries embrace shared strategies, the RCM will be able to be a process to achieve a real coordinated regional response in terms of comprehensive protection of the human rights of migrant boys, girls and adolescents.



# GENERAL OBJECTIVE

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To establish regional guidelines for the comprehensive protection of migrant boys, girls and adolescents, applying the guiding principles and protection actions and potentiating the national efforts of each RCM Member Country and its institutions.

## SPECIFIC OBJECTIVES

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The Guidelines seek to be more than a general guide. Additionally, they seek to be a model for changing the vision and approach toward migrant boys, girls and adolescents, not only in the region but at a global level. Therefore, the specific objectives of the Guidelines are:

- To foster regional collaboration and cooperation in providing assistance and protection to boys, girls and adolescents in the context of migration.
- To strengthen national, binational and regional efforts concerning the protection of the human rights of migrant boys, girls and adolescents, including those in need of international protection through guiding principles and with an approach that respects human rights, gender, diversity, generational issues, contextual interculturality and comprehensive development.
- To promote improved inter-institutional coordination within RCM Member Countries, involving all competent institutions as well as civil society in the protection of the human rights of migrant boys, girls and adolescents, including those in need of international protection.
- To be able to go beyond short-term actions in order to coordinate sustainable actions for the protection of rights that can be improved over time.
- To serve as an example of an effective practice for other regional consultation processes at a global level, and for all regional and multilateral efforts focused on the protection of the rights of migrant boys, girls and adolescents, including those in need of international protection.





# GLOSSARY<sup>7</sup>

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## **Boy or girl:**

The Convention on the Rights of the Child (CRC) states that “a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.” (Article 1). The term “boy” signifies a male child; the term “girl” signifies a female child.

## **Adolescent:**

For the purposes of the present document, an adolescent shall be understood as every human being over the age of twelve years and below the age of eighteen years<sup>8</sup> and shall only be used to differentiate in order to provide appropriate protection. Adolescence is recognized as a stage separate from early childhood and adulthood and therefore, adolescents require special assistance and protection.

## **Boys, girls and adolescents:**

Includes the two above definitions. It should be noted that the national legislation of some RCM Member Countries uses the term “under-age persons” to refer to this population group. However, for the purposes of this document, the term “boys, girls and adolescents” shall be used.

## **Migration<sup>9</sup>:**

Involves the movement of persons either across an international border or within a State. Encompasses all movements of persons, regardless of their magnitude, composition or causes; includes migration of refugees, displaced persons, uprooted persons and migrants for economic reasons. Internal migration is the temporary or permanent movement of persons from one region to another within the territory of a country with the aim of establishing a

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<sup>7</sup>The following definitions are used for purposes of this document and are not intended to be universally accepted definitions of the terms included below.

<sup>8</sup> An internationally accepted definition of the term “adolescent” does not exist. This Handbook uses the definition contained in other documents developed within the framework of the RCM (i.e. “Toward a Regional Mechanism for the Comprehensive Protection of Migrant and Refugee Boys, Girls and Adolescents”).

<sup>9</sup> Definition of the terms “migration”, “internal migration” and “international migration” from: IOM (2006), Glossary on Migration.

new residence, while international migration takes place when an international border is crossed. For the purposes of these Guidelines, the term “migration” refers to international migration.

### **Migrant<sup>10</sup>:**

Any person who is moving or has moved across an international border or within a State, away from his or her habitual place of residence, regardless of (1) the person’s legal status; (2) whether the movement is voluntary or involuntary ; (3) what the causes for the movement are; or (4) what the length of the stay is.

### **Refugee boys, girls and adolescents:**

Boys, girls and adolescents that meet the criteria to be recognized as refugees, in accordance with the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol and/or the relevant internal legislation of each State.

### **Boys, girls and adolescents seeking asylum:**

Boys, girls and adolescents who have requested recognition as a refugee in a country and are waiting for a decision on their refugee status application, in accordance with applicable national and international instruments.

### **Unaccompanied boys, girls and adolescents:<sup>11</sup>**

Boys, girls and adolescents who have been separated from both parents and other relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so.

### **Separated boys, girls and adolescents:<sup>12</sup>**

Boys, girls and adolescents who have been separated from both parents, or from their previous legal or customary primary caregiver, but not necessarily from other relatives. These may, therefore, include children accompanied by other adult family members.

### **Boys, girls and adolescents victims of trafficking:**

Boys, girls and adolescents who are victims of trafficking, as that crime is defined in Article 3 of the Protocol to Prevent,

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<sup>10</sup> IOM, 2016.

<sup>11</sup> Committee on the Rights of the Child, General Comment No. 6, Treatment of unaccompanied and separated children outside their country of origin, Thirty-ninth session (2005), U.N. Doc. CRC/GC/2005/6 (2005), Paragraph 7.

<sup>12</sup> *Ibid*, Paragraph 8.

Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime, and in accordance with the internal legislation of each State.<sup>13</sup>

**Boys, girls and adolescents subject to migrant smuggling:<sup>14</sup>**

Boys, girls and adolescents travelling within a migrant smuggling network and who are more exposed to risks and vulnerabilities such as criminal offences, violence, abuse, abduction, extortion, forced recruitment or criminal activities, among others.

**Boys, girls and adolescents that could be at risk if they are reunified with their families and/or return to their place of origin or habitual residence:<sup>15</sup>**

Boys, girls and adolescents targeted or at risk of being targeted by criminal groups; victims or at risk of forced recruitment; witnesses of criminal offences; victims of abuse for living in areas contested by gangs or criminal groups or for having family ties with such groups; victims of sexual or gender-based violence; victims of physical, psychological or emotional violence; victims of abuse or violence due to sexual orientation or gender identity.

**The best interests of the child:**

The best interests of the child are “a right, a principle and a rule of procedure”<sup>16</sup> and are regulated in Article 3.1 of the Convention on the Rights of the Child, which establishes for States Parties that “In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.”

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<sup>13</sup> Article 3 of the Protocol establishes that trafficking in persons is the recruitment, transportation, transfer, harbouring or receipt of persons for the purpose of exploitation. Exploitation of boys, girls and adolescents includes child labour, sexual exploitation, abduction or sale or trafficking of under-age persons.

<sup>14</sup> Article 3 of the *Protocol against the Smuggling of Migrants by Land, Sea and Air*, supplementing the United Nations Convention Against Transnational Organized Crime, defines smuggling of migrants as “the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident.”

<sup>15</sup> Protocol on Protection and Assistance to Salvadoran Migrant Boys, Girls and Adolescents (Protocolo de Protección y Asistencia a Niñez y Adolescencia Migrante Salvadoreña), developed by the Coordinating Committee on Protection and Assistance to Migrant Boys, Girls and Adolescents (2015).

<sup>16</sup> Committee on the Rights of the Child, General Comment No. 14, Paragraph 1.

### **International protection<sup>17</sup>:**

International protection is understood as the protection provided by a State to a foreign national pursuant to international obligations and/or domestic legislation, due to, as appropriate, fear of persecution or torture or because his or her human rights are threatened or violated in the country of nationality or habitual residence, where this person was unable to obtain appropriate protection since it was not accessible, available and/or effective. While the international protection provided by the receiving State is often linked to refugee status in the first instance, different sources of international law may also encompass other types of regulatory frameworks concerning protection.

This can include, among others, protection for refugees and asylum seekers based on international conventions or relevant internal legislation; protection obtained by any foreign national based on applicable international human rights obligations; and protection under the principle of non-refoulement or what is referred to as complementary protection or other forms of humanitarian protection, and the protection obtained by stateless persons in accordance with relevant international instruments on this matter.

### **Return<sup>18</sup>:**

In a broad sense, the act or process of returning. Return may take place within the territorial boundaries of a country; for example, returning internally displaced persons and demobilised combatants; or from the receiving country (transit or destination) to the country of origin, for example, refugees, asylum seekers and qualified national citizens. Furthermore, return sub-categories exist that describe the way in which the return is organized: voluntary, forced, assisted and spontaneous; and other sub-categories describe the returning persons; for example, repatriation (of refugees).

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<sup>17</sup> For details see the Inter-American Court of Human Rights, Advisory Opinion No. 21/14, Paragraph 37.

<sup>18</sup> IOM Glossary on Migration (2006).

**Reintegration<sup>19</sup>:**

To include again or reincorporate a person into a group or process; for example, to reincorporate a migrant into the society of the country of origin. This includes cultural, economic and social reintegration.

**Detection<sup>20</sup>:**

A process through which the non-obvious needs of migrants are identified.

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<sup>19</sup> IOM, Glossary on Migration (2006). Within the framework of this document the term “reinsertion” is used as a synonym of “reintegration”.

<sup>20</sup> RCM, Regional Guidelines for the Preliminary Identification and Referral Mechanisms for Migrant Populations in Vulnerable Situations.



