**COMPLIANCE INDICATORS**

**Protocol against the Smuggling of Migrants by Land, Sea and Air**

**¿What do these indicators measure?**

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| **General Indicators** | **Intermediate Indicators** | **Specific Indicators** |
| I. Drafting and passing of **criminal legislation** that punishes the crime of migrant smuggling (MS) by land, sea, and air and related activities. | Criminal definition of:   1. Migrant smuggling and the minimum aggravating circumstances. 2. Attempted migrant smuggling. 3. Aiding and abetting migrant smuggling. 4. Degrees of commission for the crime of migrant smuggling (material commission  and incitement). 5. Fabrication, falsification, or alteration of identity or travel documents in order to provide same to migrants subject to smuggling (MSS) and/or supplying of original documents to a person other than that named therein. 6. Intentional sheltering or concealment of MSS. | Number of convictions in which the statutes established to punish migrant smuggling in its various modalities, degrees of execution, and participation, as well as the crimes related thereto, have been effectively enforced. |
| II. Drafting and passing of **criminal procedure provisions** related to the prosecution of MS cases. | Application of the provisions regarding the non-penalization of migrants subject to smuggling, in accordance with Article 5 of the Protocol. | Number of cases in which the non-penalization of migrants subject to smuggling has been effectively applied. |
| III. Creation and integration of **State agencies** dedicated to investigating and prosecuting MS. | Functioning of specialized police and prosecution units. | 1. Number of specialized police units in the country. 2. Number of specialized MS prosecutorial units. |
| IV. Design and approval of **specialized national legislation, policies, and plans** to combat migrant smuggling. | Mechanisms for the application of specialized national legislation, policies, and plans to combat MS. | Number of MS cases in which national statutory provisions, policies, and plans have been effectively applied to combat MS. |
| V. Creation and integration of **State agencies** in charge of overseeing and/or applying State actions against migrant smuggling, as well as attention and protection for the affected persons. | Availability of facilities and human, technical, economic, and procedural resources for the functioning of secretariats, institutes, coalitions, or committees to combat migrant smuggling. | Number of cases in which the governing entity designated by the State for comprehensively addressing MS has intervened. |
| VI. Drafting and application of legal regulations, plans, and permanent programs that establish measures to **prevent** migrant smuggling through the **detection** of cases, **dissemination** of information to the general public, and **training** of officials and civil society actors. | Availability of organizational, human, technical, and economic resources for the development and implementation of State programs to promote and reinforce human development, detect migrant smuggling activity, design and publish campaigns aimed at different sectors,  and provide ongoing training of officials and  civil society actors. | 1. Number of detection operations carried out by different authorities and their degree of effectiveness. 2. Mechanisms established to detect identity and travel documents that have been altered, falsified, or used by another person. 3. Profiles to identify air, sea, or overland routes and vehicles used for MS. 4. Profiles to identify locations used for MS. 5. Number of campaigns and other actions designed to disseminate relevant information against migrant smuggling  and discourage the demand therefor and their degree of effectiveness. 6. Number of officials and civil society actors trained on the various issues related to MS. |
| VII. Drafting and passing of statutes, plans, or strategies aimed at **serving and protecting MSS** in strict observance of protection for their fundamental human rights. | Allocation of structural, human, technical,  and economic resources for the design and execution of plans for serving and protecting MSS that include: basic needs, comprehensive healthcare, shelters, migratory protection (mechanisms for requesting and processing a migrant’s documents; voluntary, safe, and assisted repatriation; application for temporary stay; among others), and judicial protection based on a migrant’s status as part of the prosecutorial process. | 1. Number of migrants served and protected, categorized by sex, age, and nationality. 2. Number of requests for migratory documentation for migrants coordinated with consular officials, categorized by sex, age, and nationality. 3. Number of migrants sheltered, categorized by sex, age, and nationality. 4. Number of voluntary repatriation processes effectively carried out, categorized by sex, age, and nationality. 5. Number of migrants placed in victim and witness protection programs. 6. Number of migrants for whom special protection mechanisms were applied by the courts (for example, the use of Gesell cameras or closed hearings). |
| VIII. Drafting and application of plans or agreements for **coordination** between national entities and **cooperation** between countries at the regional or extra-regional level for detecting, investigating, and prosecuting the crime of migrant smuggling that facilitate the exchange of information and experiences. | Mechanisms established so that communication channels exist and function between national agencies and international bodies for purposes  of coordinating internal or external actions to combat migrant smuggling. | 1. Number of international judicial assistance efforts, categorized by passive or active nature and by requesting and requested country. 2. Number of MS cases in which coordination mechanism between national entities was effectively applied (for example, activation of protocols). 3. Number of cases in which the exchange of intelligence was applied by police agencies. 4. Number of joint operations carried out in relation to MS cases, categorized by participating countries. |

