



PARAGUAY

SUBMISSION TO THE UNIVERSAL PERIODIC REVIEW, 38th SESSION OF THE UPR
WORKING GROUP, APRIL/MAY 2021

ISSUES RELATED TO IMMIGRATION ENFORCEMENT

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ABOUT THE GLOBAL DETENTION PROJECT

The Global Detention Project (GDP) is a non-profit organisation based in Geneva that promotes the human rights of people who have been detained for reasons related to their non-citizen status. Our mission is:

- To promote the human rights of detained migrants, refugees, and asylum seekers;
- To ensure transparency in the treatment of immigration detainees;
- To reinforce advocacy aimed at reforming detention systems;
- To nurture policy-relevant scholarship on the causes and consequences of migration control policies.

PARAGUAY

Submission to the Universal Periodic Review

38th Session of the UPR Working Group, April/May 2021

Issues Related to Immigration Enforcement

The Global Detention Project (GDP) is an independent research centre based in Geneva, Switzerland, that investigates the use of detention as a response to international immigration. Its objectives are to improve transparency in the treatment of detainees, to encourage adherence to fundamental norms, to reinforce advocacy aimed at reforming detention practices, and to promote scholarship of immigration control regimes.

This submission focuses on human rights concerns relating to Paraguay's immigration enforcement policies.

1. CONTEXT

- 1.1 Paraguay has not traditionally been a country of concern with respect to the treatment of migrants, refugees, or asylum seekers. This is reflected in the fact that during the previous two UPR cycles, there were no relevant recommendations made to the State party, other than the recommendation that it withdraw its reservation to Articles 76 and 77 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW) (concerning complaint procedures) (see "2. Recommendations during the 2nd Cycle of UPR).
- 1.2 However, the COVID-19 pandemic requires a renewed scrutiny of this issue. As the GDP has observed during its monitoring of government practices regarding non-nationals during the pandemic,ⁱ in many contexts the crisis has increased non-nationals' vulnerability to detention and deportation for migration-related reasons, despite the hazards these activities imply for people in enforcement proceedings.
- 1.3 According to UNHCR reporting, as of December 2019, there were 5,298 people of concern in Paraguay (1,016 refugees; 694 asylum-seekers; and 3,588 Venezuelans displaced abroad).ⁱⁱ
- 1.4 The key provisions regulating administrative immigration-related detention in Paraguay are provided in the Immigration Law N°978/96 (IL) (*Ley 978/96 de Migraciones*) of 1996, as amended by the 2009 Law N°3.958/10, and as regulated by Decree N°18.295 of 28 August 1997 which Regulates Immigration Law N°978/96.
- 1.5 Under Article 83 of the IL, in cases of expulsion, the "judicial authority can order the detention of the non-national for the minimum time necessary to ensure that the expulsion is conducted within the time period set by the competent authority that has decided the expulsion." Further, according to Article 84 of the IL, the Paraguayan immigration authority (*Dirección General de Migraciones* or DGM) is only entitled to order the expulsion of a non-citizens in the cases provided by Article 81(1); (3) and (4). Article 81 provides that the competent authority will

resolve the expulsion of a non-citizen in the following cases: (1) when the person has entered the country clandestinely; (3) when the person remains in the country after the expiration of the authorised period of stay; and (4) when the person remains in the national territory once their residence permit has been cancelled and will not leave the country by the given deadline.

- 1.6** In response to the COVID-19 pandemic, Paraguay took specific measures concerning non-citizens, including prolonging the validity of permits that expired after 13 March 2020, and suspending the issuing of fines for persons who overstay.ⁱⁱⁱ
- 1.7** Paraguay has continued to enforce deportations during the crisis despite calls to halt these measures during this time.^{iv} The country's Immigration Service (*Dirección General de Migraciones*, DGM) confirmed to the GDP that deportations had continued, although not to destinations where border closures prevented returns. The DGM highlighted cases of Brazilians who were deported for unspecified reasons, as well as non-nationals residing in border areas (such as Ciudad del Este and Pedro Juan) who were ordered to leave the country for breaking quarantine rules.^v
- 1.8** Thousands of people are reported to have been held in state-run quarantine facilities that observers have highlighted as unsanitary, and which are exposing thousands of returning Paraguayan migrants to “inhumane conditions without adequate food, water and medical care.”^{vi} According to Amnesty International, by late May authorities had established 84 quarantine centres (in warehouses and other buildings such as schools), and as of late June 2020 more than 8,000 persons—mostly Paraguayan migrants returning from Brazil, having lost their jobs as a result of the pandemic—had been mandatorily quarantined in these facilities. Reports indicate that some persons have been held for far longer than the recommended 14 days, and that at the start of the crisis at least, conditions were inappropriate and lacked basic facilities. Since June, observers have noted improvements in conditions. More recently, many quarantine facilities have reportedly been closed.^{vii}