# RELEVANT REGIONAL AND INTERNATIONAL INSTRUMENTS

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The actions set out in this document are not intended to replace the international obligations taken on by the RCM Member Countries in regard to the issues that are addressed in these Guidelines. On the contrary, the Guidelines take as a reference the following regional and international instruments linked to the comprehensive protection of boys, girls and adolescents in the context of migration:

- Universal Declaration of Human Rights (1948);
- Convention on the Rights of the Child (1989);
- Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (2000);
- American Convention on Human Rights (1969);
- The 1951 Convention relating to the Status of Refugees and its 1967 Protocol;
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime (Palermo Protocol, 2000);
- Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (Convention 182, 1999).
- Vienna Convention on Consular Relations (1963)
- The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), (1979)
- Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women “Convention of Belem do Para”
- Convention on the Rights of Persons with Disabilities (2007)



- The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (1979)
- Inter-American Convention on the Prevention, Punishment and Eradication of violence against women “Convention of Belém do Pará” (1994)

In addition, the following statements relevant to the issues at hand are taken as a reference:

- Committee on the Rights of the Child. General Comment No. 6: Treatment of unaccompanied and separated children outside their country of origin (2005);
- Committee on the Rights of the Child. General Comment No. 12: The right of the child to be heard (2009);
- Committee on the Rights of the Child. General Comment No. 14 on the right of the child to have his or her best interests taken as a primary consideration (2013);
- Inter-American Court of Human Rights. Advisory Opinion OC-16/99. The right to information on consular assistance in the framework of the guarantees of the due process of law;
- Inter-American Court of Human Rights. Advisory Opinion OC-17/02. Juridical condition and human rights of the child;
- Inter-American Court of Human Rights. Advisory Opinion OC-18/03. Juridical condition and rights of undocumented migrants;
- Inter-American Court of Human Rights. Advisory Opinion OC-21/14. Rights and guarantees of children in the context of migration and/or in need of international protection;
- Inter-American Court of Human Rights. The case of Bulacio vs. Argentina. Merits, Reparations and Costs. Judgment of September 18, 2003.

# APPROACHES

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When speaking about addressing the protection of migrant boys, girls and adolescents from different perspectives, we are referring to how each particular case should be viewed, understood, analysed and addressed in different situations. In order to adequately use the different approaches, we need to view the situation of each migrant boy, girl or adolescent in a comprehensive manner, to avoid the mistake of treating boys, girls and adolescents as a homogeneous group. Therefore, we need to identify the distinctive features and specific conditions of each one of them. For example: What is the migrant's age? What are the practical implications of migrating at 8 years or 16 years of age? What ethnic group does he or she belong to and what language does he or she speak? Does the migration experience contribute to the exercise of the child's rights or does it lead to violation of these rights? Is the child male or female? Could his or her religion, sexual orientation or other characteristic be the motivation for migrating? What might he or she need?

In this regard, the present Guidelines suggest to incorporate various approaches into national programmes, policies and plans and regional actions, considering the positive and negative impacts of migration on boys, girls and adolescents. To this end, the following approaches are proposed to guide the actions of government institutions, civil society and international organizations to enable them to appropriately respond to the characteristics and realities of this population group, considering not only gender or ethnic origin but also age and emotional maturity level.

## **Human Rights-Based Approach<sup>21</sup>**

The main focus of this approach is to recognize every person as a holder of human rights, which are universal and inalienable; interdependent and indivisible; equal and non-discriminatory<sup>22</sup>. It

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<sup>21</sup> IOM, "Curso especializado sobre niñez migrante, con énfasis en niñez migrante no acompañada o separada en el Triángulo Norte y México" (Specialized course on migrant children, with a focus on unaccompanied or separated migrant children in the countries of the northern triangle of Central America and Mexico), 2015 and Inter-American Court of Human Rights, Advisory Opinion OC-21/14, Paragraph 68.

<sup>22</sup> Office of the United Nations High Commissioner for Human Rights.

involves protecting the human rights of boys, girls and adolescents involved in migration processes, understanding that the well-being and human development of this population group are important elements of public policies and social actions.

For the purposes of the Guidelines, it is especially important to recognize boys, girls and adolescents as holders of human rights and not merely as beneficiaries of the institutional decisions and the assistance that can be provided through these institutions; that is, they are **rights holders**. Migrant boys, girls and adolescents, as holders of rights within the international human rights framework, may require special consideration, as they are still growing. Boys, girls and adolescents can be categorised as vulnerable populations and may be in risk situations. In this regard, given that boys, girls and adolescents are rights holders, holders of obligations also exist, including States. In particular, the CRC specifically establishes the responsibilities of States to respect and ensure the human rights<sup>23</sup> of the boys, girls and adolescents who are in their territory.

Addressing the protection of migrant boys, girls and adolescents from a rights-based approach involves recognizing that the members of these populations have the right to freedom of movement, which includes the “right to freedom of movement and residence within the borders of each state” and “[...] the right to leave any country, including his own, and to return to his country”<sup>24</sup>.

### Gender Approach<sup>25</sup>

Under this approach, the social and cultural conditionings related to sex and gender identity are recognized and taken into account. This social and cultural conditioning has generated and perpetuated unequal power relations between men and women and gender-based discrimination and violence against women, which interferes with women’s enjoyment of their rights.

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<sup>23</sup> In the framework of international human rights law, states should take steps to prevent human rights violations by state actors and to provide appropriate remedies for human rights violations.

<sup>24</sup> Article 13, Universal Declaration of Human Rights.

<sup>25</sup> IOM, “Curso especializado sobre niñez migrante, con énfasis en niñez migrante no acompañada o separada en el Triángulo Norte y México” (Specialized course on migrant children, with a focus on unaccompanied and/or separated migrant children in the countries of the northern triangle of Central America and Mexico), 2015.

This approach recognizes the existence of unequal relations between women and men and promotes transformations oriented towards achieving gender equality and equity. For example, it allows women to have greater control over their lives and their bodies and helps to avoid devaluing women. In addition, it is fundamental to be able to visualize how the experiences of girls and female adolescents are different from the realities facing boys and male adolescents and thus, to propose actions to respond to the different realities and promote gender equality, contributing to equal enjoyment of their rights.

### **Generational Approach**

This means that public policies and social actions as well as institutional practices and provisions should be adjusted, in their full scope, to respond to the life cycle of boys, girls and adolescents. In addition, it involves conceiving new relations between adults and boys, girls and adolescents, based on recognition of and respect for their human rights.

The generational approach is based on the recognition that the biological and social differences between persons that are derived from their age create situations where some have power over others, generating asymmetric relations between adults, boys, girls and adolescents with an adult-centred perspective.

The generational approach seeks to correct this adult-centred approach of society, recognizing that boys, girls and adolescents can make important contributions to society and to development, as do adults. In addition, it involves recognizing the existence of different age groups with specific interests and needs that, as such, should be considered in their uniqueness without this meaning annulation, imposition or exclusion<sup>26</sup>.

### **Comprehensive Development Approach**

This approach recognizes that, in order to analyse the migration experiences of boys, girls and adolescents, their characteristics and realities need to be identified and reaffirmed, not only based on gender or ethnic origin but also considering their age and

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<sup>26</sup> The adult-centred perspective does not seek to promote participation and consideration of the views of boys, girls and adolescents; nor does it provide appropriate conditions that enable them to develop as holders of rights with the possibility of exerting influence on matters which affect their lives.

emotional maturity level. This approach involves understanding that childhood and adolescence are part of a process of comprehensive development throughout the life cycle, where boys, girls and adolescents prepare to lead a responsible and independent life. They progressively gain the ability to exercise their rights and demand the enforcement of their rights without any intermediaries.

### **Diversity Approach<sup>27</sup>**

This approach recognizes the specificities, realities and differentiated needs related to ethnic origin, national origin, motivations for migrating, condition of disability, language, gender, age, sexual orientation, gender identity and/or expression, socio-economic situation, physical or mental limitations, amongst others, as well as differentiated vulnerabilities, threats and risks.

The objective is to promote non-discrimination on the grounds of ethnicity, nationality, gender, sexual orientation and religion, among others. This approach does not involve treating all boys, girls and adolescents in the same manner; on the contrary, this approach takes into account each individual's specificities, realities and needs into account, which put each person in a different place in society, and that the relevant actions contribute to guaranteeing and respecting their human rights.

### **Contextual Approach**

This approach proposes that every institutional and social intervention take into account the historical conditions of the particular society as well as the family, community, institutional, economic-political and sociocultural context of each migrant boy, girl and adolescent, including those that are in crisis situations related to natural disasters or conflict.

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<sup>27</sup> IOM, "Curso especializado sobre niñez migrante, con énfasis en niñez migrante no acompañada o separada en el Triángulo Norte y México" (Specialized course on migrant children, with a focus on unaccompanied and/or separated migrant children in the countries of the northern triangle of Central America and Mexico), 2015.