**a) General Indicators**

| **Category** | **General Indicator** | **Palermo Protocol** | **Means of Verification** | | **Status of Indicator** |
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| **Criminal Legislation** | The State has drafted and passed criminal legislation that punishes the crime of migrant smuggling by land, sea, and air and related activities. | **Article 2.** Statement of Purpose  The purpose of this Protocol is to prevent and **combat** the smuggling of migrants, as well as to promote cooperation among States Parties to that end, while protecting the rights of smuggled migrants.  **Article 4**. Scope of Application  This Protocol shall apply, except as otherwise stated herein, to  the prevention, **investigation, and prosecution** of the offenses established in accordance with Article 6 of this Protocol, where the offenses are transnational in nature and involve an organized criminal group, as well as to the protection of the rights of persons who have been the object of such offenses.  **Article 6**. Criminalization  1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offenses, when committed intentionally and in order to obtain, directly or indirectly,  a financial or other material benefit:  (a) The smuggling of migrants,  (...) |  | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) | |
| **Criminal Procedure Codes** | The State has drafted and passed criminal procedure provisions that guarantee the non-penalization of migrants in the circumstances foreseen in Article 5 of the Protocol. | **Article 5**. Criminal liability of migrants  Migrants **shall not become liable to criminal prosecution** under this Protocol for the fact of **having been the object of conduct set forth in Article 6** of this Protocol. |  |  | |
| **Prevention** | The State has drafted and implemented regulations, programs, and permanent plans that establish measures to prevent migrant smuggling through the promotion of human development, detec-tion of cases, dissemination of information to the general public, and training of officials and civil society actors. | **Article 2.** Statement of Purpose  The purpose of this Protocol is to **prevent** and combat the smuggling of migrants, as well as to promote cooperation among States Parties to that end, while protecting the rights of smuggled migrants.  **Article 4**. Scope of Application  This Protocol shall apply, except as otherwise stated herein, to  the **prevention**, investigation, and prosecution of the offenses established in accordance with Article 6 of this Protocol, where the offenses are transnational in nature and involve an organized criminal group, as well as to the protection of the rights of persons who have been the object of such offenses. |  | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) | |
| **Attention and Protection** | The State has drafted, passed, and implemented plans and/or strategies aimed at **serving and protecting MSS** in strict observance of protec-tion for their fundamental human rights. | **Article 2.** Statement of Purpose  The purpose of this Protocol is to prevent and combat the smuggling of migrants, as well as to promote cooperation among States Parties to that end, **while protecting the rights of smuggled migrants**.  **Article 4**. Scope of Application  This Protocol shall apply, except as otherwise stated herein, to  the prevention, investigation, and prosecution of the offenses established in accordance with Article 6 of this Protocol, where the offenses are transnational in nature and involve an organized criminal group, **as well as to the protection of the rights of persons who have been the object of such offenses**.  **Article 16**. Protection and Assistance Measures  (...)  3. Each State Party shall afford **appropriate assistance** to migrants whose lives or safety are endangered by reason of being the object of conduct set forth in Article 6 of this Protocol.  4. In applying the provisions of this article, States Parties shall take into account the **special needs of women and children**.  (...)  **Article 19**. Saving clause  1. Nothing in this Protocol shall affect the other rights, obligations and responsibilities of States and individuals under international law, including **international humanitarian law and international human rights law and, in particular, where applicable, the 1951 Convention and the 1967 Protocol relating to the Status of Refugees and the principle of non-refoulement as contained therein**.  2. The measures set forth in this Protocol shall be interpreted and applied in a way **that is not discriminatory to persons** on the ground that they are the object of conduct set forth in Article 6 of this Protocol. The interpretation and application of those measures shall be consistent with internationally recognized principles of non-discrimination. |  | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) | |
| **International Cooperation** | The State has drafted, passed, and implemented legal provi-sions, plans, or agreements for **cooperation** between countries at the regional or extra-regional level for detecting, investigating, and prosecuting the crime of migrant smuggling that facilitate the exchange of information and experiences and guarantee the protection of MSS in strict observance of humanitarian law. | **Article 2.** Statement of Purpose  The purpose of this Protocol is to prevent and combat the smuggling of migrants, as well as to promote **cooperation among States Parties** to that end, while protecting the rights of smuggled migrants.  **Article 17.** Agreements and Arrangements  States Parties shall consider the conclusion of bilateral or regional agreements or operational arrangements or understandings aimed at:  **(a) Establishing the most appropriate and effective measures to prevent and combat the conduct set forth in Article 6 of this Protocol; or**  **(b) Enhancing the provisions of this Protocol among themselves.** |  | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) | |