2. RECOMMENDATIONS DURING THE 2nd CYCLE OF UPR

- 2.1** During the 2nd cycle of the Universal Period Review of Paraguay (32nd session, January 2016), Paraguay agreed to examine several recommendations relevant to its immigration enforcement practices.^{viii} These included:
- Consider withdrawing its reservation to Articles 76 and 77 of the International Convention on the Protection of the Rights of All Migrant Workers and members of Their Families (Philippines) (para. 105.2);
 - Ensure the issuance of birth certificates to all children born on its territory, regardless of the status of their parents (Poland) (para. 102.59);
 - Appoint a new Ombudsman without further delay, after the mandate of the present incumbent expired in 2008, while ensuring that the institution compiles fully with the Paris Principles (Germany) (para. 102.20);
 - Implement a status determination procedure to ensure the protection of stateless persons who are not refugees (Portugal) (para. 102.184).

3. RECOMMENDATIONS FROM OTHER HUMAN RIGHTS BODIES

3.1 Since Paraguay's second periodic review, the UN Human Rights Committee has recommended that authorities ensure that national legislation on immigration, including the country's Refugee Law, are "consistent with the Covenant and other international standards, and take the legal and administrative measures necessary to this end."^{ix}

4. SUGGESTED RECOMMENDATIONS

- Ensure that immigration detention is only used as a measure of last resort, when it is necessary and proportionate.
- Cease the deportation of non-nationals during the pandemic.
- Ensure that people who may be held in detention while awaiting deportation are held separately from people imprisoned for criminal prosecution.
- Provide up-to-date information on where—and in what conditions—non-nationals are detained.
- Disclose disaggregated data on the number of migrants, refugees, and asylum seekers who are detained.
- Release detainees whose detention is unlawful or unnecessary, including anyone whose deportation is not possible amidst the COVID-19 pandemic.
- Adopt measures to ensure the protection of immigration detainees during the pandemic, and ensure detained populations have access to testing and treatment.
- Disclose information clarifying the steps that are being taken to protect immigration detainees during the pandemic.
- Ensure that victims of trafficking are protected against detention by implementing systematic, proactive screening and identification procedures.

ⁱ Global Detention Project, "COVID-19 Global Immigration Detention Platform," <https://www.globaldetentionproject.org/covid-19-immigration-detention-platform>

ⁱⁱ UNHCR, "Paraguay Fact Sheet (June 2020)," June 2020, <https://reporting.unhcr.org/sites/default/files/PAR%20factsheet%20-%20June%202020%20FINAL.pdf>

ⁱⁱⁱ Global Detention Project, "COVID-19 Global Immigration Detention Platform – Paraguay," <https://www.globaldetentionproject.org/covid-19-immigration-detention-platform#Paraguay>

^{iv} UN Network on Migration, "Forced Returns of Migrants Must be Suspended in Times of Covid-19," 13 May 2020, <https://www.unicef.org/press-releases/forced-returns-migrants-must-be-suspended-times-covid-19>

^v Dirección General de Migraciones (Rafael Arrego), Email to Michael Flynn (Global Detention Project), 28 August 2020, <https://www.globaldetentionproject.org/paraguay-direccion-general-de-migracion-covid-19-letter-to-the-global-detention-project-7-august-2020>

^{vi} Amnesty, "Tens of Thousands Locked Up in "Punitive" State-Run Quarantine Centres Across Venezuela, El Salvador and Paraguay – New Report," 17 September 2020, <https://www.amnesty.org.uk/press-releases/tens-thousands-locked-punitive-state-run-quarantine-centres-across-venezuela-el>

^{vii} Amnesty International, "When Protection Becomes Repression: Mandatory Quarantines Under COVID-19 in the Americas," 17 September 2020, <https://www.amnesty.org/download/Documents/AMR0129912020ENGLISH.PDF>

^{viii} UN Human Rights Council, "Report of the Working Group on the Universal Periodic Review, A/HRC/32/9," 12 April 2016, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/075/49/PDF/G1607549.pdf?OpenElement>

^{ix} UN Human Rights Committee, "Concluding Observations on the Fourth Periodic Report of Paraguay, CCPR/C/PRY/CO/4," 20 August 2019, <https://uhri.ohchr.org/document/index/B4EFA012-1C4B-4BC1-8306-31427CF84956>