## Interculturality Approach<sup>28</sup>

Under this approach, any institutional or social action should recognize the different ethnic, cultural and national origin-related characteristics of each boy, girl and adolescent. In addition, the approach proposes identifying the inequalities between the different ethnic groups, cultures and nationalities.

Interculturality seeks recognition of and respect for all cultures, thus achieving a mutually enriching relationship, and at the same time seeks to combat racism and discrimination against indigenous and/or afro-descendant peoples as well as xenophobia towards migrant populations.

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<sup>28</sup> IOM, “Curso especializado sobre niñez migrante, con énfasis en niñez migrante no acompañada o separada en el Triángulo Norte y México” (Specialized course on migrant children, with a focus on unaccompanied and/or separated migrant children in the countries of the northern triangle of Central America and Mexico), 2015.



# GUIDING PRINCIPLES

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The principles are the guidelines, ways of thinking, feeling and acting that every person involved in providing assistance and protection to migrant boys, girls and adolescents should follow; that is, officials from governments, civil society organizations and international organizations. These principles are drawn from the above-mentioned international law instruments, particularly the Convention on the Rights of the Child (CRC), and addressed in General Comments No. 6, 12 & 14 of the Committee on the Rights of the Child and Advisory Opinions OC-16/99, OC-17/02, OC-18/03 and OC-21/14 of the Inter-American Court of Human Rights.

Given that everything that is addressed within the framework of this document responds to principles and obligations enshrined in regional and international human rights instruments taken on by RCM Member Countries,<sup>29</sup> this involves a commitment to analyse and apply the following guiding principles in any situation where assistance and protection needs to be provided to a migrant boy, girl or adolescent, including those in need of international protection.

## **a. The best interests of the child**

The Committee on the Rights of the Child has said that the best interests of the child are “a substantive right,” a “fundamental, interpretative legal principle,” and “a rule of procedure”<sup>30</sup> and are addressed in Article 3.1 of the CRC, which establishes the following for States Parties: “In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration”. The Inter-American Court of Human Rights states that “the highest interest of the child [is] based on the very dignity of the human being, on the characteristics of children [that is, boys, girls and adolescents] themselves, and

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<sup>29</sup> This will be applied in accordance with the ratification of the various instruments by each RCM Member Country.

<sup>30</sup> Committee on the Rights of the Child, Comment No. 14, Paragraph 6.



on the need to foster their development, making full use of their potential.”<sup>31</sup>

The best interests of the child should be a primary consideration in all decisions and/or actions concerning boys, girls and adolescents and should be respected throughout every phase of the migration process. In these phases, **the Best Interest Determination (BID)** should be documented in preparation of any decision.<sup>32</sup>

The procedure to determine the best interests of the child involves two phases. The first one is the *Assessment*, where the specific circumstances are assessed that make the boy, girl or adolescent unique. Preliminary enquiries are made and the elements are assessed which are necessary to make a decision regarding a boy, girl or adolescent or a group of boys, girls and/or adolescents. The aspects that are considered during an assessment are: the opinion and identity of the boy, girl or adolescent; preserving the family environment and maintaining family ties; care, protection and security; situations of vulnerability. Another aspect for the assessment is given by the International Covenant on Economic, Social and Cultural Rights: “the right to the enjoyment of the highest attainable standard of physical and mental health and the right to education.”<sup>33</sup> The assessment can be jointly carried out by one or more persons and one or more institutions.

The second phase is the *Best Interest Determination (BID)*, which is a structured process with safeguards to determine the best interests of the boy, girl or adolescent based on the previous assessment. The aspects to consider are: the ability of the boy, girl or adolescent to express an opinion of their own<sup>34</sup>; identifying the facts; and the perception of time. This process should be carried out by trained professionals, with legal representation where available<sup>35</sup>, legal reasoning<sup>36</sup>,

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<sup>31</sup> Inter-American Court of Human Rights. The case of Bulacio vs. Argentina. Merits, Reparations and Costs. Judgment of September 18, 2003. Series C, No. 100. Paragraph 134.

<sup>32</sup> Committee on the Rights of the Child, Articles 18, 19 & 20.

<sup>33</sup> International Covenant on Economic, Social and Cultural Rights, Art. 12

<sup>34</sup> Committee on the Rights of the Child, Comment No. 14: Right of the child to express his or her own views (Paragraph 89).

<sup>35</sup> Committee on the Rights of the Child, Comment No. 14: Legal representation (Paragraph 96).

<sup>36</sup> Committee on the Rights of the Child, Comment No. 14: Legal reasoning (Paragraph 97).

mechanisms to review or revise decisions<sup>37</sup> and an assessment of the impact on the rights of the boy, girl or adolescent<sup>38</sup>. All institutions involved in protecting the rights of migrant boys, girls and adolescents should participate as appropriate in the BID process, including civil society organizations to the extent possible. Moreover, it is essential to complete the process before suggesting long-term solutions for the boy, girl or adolescent. Any suggestion should be based on the results of the BID process.

### **b. Recognizing the boy, girl or adolescent as a holder of rights**

This principle involves applying a protection approach based on the recognition of the boy, girl or adolescent as a holder of full human rights. Boys, girls and adolescents have the same human rights as adults and in addition, they have other special needs because they are still growing. Furthermore, this principle also involves recognizing the capacity to act, independence and initiative that each migrant boy, girl or adolescent has in regard to his or her plans or objectives relating to migration.

### **c. Family unification**

Article 9 of the CRC establishes that States Parties should ensure that the boy, girl or adolescent “shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child”.

In the context of migration, the Inter-American Court of Human Rights has held that “the rule must be that they remain with their parents or those acting in their stead, avoiding the separation of the family unit [...] unless the best interest of the child advises otherwise.”<sup>39</sup>

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<sup>37</sup> Committee on the Rights of the Child, Comment No. 14: Mechanisms to review or revise decisions (Paragraph 98).

<sup>38</sup> Committee on the Rights of the Child, Comment No. 14: Child-rights impact assessment (CRIIA) (Paragraph 99).

<sup>39</sup> Inter-American Court of Human Rights. Advisory Opinion 21/14, Paragraph 177.

#### **d. Equality before the law and the right to non-discrimination**

The CRC establishes in Article 2 that the States Parties shall take all appropriate measures to ensure that the boy, girl or adolescent “is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child’s parents, legal guardians, or family members”. In addition, it establishes that States should respect and guarantee all the rights contained in the Convention should be ensured and apply them equally to each boy, girl or adolescent within a State’s jurisdiction, without distinction of any kind. In this regard, the Inter-American Court has opined that States “have the obligation to combat discriminatory practices and not to introduce discriminatory regulations into their laws”.<sup>40</sup>

These rights also apply to foreign boys, girls and adolescents<sup>41</sup>, regardless of their migration status. In this regard, the principle establishes that the protection needs be differentiated according to age, gender or other conditions of diversity, considering that migrant boys, girls and adolescents are in an especially vulnerable situation (that is, as under-age persons and as migrants), and this could affect their rights and guarantees if they are subjected to discrimination.

#### **e. The right to life, survival and development**

Article 6 of the CRC recognizes the inherent right to life of every boy, girl and adolescent and establishes the obligation of States Parties to ensure to the maximum extent possible their survival and development. This takes on even more relevance for migrant boys, girls and adolescents, given that they are at greater risk of becoming victims of violence or any type of exploitation.

This principle is fundamental for determining the best interests<sup>42</sup> of migrant boys, girls and adolescents, since protection measures are applied in situations where their lives and integrity are at risk and in addition, the potential consequences of different long-term solutions can be assessed.

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<sup>40</sup> Inter-American Court of Human Rights, Advisory Opinion 18/03, Paragraph 88.

<sup>41</sup> Inter-American Court of Human Rights, Advisory Opinion 21/14, Note 74, Paragraph 61.

<sup>42</sup> Committee on the Rights of the Child, General Comment No. 14, Paragraph 42.

## **f. Effective access to protection procedures and procedural guarantees**

This principle addresses the establishment, by States, of protection measures and rules to ensure guarantees of due process for migrant boys, girls and adolescents, regardless of their migration status.<sup>43</sup>

Effective access to procedures to provide protection to migrant boys, girls and adolescents is essential for safeguarding their rights. To achieve this, effective inter-institutional coordination is needed.

## **g. Participation and the right to an opinion**

Article 12 of the CRC considers the right of every boy, girl and adolescent “who is capable of forming his or her own views [...] to express those views freely” and to have “the opportunity to be heard in any judicial and administrative proceedings” affecting them, taking into account the views of the boy, girl or adolescent in accordance with their age and maturity. For purposes of these Guidelines, to be heard involves taking into account the independence and initiative of every boy, girl or adolescent concerning their migration plans or objectives.