**b) Intermediate Indicators**

| **Category** | **General Indicator** | **Palermo Protocol** | **Means of Verification** | **Status of Indicator** |
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| **Legislation: Criminalization  of MS** | Migrant smuggling and the minimum aggravating circum-stances thereof are duly defined as a crime. | **Article 6**. Criminalization  1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offenses, when committed intentionally and in order to obtain, directly or indirectly, a financial or other material benefit:  (a) **The smuggling of migrants**;  (...)  3. Each State Party shall adopt such legislative and other measures as may be necessary to establish as **aggravating circumstances** to the offenses established in accordance with Paragraph 1(a), (b)(i), and (c) of this article and, subject to the basic concepts of its legal system, to the offenses established in accordance with Paragraph 2(b) and (c) of this article, **circumstances**:  (a) **That endanger, or are likely to endanger, the lives or safety of the migrants concerned; or**  (b) **That entail inhuman or degrading treatment, including for exploitation, of such migrants.** |  | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
| **Legislation: Criminalization  of MS** | Attempted MS is defined as a crime. | **Article 6**. Criminalization  1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offenses, when committed intentionally and in order to obtain, directly or indirectly, a financial or other material benefit:  (...)  2. Each State Party shall also adopt such legislative and other measures as may be necessary to establish as criminal offenses:  (a) Subject to the basic concepts of its legal system, **attempting to commit an offense established** in accordance with Paragraph 1 of this article; |  | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
| Aiding and abetting MS is defined as a crime. | **Article 6**. Criminalization  1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offenses, when committed intentionally and in order to obtain, directly or indirectly, a financial or other material benefit:  (...)  2. Each State Party shall also adopt such legislative and other measures as may be necessary to establish as criminal offenses:  (...)  (b) Participating as an **accomplice in an offense established** in accordance with Paragraph 1 (a), (b)(i), or (c) of this article and, subject to the basic concepts of its legal system, participating as an accomplice in an offense established in accordance with Paragraph 1(b)(ii) of this article;  (...) |  | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
| Material commission and incitement of MS are defined as crimes. | **Article 6**. Criminalization  1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offenses, when committed intentionally and in order to obtain, directly or indirectly, a financial or other material benefit:  (...)  2. Each State Party shall also adopt such legislative and other measures as may be necessary to establish as criminal offenses:  (...)  (c) **Organizing or directing other persons** to commit an offense established in accordance with Paragraph 1 of this article.  (…) |  | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
|  | The fabrication, falsification, or alteration of identity or travel documents in order to provide same to MSS and/or supplying of original documents to a person other than that named therein are duly defined as crimes. | **Article 6**. Criminalization  1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offenses, when committed intentionally and in order to obtain, directly or indirectly, a financial or other material benefit:  (...)  (i) Producing a fraudulent travel or identity document;  (ii) Procuring, providing, or possessing such a document;  (...) |  | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
|  | The intentional sheltering  or concealment of MSS is defined as a crime. | **Article 6**. Criminalization  1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offenses, when committed intentionally and in order to obtain, directly or indirectly, a financial or other material benefit:  (...)  (c) Enabling a person who is not a national or a permanent resident to remain in the State concerned without complying with the necessary requirements for legally remaining in the State by the means mentioned in Subparagraph (b) of this paragraph or any other illegal means.  (...) |  | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