In regard to migrant boys, girls and adolescents, they should be allowed to express their views and be heard in all decisions concerning their proceedings and/or migration status, even when a legal guardian has been appointed for them. In this regard, relevant and accurate information should be available to them, in accordance with their age and maturity, about their rights, the available services (health, education, housing, means of communication, etc.), the availability of consular access and notification, the procedure to apply for refugee status or obtain complementary protection, locating relatives, etc.<sup>44</sup> To ensure this principle, an interpreter should be available, if necessary, during all phases of the administrative migration procedure and/or the refugee status determination procedure.

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<sup>43</sup> Inter-American Court of Human Rights, Advisory Opinion 21/14, Paragraph 113.

<sup>44</sup> Note the Inter-American Court of Human Rights, Advisory Opinion OC-21/14, Paragraph 5 on the right to consular notification.

## h. Confidentiality

States should protect the information about migrant and refugee boys, girls and adolescents, ensuring that reasonable measures are taken to ensure that it is kept confidential and used appropriately. Information will only be exchanged with the objective of protecting the rights of the boy, girl or adolescent.

The principle of confidentiality should be respected at all times throughout the migration process, including refugee status applications<sup>45</sup>. Furthermore, the migrant or refugee boy, girl or adolescent should be informed, in a language that he or she can understand, that their entire procedure – beginning with the interview – generally will be kept confidential<sup>46</sup>.

## i. Non- detention

This principle means that detention of migrant and/or refugee status applicant, refugee or stateless boy, girl or adolescent should be considered as a measure of last resort which only is applied when it has been determined that it is necessary.<sup>47</sup>

The Advisory Opinion OC-21/14 of the Inter-American Court of Human Rights has held that “States may not resort to the deprivation of liberty of children who are with their parents, or those who are unaccompanied or separated from their parents, as a precautionary measure in immigration proceedings; nor may States base this measure on failure to comply with the requirements to enter and to remain in a country, on the fact that the child is alone or separated from her or his family, or on the objective of ensuring family unity, because States can

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<sup>45</sup> Inter-American Court of Human Rights, Advisory Opinion OC-21/14, Paragraph 254.

<sup>46</sup> UNHCR, *Improving asylum procedures: comparative analysis and recommendations for law and practice*. Detailed research on Key Asylum Procedures Directive Provisions (2010).

<sup>47</sup> In the case of those States that have accepted the jurisdiction of the Inter-American Court of Human Rights, the obligation under this principle is broader. This Tribunal has indicated that “deprivation of liberty is inappropriate when children are unaccompanied or separated from their family, because in this situation, the State is obliged to give priority to facilitating the measures of special protection based on the principle of the best interest of the child, assuming its position as guarantor with the greatest care and responsibility”. Even when the child is with his or her parents, “the child’s best interest requires keeping the family together, the imperative requirement not to deprive the child of liberty extends to her or his parents and obliges the authorities to choose alternative measures to detention for the family, which are appropriate to the needs of the children”. Inter-American Court of Human Rights, Advisory Opinion OC-21/14, Paragraphs 157-158.

and should have other less harmful alternatives and, at the same time, protect the rights of the child integrally and as a priority.”<sup>48</sup>

#### j. Non-refoulement

The principle of *non-refoulement* is the cornerstone of the international protection of refugees and asylum seekers. Article 33 of the 1951 Convention relating to the Status of Refugees prohibits the expulsion or return of a refugee to a country “where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion”, barring certain exceptions which should be interpreted in a limited and restrictive manner.<sup>49</sup>

Article 22.8 of the American Convention on Human Rights prohibits the deportation or return of any foreign national to another country where “his right to life or personal freedom is in danger of being violated because of his race, nationality, religion, social status, or political opinions”. Moreover, Article 3 of the Convention against Torture prohibits the expulsion, return or extradition of a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.

According to an advisory opinion of the Inter-American Court of Human Rights the protection of the principle of non-refoulement “covers any alien and not only [...] asylum seekers and refugees”<sup>50</sup> and necessarily involves an “adequate and individualized analysis of their requests”, considering their best interests.<sup>51</sup> According to the Court, this should be applied prior to any procedure of expulsion or deportation, extradition or rejection at the border of any migrant boy, girl or adolescent who is eligible for international protection consistent with international and domestic legal obligations and whose devolution to the country of origin would put his or her life or

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<sup>48</sup> Inter-American Court of Human Rights, Advisory Opinion OC-21/14, Paragraph 160.

<sup>49</sup> The Convention Relating to the Status of Refugees establishes as an exception, in Article 33.2, those persons whom there are reasonable grounds for regarding as a danger to the security of the country in which they are. However, these exceptions should be interpreted in a limited and restrictive manner and in relation to the obligations derived from non-revocable rights such as the prohibition of torture.

<sup>50</sup> Inter-American Court of Human Rights, Advisory Opinion OC-21/14, Paragraph 215.

<sup>51</sup> Inter-American Court of Human Rights, Advisory Opinion OC-21/14, Paragraph 210.

freedom at risk (for example, torture or other cruel, inhuman or degrading treatment or other forms of serious harm).

In addition, boys, girls and adolescents applying for refugee status should enjoy specific and appropriate procedural guarantees to ensure that fair decisions are made and that an environment of trust is established throughout the entire process.

#### **k. Presumption of Minority**

This principle encourages States to presume that a person is under eighteen years of age in cases where there is doubt whether he or she is a minor or not, unless the contrary is proven. The above with the objective of providing the protection and assistance required by the boy, girl or adolescent during his or her migration process.

#### **l. Principle of Non-Revictimization<sup>52</sup>**

The revictimization of a boy, girl or adolescent is an institutional issue. While it does not occur intentionally, it is in fact harmful to the under-age person. Migrant, asylum seekers and refugee boys, girls and adolescents may have been victims of human rights abuses, deprivations or violations of one or more of their rights; and they may have been victims of some type of crime or sexual abuse during their migration process or have witnessed crimes such as migrant smuggling or trafficking.

In this regard, the revictimization of migrant, asylum seekers or refugee boys, girls or adolescents could take place when, inter alia, an authority in charge of providing assistance and protection repeatedly asks the boy, girl or adolescent to state why he or she decided to migrate and what happened during the migration process (departure, transit, stay, return, etc.), thus increasing the psychological stress suffered by the boy, girl or adolescent.

Therefore, the principle of non-revictimization means that States should develop and apply institutional, inter-

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<sup>52</sup> The term “secondary victimization” is also used in literature addressing this topic, in reference to the relationship between the victim and social institutions (social services, health services, the media, legal services, etc.). These institutions could sometimes be providing deficient or inadequate assistance to the victim.

institutional and bilateral tools to avoid unnecessary requests for testimonies that affect boys, girls and adolescents, revictimizing them during return and reintegration.

#### **m. Principle of progressive autonomy**

This is directly related to the principle of participation and the right to an opinion and means that, as boys, girls and adolescents grow older, their ability to express themselves and exercise their rights becomes consolidated progressively and they gain greater autonomy.

#### **n. Principle of protection and consular assistance**

Given the special vulnerability of migrant boys, girls and adolescents, and especially those that are unaccompanied or separated, access to consular communication and assistance becomes particularly relevant, which should be addressed as a priority by every State.

In some States consular notification is mandatory. In situations where consular notification is not mandatory, the parent or guardian will be notified of the option for consular notification. In situations where the parents or guardian cannot be located, or if there is basis to believe the girl, boy, or adolescent might be a victim of abuse or trafficking and that notifying the parent or guardian could endanger the boy, girl, or adolescent, the consulate will be notified, unless there is reason to believe that contacting the consulate could endanger the girl, boy, or adolescent (e.g., if the minor is seeking asylum), in which case the competent authorities of the country should be asked whether notification is in the best interest of the minor.

If a potential international protection need is determined during the initial phase of identification and assessment by competent authorities in the receiving country, the personal information and the confidentiality of the application of the boy, girl or adolescent must be considered.

#### **o. Principle of non-restrictive interpretation**

This principle states that the rights of and principles relevant to migrant boys, girls and adolescents that are described in these Guidelines generally should not be interpreted or applied in a restrictive way.



#### **p. Principle of priority assistance**

The Advisory Opinion 21/14 of the Inter-American Court of Human Rights states that the principle of priority assistance consists in States being able – through effective inter-institutional coordination, the principle of *effet utile* – to apply emergency procedures established by the internal legislation of each State in providing international protection to boys, girls and adolescents.

## COMPREHENSIVE PROTECTION ACTIONS THROUGHOUT THE VARIOUS PHASES OF THE MIGRATION PROCESS

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As stated above, the primary objective of this document is to promote regional guidelines of action for the effective and comprehensive protection of boys, girls and adolescents throughout the various phases of their migration process: **before departure, during detection and reception in countries of transit and destination and during integration or return and reintegration in their countries of origin.** Migration – whether voluntary or forced – can involve risks and violations and abuses of human rights. Migrant boys, girls and adolescents are more exposed to these risks and therefore, are highly vulnerable populations.

The majority of the actions recommended in this chapter for each phase of the migration process are contained in the document entitled “Toward a Regional Mechanism for the Comprehensive Protection of Migrant and Refugee Boys, Girls and Adolescents”. However, the chapter also includes actions recommended by RCM Member Countries during the meetings of the Ad Hoc Group on Migrant Boys, Girls and Adolescents. These efforts are already being implemented in RCM Member Countries and are embodied in various national protocols and procedures. Furthermore, actions are considered which have been recommended by international organizations and civil society organizations, through the Regional Network for Civil Organizations on Migration (RNCOM).

The appropriate implementation and effectiveness of these actions will depend largely on the coordination between RCM Member Countries and international organizations and civil society organizations; this coordination is essential.

Before addressing the proposed actions, **the need to establish indicators for the identification of migrant boys, girls and adolescents** should be highlighted. In addition, potential indicators will also be established (as a recommendation) to be used during some phases of the migration process. It should be noted that, while the recommended indicators could seem to be repeated, it is very important to take them into account during each phase of the

process, since it is not necessarily easier to identify a boy, girl or adolescent in a vulnerable situation in one phase than in another. Therefore, using the indicators will enable us to identify, for each case, if the boy, girl or adolescent requires special protection based on specific identified conditions.

It is essential to encourage and promote joint efforts oriented toward ensuring respect for the rights of migrant boys, girls and adolescents, particularly those that are subject to discrimination and exploitation. Respecting the human rights of boys, girls and adolescents is a moral, political, social, and economic imperative for every State, society and family. In accordance with the rights-based approach, the causes as well as the consequences of migration need to be addressed, and solutions need to be found for problems arising as a result of the migration process which affect boys, girls and adolescents and their ability to enjoy their human rights. These solutions require crucial joint and coordinated cooperation between States, international organizations and civil society organizations.

The following routes of action for comprehensive protection, as a whole, are oriented toward avoiding short-term efforts and coordinating rights protection actions which are sustainable and can be improved over time. In this regard, a broad vision of the migration cycle of boys, girls and adolescents should be considered for each route of action. It is understood that the active participation of competent government institutions is required to implement these actions. The roles and responsibilities of these institutions in the matter should be clearly defined. In addition, the necessary resources need to be available in the institutions to enable them to carry out the actions entrusted to them. It is desirable that this be framed within a protection system to coordinate the actions, establishing working groups on migrant boys, girls and adolescents in order to strengthen inter-institutional collaboration and coordination.

With the purpose of harmonizing and strengthening relevant efforts in the region, comprehensive coordination of protection actions should take place not only within each country but also between counterpart institutions at a regional level, with the aim of ensuring respect for the rights of the boy, girl or adolescent.

## Protection Actions Before Departure (in the Country of Origin)

During various meetings conducted within the framework of the RCM, discussions have been held on the establishment of indicators to identify the vulnerable situations that could lead boys, girls and adolescents to migrate. It has been concluded that these indicators are of a structural nature and that many more government institutions should develop and use them (recalling that only ministries of foreign affairs, migration offices and – for boys, girls and adolescents – child and adolescent protection institutions participate in the RCM). However, if the efforts are focused on the areas or regions with the highest rates of expulsion of migrants, some indicators could be considered that would help us identify boys, girls and adolescent that are more prone to engaging in risky migration processes because of the vulnerable situations they face. Some of these situations are detailed below<sup>53</sup>:

- Boys, girls and adolescents who are living on the streets or have been abandoned by their parents;
- Boys, girls and adolescents who have been forced or are being forced to work without any compensation or who are engaged in work that is likely to be hazardous or to interfere with their education, or that is harmful to their health or physical, mental, spiritual, moral or social development<sup>54</sup>;
- Boys, girls and adolescents who migrate to seek better socio-economic opportunities and who are encouraged by their parents to do so;
- Boys, girls and adolescents who have dropped out of school;

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<sup>53</sup> RCM, Toward a Regional Mechanism for the Comprehensive Protection of Migrant and Refugee Boys, Girls and Adolescents (2014) and Protocol for the Protection and Assistance to Salvadoran Migrant Boys, Girls and Adolescents (2015).

<sup>54</sup> CRC, Article 32.1.

- Boys, girls and adolescents who are suffering or have suffered abuse at home and/or violations or abuses of their rights (including those involving theft, rape, abduction, mistreatment and/or physical, sexual or psychological violence);
- Boys, girls and adolescents who are suffering or have suffered discrimination, abuse or violence based on sexual orientation, gender identity and/or gender expression;
- Boys, girls and adolescents who have been or are being threatened or persecuted by gangs or other organized crime groups;
- Boys, girls and adolescents who have been or are victims of internal trafficking, especially from rural areas to urban areas or border regions;
- Boys, girls and adolescents whose lives, physical integrity, freedom or human rights are at risk.

The following protection actions before departure are oriented toward countries of origin with the purpose of minimizing unsafe migration, preventing irregular migration and ensuring appropriate conditions to enable boys, girls and adolescents to exercise their right to not migrate, that is, offering the necessary real opportunities for well-being, education and employment to prevent forced migration. These actions could include the following:

Protection Actions	Competent Institution(s)
a) To establish programmes to provide assistance and protection to boys, girls and adolescents in vulnerable situations in order to promote rootedness.	Child and adolescent protection, health, education, social development and labour institutions

Protection Actions	Competent Institution(s)
b) To develop and strengthen a network of comprehensive child and adolescent care services.	Child and adolescent protection, social development, health, education and local government institutions, with support from civil society organizations
c) To promote actions oriented toward combating discrimination and violence against excluded and discriminated populations, including prevention and social awareness-raising actions.	Human rights ombudsman's offices, child and adolescent protection institutions, women's institutes, the Judiciary, Security, education, health and local government institutions, with support from civil society organizations
d) To establish and strengthen assistance centres providing social services and facilitating access to specialized services for boys, girls and adolescents, according to their age and risk and vulnerability situation and environment, promoting cross-cutting and comprehensive programmes to prevent risk situations.	Child and adolescent protection, health and education institutions, women's institutes, social development and labour institutions; special prosecutor's offices
e) To mitigate the impacts of generalized violence through the establishment of immediate support services for boys, girls and adolescents in the vulnerable or risk situations mentioned at the beginning of this section.	Child and adolescent protection, health and security institutions, procurator's offices, the Judiciary, family protection institutions, institutions providing assistance to indigenous and afro-descendant peoples, women's institutes, local governments, with support from civil society organizations

Protection Actions	Competent Institution(s)
f) To strengthen child and adolescent protection and education institutions and to implement social and economic policies to prevent vulnerable situations.	Central government or the Executive, the Legislative, family protection institutions and local governments
g) To continuously follow up on and monitor public policies, plans and projects on boys, girls and adolescents, providing counsel and accompaniment at a local level.	Mechanisms in charge of coordinating national child and adolescent protection systems, child and adolescent protection institutions, local governments and other appropriate institutions, according to plans and projects
h) To develop, implement and apply specific instruments to identify boys, girls and adolescents victims of the crimes of migrant smuggling and trafficking, particularly those that are transferred from rural areas to urban areas.	Labour and security institutions and inter-institutional committees to combat trafficking in persons and migrant smuggling, human rights ombudsman's offices, migration offices, child and adolescent protection institutions, local governments
i) To develop a strategy to raise awareness among the general public about the risks of migration, and programmes to prevent the migration of boys, girls and adolescents, with support from returned migrant boys, girls and adolescents <sup>55</sup>	Child and adolescent protection, education, communication, migration and health institutions, ministries of foreign affairs, special prosecutor's offices, inter-institutional committees to combat migrant smuggling and civil society organizations

<sup>55</sup> While RCM Member Countries have already implemented efforts in this regard, it is recommended to conduct a regional campaign including common basic elements, which can be adjusted for each country.

Protection Actions	Competent Institution(s)
<p>j) To promote the mainstreaming of the topic of migration of boys, girls and adolescents in national policies, especially in all local social development programmes, in order to make visible and systematize the indicators for identifying boys, girls and adolescents that are prone to irregular or risky migration.</p>	<p>All institutions, led by child and adolescent protection institutions</p>
<p>k) To design and disseminate informative guides on safe migration and the risks associated to irregular migration, means of protection and assistance for boys, girls and adolescents that migrate. These guides should promote safe migration and include information about visa requirements of different countries; programmes related to regular migration status; contact information of consular networks and the services they provide, as well as civil society organizations and different protection mechanisms of the networks; rights and obligations of migrants; etc. It is suggested that this information be included in the curricula of the ministries of education. In addition, information windows could be established in key municipalities with high rates of migration of boys, girls and adolescents.</p>	<p>Education institutions, ministries of foreign affairs, migration offices and child and adolescent protection institutions, with support from civil society and international organizations</p>
<p>l) To implement mechanisms to regulate the exit of boys, girls and adolescents, especially those that are unaccompanied.</p>	<p>Migration offices, ministries of foreign affairs and child and adolescent protection institutions</p>
<p>m) To promote the rights and strengthen the existing reporting and protection mechanisms for boys, girls and adolescents victims of rights violations (i.e. victims of gender-based or generalized violence).</p>	<p>The Judiciary, human rights ombudsman's offices, child and adolescent protection institutions and administrative bodies</p>



Protection Actions	Competent Institution(s)
n) To implement the existing protocols, regulations and procedures to ensure respect for the rights of boys, girls and adolescents, considering gender, human rights, diversity, and interculturality approaches. The Member Countries where such mechanisms are not in place should establish them.	Mechanisms in charge of coordinating national child and adolescent protection systems, national inter-institutional committees
o) To develop strategies to ensure effective access to justice for all boys, girls and adolescents, to enable them to fully exercise their rights before the legal and administrative system, promoting favourable conditions to enable access for all boys, girls and adolescents, including members of indigenous and/or afro-descendant peoples. These strategies should consider gender, human rights, diversity and interculturality approaches.	The Judiciary, child and adolescent protection institutions
p) To guarantee the fundamental right of every boy, girl and adolescent to an identity and nationality.	National child and adolescent protection systems, Civil registries, ministries of the interior, local governments

Furthermore, characterizations should be done with the aim of effectively providing comprehensive protection. These characterizations should include information about the number and current situation of migrant boys, girls and adolescents that are at risk or have been victims of rights violations, as well as the actions implemented by States and institutions to prevent and address these issues. When specific information about each case is not recorded in the information systems of competent institutions, or when variables or specific indicators are lacking, it becomes more difficult to provide comprehensive protection.

## Protection Actions during Detection and Reception in Countries of Transit and Destination

Migrant boys, girls and adolescents can be detected throughout the entire migration circle: upon leaving the country, in the country of transit, in the country of destination; and this is perhaps the most important moment in the migration process of boys, girls and adolescents for identifying vulnerable situations. Immediate protection and assistance actions or actions to ensure international protection need to be established. As stated in the “Regional Guidelines for the Preliminary Identification and Referral Mechanisms for Migrants in Vulnerable Situations” approved at the XVIII RCM, the following indicators should be considered when first establishing contact with a boy, girl or adolescent who:

- Travels unaccompanied or separated from his or her close family members or legal guardian;
- Travels or is accompanied by an adult who is not entitled to be the caretaker or guardian;
- Is a victim of a violation or abuse of their rights (including those involving theft, physical or sexual abuse, mistreatment, exploitation, abduction, etc.);
- Does not speak the local language, is not familiarized with the local customs and has difficulty communicating fluently;
- Has a health condition, physical disease or obvious proof of ill health (dehydration, burns, malnutrition, injuries, amputations, extreme weakness, etc.);
- Shows an altered emotional state (disorientation, fear, extreme anxiety, tears) or is suspected of being under the effects of a drug or medication;

- Was forced to leave the country of origin due to persecution based on race, religion, nationality, membership in a particular social group or political opinion;
- Is afraid of returning to the country of origin or being persecuted;
- The reason for leaving the country of origin was generalized violence, recruitment by gangs or criminal groups, armed conflict, persecution or situations putting his or her life or integrity at risk;
- Has been displaced due to natural or industrial catastrophes or climatic factors;
- Has been subject to a migrant smuggling and/or a human trafficking network;
- Is suspected of being controlled or watched by the person accompanying him or her, or communication takes place through a third person;
- Shows signs of or expresses not knowing in what country he or she is;
- Specifically asks for help or protection.
- Does not hold an identity document.

Different protection actions are required: some need to be implemented by the authorities from the transit or destination country that have identified the boy, girl and adolescent, while others need to be implemented by consular authorities in the country of origin of the boy, girl or adolescent.

Let us begin with the **actions that should be implemented by relevant authorities in the country of transit or destination:**

Protection Actions	Competent Institution(s)
a) To meet immediate needs, such as food, health care, psychological assistance and clothes.	Migration offices and child and adolescent protection and health institutions
b) To inform the boys, girls and adolescents about the procedures that will be followed in a language that is easy to understand.	Migration offices, child and adolescent protection and security institutions, the Judiciary
<p>c) To conduct an initial interview, considering the needs, age and gender of the child or adolescent. The interview should be conducted by trained professionals<sup>56</sup> in a language that the boy, girl or adolescent can understand and in an appropriate space, in order to ensure privacy. The interview will enable collecting data and personal information to determine the identity, nationality and situation of the boy, girl or adolescent (accompanied, unaccompanied or separated from the parents or legal guardian) and identify his or her protection needs.</p> <p>During the interview, the boys, girls and adolescents will be informed about all their rights, including the right to apply for refugee status or another special protection measure. If possible, the trained professionals should be in charge of following up on the entire migration process, in coordination with all institutions involved in providing protection and assistance to boys, girls and adolescents.<sup>57</sup></p>	Migration offices, child and adolescent protection institutions, the Judiciary, refugee protection institutions and committees receiving refugee status applications

<sup>56</sup> Committee on the Rights of the Child, Comment No. 6, Paragraph 31 a) ii).

<sup>57</sup> Inter-American Court of Human Rights, Advisory Opinion OC-21/14, Paragraph 197.

Protection Actions	Competent Institution(s)
d) To provide consular notification where required under the VCCR or applicable by bilateral instruments, and otherwise to inform the boy, girl or adolescent about his or her option for consular notification where the parent or guardian can be contacted without endangering the child.	Migration offices, child and adolescent protection institutions, ministries of foreign affairs
e) To separate boys, girls and adolescents from the adults accompanying them, when appropriate.	Migration offices, child and adolescent protection institutions, the Judiciary
f) To favour the stay of boys, girls and adolescents in temporary shelters or facilities appropriate to their age and needs and in safe conditions. Accommodation in migration centres or any other detention centre or shelter for migrants should be a measure of last resort.	Migration offices, child and adolescent protection institutions, with support from civil society organizations
g) To ensure that consular authorities are granted access to enter the centres used for sheltering boys, girls and adolescents, considering the confidentiality of each case.	Migration offices, child and adolescent protection institutions
h) To provide information and, where available, legal aid to boys, girls and adolescents and to ensure access to justice and due process through inclusive and gender-sensitive strategies, promoting the necessary conditions to ensure access for members of indigenous and/or afro-descendant populations.	Migration offices, child and adolescent protection institutions, the Judiciary
i) To designate a person to act as a legal representative.	Child and adolescent protection institutions

Protection Actions	Competent Institution(s)
j) To improve and ensure access to differentiated and high-quality procedures to determine refugee status.	Migration offices, child and adolescent protection institutions, refugee protection institutions and committees receiving refugee status applications
k) To consider whether some type of complementary protection if a possibility exists that the boy, girl or adolescent is not eligible for refugee status.	Refugee protection institutions and committees receiving refugee status applications
l) To ensure the participation of other actors with experience in providing assistance to migrant boys, girls and adolescents, in order to ensure that appropriate care is provided to these populations.	Migration offices, child and adolescent protection institutions, with support from civil society and international organizations
m) To implement adequate mechanisms for the assessment and the process to determine the best interests <sup>58</sup> of the boy, girl or adolescent, to be able to assess (for cases of return) the family resources or support networks and ascertain whether a well-founded fear exists of returning to the country of origin or if there are other grounds for international protection.	Migration offices, child and adolescent protection institutions, consulates of the nationality of the country of origin, civil society organizations and other relevant institutions, depending on each particular case
n) To monitor the implementation of the best interest determination procedures.	Migration offices, child and adolescent protection institutions, consulates of the nationality of the country of origin, human rights ombudsman's offices

<sup>58</sup> This procedure should be implemented by officials from child and adolescent protection institutions in each country, together with civil society organizations, who should conduct the interviews to determine the best interests of the child (RNCOM, 2015).

Protection Actions	Competent Institution(s)
o) To, where possible, maintain the family unit in administrative migration processes, considering the best interests of the boy, girl or adolescent.	Migration offices, child and adolescent protection institutions, ministries of foreign affairs
p) To develop and implement protocols or procedures concerning the appropriate protection, assistance and identification of lasting solutions for unaccompanied or separated boys, girls and adolescents and asylum or refugee seekers.	Migration offices, child and adolescent protection institutions, consulates of the nationality of the country of origin, refugee protection institutions and committees receiving refugee status applications
q) To develop, provide and implement pre-established protocols for referral to competent and suitable institutions.	Migration offices, child and adolescent protection institutions, refugee protection institutions and committees receiving refugee status applications
r) To adopt measures for alternatives to detention for migrant boys, girls and adolescents with irregular migration status.	Migration offices, child and adolescent protection institutions
s) To build capacities on timely identification of and assistance to boys, girls and adolescents victims of gender-based violence, and specifically, victims of sexual abuse during transit and in the country of destination, including psychosocial assistance and prophylactic emergency care. This includes reviewing relevant regulations, policies and protocols and training staff to ensure prophylaxis for HIV and preventing unwanted pregnancies (including emergency contraceptive methods).	Migration offices, health and child and adolescent protection institutions, women's institutes

Protection Actions	Competent Institution(s)
t) To train staff from relevant institutions (especially migration, police, shelters and staff processing asylum applications) on discrimination based on sexual orientation and gender identity and the human rights and specific needs of members of migrant LGBTI populations.	Child and adolescent protection institutions, migration offices, human rights ombudsman's offices, refugee protection institutions and committees receiving refugee status applications, international organizations and civil society organizations
u) To develop protocols on assistance to LGBTI migrants, including respect for gender identity in migrant shelters.	Child and adolescent protection institutions, civil society organizations and human rights ombudsman's offices, migration offices, ministries of foreign affairs
v) To ensure that language interpretation services are provided, considering cultural and language diversity, in order to address the specific needs of boys, girls and adolescents.	Institutions for indigenous and/or afro-descendant peoples, human rights ombudsman's offices, ministries of foreign affairs

For **consular authorities**, the following actions are recommended:

Protection Actions	Competent Institution(s)
a) To verify immediately the identity and nationality of the boy, girl or adolescent and his or her family ties.	Consulates, with support from authorities from the civil registry
b) To ensure that staff from embassies and consulates are trained to provide information, specialized assistance and protection to migrant boys, girls and adolescents.	Ministries of foreign affairs, with support from child and adolescent protection institutions, migration offices



Protection Actions	Competent Institution(s)
c) To identify local entities that would facilitate the access to legal aid to the boy, girl or adolescent consistent with principles (particularly where the individual requests asylum) to ensure access to justice.	Consulates in coordination with child and adolescent protection institutions
d) To expedite procedures for the issuance of travel and migration documents through consulates.	Consulates, migration offices
e) To establish consular protection networks which include joint mobile consulates, in addition to mutual protection mechanisms.	Consulates of RCM Member Countries
f) To develop and apply protocols or handbooks on consular assistance for boys, girls and adolescents.	Ministries of foreign affairs, migration offices and child and adolescent protection institutions
g) To strengthen consular networks, especially at the borders, in order to improve assistance for migrant boys, girls and adolescents in transit, facilitating documents, ensuring adequate conditions for their return and coordinating efforts with civil society organizations to ensure the protection of their rights.	Consulates, migration offices, ministries of foreign affairs, child and adolescent protection institutions and civil society organizations
h) To develop technology tools to seek and identify missing boys, girls and adolescents.	Ministries of foreign affairs, INTERPOL, human rights ombudsman's offices, international organizations and civil society organizations
i) To establish and strengthen videoconference programmes in order to support communication between migrant boys, girls and adolescents and their families.	Consulates

Protection Actions	Competent Institution(s)
j) To establish a single interview format and registration record card, together with migration and child and adolescent protection authorities, to prevent the revictimization of migrant boys, girls and adolescents.	Consulates, migration offices, child and adolescent protection institutions
k) To develop a regional platform to exchange information between consular authorities from RCM Member Countries.	Ministries of foreign affairs and migration offices of RCM Member Countries

# Protection Actions in Integration Processes

During this phase of the migration process it may not be necessary to establish indicators for the identification of vulnerabilities if it is determined, during the detection and reception phase, that the boy, girl or adolescent wishes to remain in the country of transit or destination, and an official authorization is granted. In this case, some of the following actions are required to ensure adequate integration:

Protection Actions	Competent Institution(s)
a) Destination countries to issue appropriate identity documents and countries of origin to issue nationality documents and other documents relevant to the national's integration objectives.	Migration offices, ministries of foreign affairs
b) To offer, within the various social programmes, cross-cutting programmes on integration of migrant boys, girls and adolescents, viable alternatives to unlawful child labour.	Child and adolescent protection, education, health and labour institutions and civil society organizations
c) To promote emergency plans including the immediate incorporation of boys, girls and adolescents into social protection programmes, fitting out adequate physical spaces to improve assistance, awareness-raising of relevant staff on the particular characteristics of this population group, and establishment of protocols for assistance, in order to ensure their security and well-being.	Migration offices, child and adolescent protection, social development, health, education and labour institutions, civil society organizations
d) To ensure that boys, girls and adolescents are sheltered in a specialized temporary or permanent reception and protection centre, if they do not have any relatives that could receive them in the country, considering this as the last option.	Child and adolescent protection institutions and civil society organizations

Protection Actions	Competent Institution(s)
<p>e) To seek solutions within families or communities before making use of institutions;<sup>59</sup> such as establishing programmes for temporary accommodation, extended family and foster or adoptive families as a measure aimed at facilitating adaption to the new society, and if this is considered to be a more appropriate solution to ensure the best interests of the boy, girl or adolescent.</p>	<p>Child and adolescent protection institutions and civil society organizations</p>
<p>f) To ensure that the boy, girl or adolescent is accompanied by a natural or legal guardian at relevant proceedings to promote their best interests, in accordance with the relevant national legislation of each country.</p>	<p>Child and adolescent protection institutions</p>
<p>g) To ensure, as appropriate, access to livelihoods and comprehensive development, in accordance with the specific situation of each boy, girl or adolescent and considering age, gender and other personal characteristics; and to ensure effective access to essential services (care, education, technical training, health, medical assistance).</p>	<p>Child and adolescent protection, health, education, labour and social development institutions and migration offices (institutions in countries of origin, transit and destination)</p>
<p>h) To ensure that the boy, girl or adolescent has access to protection procedures.</p>	<p>Migration offices, child and adolescent protection institutions; refugee protection institutions and committees receiving refugee status applications</p>
<p>i) To take steps to protect the boy, girl or adolescent from discrimination of any type and to implement actions to effectively prevent such practices.</p>	<p>Child and adolescent protection, health, education and labour institutions, migration offices, ministries of foreign affairs</p>

<sup>59</sup> Inter-American Court of Human Rights, Advisory Opinion OC-21/14, Paragraph 167.

## Protection Actions during Return Processes

As with the integration phase, when speaking about return processes it may be assumed that it is not necessary to use indicators to identify vulnerable situations, provided that return has been established as the best solution for the boy, girl or adolescent in an appropriate process, as recommended in these Guidelines. That is, the vulnerabilities and risks related to return have been assessed, including family resources or support networks in the country of origin, and it has been assessed whether the individual is eligible for international protection.

In this regard, protection actions should be established to be taken by competent authorities in the country where the boy, girl or adolescent is and from where he or she will return to the country of origin. Regional documents on protection actions during return processes have been developed within the RCM; specifically, the “Regional Guidelines for Special Protection in Cases of the Repatriation of Child Victims of Trafficking” (2007) and the “Regional Guidelines for the Assistance to Unaccompanied Boys, Girls and Adolescents in Cases of Repatriation” (2009). Some of the actions described below are already described in these two documents.

Protection Actions	Competent Institution(s)
a) To provide information to the boy, girl or adolescent about the return (voluntary and assisted) and reintegration processes, as well as his or her rights and the support that is available.	Migration offices, child and adolescent protection institutions, consulates.

Protection Actions	Competent Institution(s)
<p>b) Once information on the process has been provided, to record the voluntary consent to return in written form, considering the age and level of maturity of the boy, girl or adolescent. The consent and other supporting documents<sup>60</sup> should be submitted to the migration authorities in the country of origin that is the final receiving country of the unaccompanied boy, girl or adolescent, ensuring the necessary confidentiality of the information.</p>	<p>Migration offices, child and adolescent protection institutions, consulates.</p>
<p>c) To ensure that mechanisms for the issuance of travel documents (passport, safe conduct, letter of safe passage, statement of irregular stay, etc.) are applied as soon as possible. Regardless of the type of travel document that is issued, it should include biometric data to certify the identity of the holder.</p>	<p>Consulates and migration offices.</p>
<p>d) To establish appropriate time schedules and locations, in accordance with minimum standards for the protection of boys, girls and adolescents, for their return by land, sea and air. Return by air should be prioritized, to the extent of the budgetary and logistical possibilities<sup>61</sup></p>	<p>Migration offices, ministries of foreign affairs of the country of origin and transit or destination and child and adolescent protection institutions.</p>
<p>e) To keep accurate identity records (biometrics) of the returned boys, girls and adolescents, including all information required for the return by air, sea or land and the reception in the country of destination or habitual residence.</p>	<p>Migration offices, ministries of foreign affairs, child and adolescent protection institutions, consulates, international organizations and other competent authorities.</p>

<sup>60</sup> The supporting documents could include the following: a vulnerability assessment conducted by the child and adolescent protection institution in the country of transit or destination, the consular interview, etc.

<sup>61</sup> Ideally, the time schedules should be agreed on by the sending and the receiving country. This could be established through a protocol. In regard to the location, this should be an immigration post, a formal port of entry or exit where migration officers are present, always considering the best interests of the boy, girl or adolescent.

Protection Actions	Competent Institution(s)
f) To coordinate and ensure a safe return process with the accompaniment of competent staff.	Migration offices, child and adolescent protection institutions, ministries of foreign affairs.
g) To exchange the relevant information between the involved countries prior to the return of the boy, girl or adolescent, with the goal of ensuring non-revictimization and integration, consistent with appropriate regulations on disclosure of information and safeguarding the confidentiality of the information at all times.	Migration offices, ministries of foreign affairs, child and adolescent protection institutions and judicial and administrative bodies.
h) To develop, update and implement coordination mechanisms for return processes and emergencies <sup>62</sup> .	Migration offices, ministries of foreign affairs, child and adolescent protection institutions.

<sup>62</sup> "A medical condition requiring immediate return" is considered to be an emergency.

## Protection Actions in Reception and Reintegration (in the Country of Origin)

During **reception**, the following protection actions should be implemented by relevant authorities in the country of origin:

Protection Actions	Competent Institution(s)
a) To make appropriate physical spaces available to receive boys, girls and adolescents, including all the necessary elements to meet their basic needs (i.e. food, health care, psychological assistance and communication with their families) after verifying that family members are not available to receive them.	Migration offices, ministries of foreign affairs, child and adolescent protection and health institutions, civil society organizations, international organizations and other institutions involved in the matter.
b) To ensure that the reception process is conducted by staff trained in child and adolescent protection <sup>63</sup> and to involve competent institutions.	Migration offices, ministries of foreign affairs, child and adolescent protection institutions; special prosecutor's offices (in cases of victims of trafficking or other crimes), health institutions, appropriate judicial and administrative bodies and civil society organizations.
c) To create and strengthen mechanisms to exchange information between competent authorities in the country of transit or destination and with relevant consular authorities in order to prevent revictimization of the boy, girl or adolescent upon reception, ensuring the confidentiality of this information at all times.	Migration offices, ministries of foreign affairs, child and adolescent protection institutions and consulates of the nationality of the country of origin.

<sup>63</sup> Trained staff are already available in some RCM Member Countries to carry out this task. Staff members have been trained with the same tools as the Child Protection Officers (OPIs) of Mexico.



Protection Actions	Competent Institution(s)
d) To create adequate data records, to be used in conducting relevant data analyses, ensuring the confidentiality of the data at all times.	Migration offices, ministries of foreign affairs, child and adolescent protection institutions, appropriate judicial and administrative bodies, police and health institutions, international organizations and civil society organizations.
e) To develop or strengthen and implement inter-institutional protocols for reception.	Migration offices, ministries of foreign affairs, child and adolescent protection institutions, health and police institutions, civil society organizations or other bodies involved in reception and assistance.
f) To take the views and the best interests of the boy, girl or adolescent into account in regard to reunification with family members.	Child and adolescent protection institutions or other institutions involved in reception and assistance.
g) To designate a person to act as legal representative if this role cannot be performed by a family member of the boy, girl or adolescent.	Child and adolescent protection institutions or other institutions involved in reception and assistance.
h) To develop clear and formal public policies on reception of returned boys, girls and adolescents, including institutional referral mechanisms and coordination with civil society organizations.	All institutions.

The following protection actions are recommended for **reintegration** processes of boys, girls and adolescents<sup>64</sup>:

Protection Actions	Competent Institution(s)
a) To strengthen inter-institutional teams – where they are in place – in charge of establishing the most appropriate reintegration route for the boy, girl or adolescent, or to establish such teams where necessary.	Migration offices, child and adolescent protection institutions, ministries of foreign affairs, education, health and labour institutions.
b) To provide psychosocial support to the migrant boy, girl or adolescent, if necessary, in accordance with his or her specific needs.	Child and adolescent protection and health institutions, migration offices.
c) To identify and record the real reintegration needs of the migrant boy, girl or adolescent, as appropriate.	Child and adolescent protection, health, education and labour institutions, migration offices.
d) To protect the ability of the boy, girl or adolescent to maintain his or her identity, including nationality, name and family ties, respecting cultural and language diversity. This includes the ability of the boy, girl or adolescent to hold an identity document and to use indigenous names and names consistent with his or her gender identity, which should be recognized by States.	Migration offices, ministries of foreign affairs, child and adolescent protection institutions, civil registry.
e) To confirm and restore family ties.	Child and adolescent protection institutions, migration offices, civil registry.
f) To designate a person as a legal representative, if the family of the boy, girl or adolescent is unable to ensure that legal representation is available.	Child and adolescent protection institutions.

<sup>64</sup> The family needs to be included in every action related to reintegration processes.

Protection Actions	Competent Institution(s)
g) To ensure the reintegration of the boy, girl or adolescent into the educational system as well as his or her academic updating, securing funds for scholarships, technical training options and homologation and recognition of school education, as required.	Education and child and adolescent protection institutions, ministries of foreign affairs and civil society organizations.
h) To ensure certification of the skills and competencies of the returned boys, girls and adolescents.	Education, labour and child and adolescent protection institutions, ministries of foreign affairs.
i) To ensure access to livelihoods and comprehensive development, according to the specific conditions of each boy, girl or adolescent and his or her family and considering age, culture, gender and other personal characteristics, including the boy, girl or adolescent in the health care system.	Education, labour, health and child and adolescent protection institutions, women's institutes, social development institutions.
j) To provide assistance in terms of technical training, employment and entrepreneurship, provided that the conditions and age allow the boy, girl or adolescent to work, in accordance with applicable international and national legislation.	Labour and child and adolescent protection institutions and civil society organizations.
k) To take steps to protect the returned boy, girl or adolescent from discrimination and xenophobia to combat such practices.	All institutions.
l) To establish mechanisms to regularly monitor and follow up on returned boys, girls and adolescents.	Child and adolescent protection, health and education institutions.
m) To develop clear and formal public policies on reintegration of returned boys, girls and adolescents, including institutional referral mechanisms and coordination with civil society organizations.	All institutions.

# CONCLUSIONS AND RECOMMENDATIONS

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Without intending to be too repetitive, we would like to remind the RCM Member Countries that the primary purpose of the Guidelines is to guide actions to address different situations faced by boys, girls and adolescents during their migration process. The Guidelines include a set of recommended actions to enable RCM Member Countries to advance toward providing real comprehensive protection to migrant boys, girls and adolescents, including those in need of international protection.

As mentioned in the introduction to this document, the implementation of these actions requires coordinated efforts between public institutions, civil society organizations and international organizations. It should be noted that the public institutions that participate in the RCM are migration authorities and ministries of foreign affairs and also child and adolescent protection institutions, when issues relating to migrant and refugee boys, girls and adolescents need to be addressed. However, when the aim is to provide comprehensive protection through various approaches, additional government institutions will inevitably need to participate in such efforts as well. This will require resolute action by RCM Member Countries to establish and strengthen their inter-institutional teams.

In this regard, a wide variety of actions, instruments, agreements and programmes are already in place for the protection of migrant boys, girls and adolescents (including those in need of international protection). Therefore, the focus should be on building a coordinated regional response in order to develop an effective protection mechanism.

Furthermore, we have already mentioned that the RCM has implemented several efforts at the regional level, reflected in the

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development of three documents, or Regional Guidelines<sup>65</sup>. While the regional guidelines contain elements that are essential for the protection of migrant boys, girls and adolescents (including those in need of international protection), the current protection needs of this vulnerable population group have not been met. Given these on-going needs, these Guidelines provide a unique opportunity to develop a regional mechanism for the comprehensive protection of boys, girls and adolescents in the context of migration. And this mechanism will be inclusive, since civil society organizations and international organizations will be involved as well.

Finally, a small but important comment: while the vision should be of a regional nature, we should always remember that the beneficiaries of the Guidelines are migrant boys, girls and adolescents, including those in need of international protection; and not the RCM or the institutions participating in the RCM, and much less the international organizations or civil society organizations. In this regard, the most effective way to measure the impact of the protection actions described in the Guidelines will be through the voice of the beneficiaries. Therefore, the final recommended action is to establish statistical mechanisms at a national level to enable collecting and analysing information about the experience of the boys, girls and adolescents that have been beneficiaries of one or more of the actions outlined in the Guidelines.

The path travelled to this point has not been smooth; however, things have been even more complicated for boys, girls and adolescents seeking new opportunities or a simple change in their lives. In recent years, it has been shown that the RCM Member Countries are on the right path. Therefore, the future looks promising and the goal seems close. Reaching it depends on the commitment and enthusiasm of each user of the Guidelines, the way in which they are applied and the meaning that each person sees in them.

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<sup>65</sup> In this regard, we recommend implementing the “Regional Guidelines for the Preliminary Identification and Referral Mechanisms for Migrant Populations in Vulnerable Situations”, approved by the RCM in 2013. The Guidelines establish, as one of the vulnerability profiles, the profile of “migrant, unaccompanied and/or separated boy, girl or adolescent”, which is a reference for specific protection and assistance.