| **Criminal Procedure Codes** | Specific provisions regarding the non-penalization of MSS, in accordance with Article 5 of the Protocol, have been incorporated into criminal procedure codes or applicable legislation. | **Article 5**. Criminal liability of migrants  Migrants **shall not become liable to criminal prosecution** under this Protocol for the fact of having been the object of conduct set forth in Article 6 of this Protocol. |  | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
| **Prevention**  **Human Development** | The legal provisions, plans, and/or State programs for promoting or reinforcing human development that pre-vents MS have been approved and/or implemented, and the structural, organizational, human, technical, and economic resources for the execution thereof have been allocated. | **Article 15.** Other Prevention Measures  (...)  3. Each State Party shall promote or strengthen, as appropriate, **development programs and cooperation at the national, regional, and international levels, taking into account the socio-economic realities of migration and paying special attention to economically and socially depressed areas, in order to combat the root socio-economic causes of the smuggling of migrants, such  as poverty and underdevelopment.** |  | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
| **Prevention**  **Detection** | The legal provisions, plans, and/or State programs for preventing and detecting situations involving MS have been approved and/or implemented, and the organizational, human, technical, and economic resources for the execution thereof have been allocated. | **Article 11.** Border Measures  1. Without prejudice to international commitments in relation to the free movement of people, States Parties shall strengthen, to the extent possible, such border controls as may be necessary to prevent and detect the smuggling of migrants.  2. Each State Party shall adopt legislative or other appropriate measures to **prevent, to the extent possible, means of transport operated by commercial carriers from being used in the commission of the offense established in accordance with Article 6, Paragraph 1(a), of this Protocol.**  **3. Where appropriate, and without prejudice to applicable international conventions, such measures shall include establishing the obligation of commercial carriers, including any transportation company or the owner or operator of any means of transport, to ascertain that all passengers are in possession of the travel documents required for entry into the receiving State.**  **4. Each State Party shall take the necessary measures, in accordance with its domestic law, to provide for sanctions in cases of violation of the obligation set forth in Paragraph 3 of this article.**  **5. Each State Party shall consider taking measures that permit, in accordance with its domestic law, the denial of entry or revocation of visas of persons implicated in the commission of offenses established in accordance with this Protocol.**  **6. Without prejudice to Article 27 of the Convention, States Parties shall consider strengthening cooperation among border control agencies by, *inter alia*, establishing and maintaining direct channels of communication.**  **Article 12.** Security and Control of Documents  Each State Party shall take such measures as may be necessary, within available means:  **(a) To ensure that travel or identity documents issued by it are of such quality that they cannot easily be misused and cannot readily be falsified or unlawfully altered, replicated, or issued; and**  **(b) To ensure the integrity and security of travel or identity documents issued by or on behalf of the State Party and to prevent their unlawful creation, issuance, and use.**  **Article 13.** Legitimacy and Validity of Documents  **At the request of another State Party, a State Party shall, in accordance with its domestic law, verify within a reasonable time the legitimacy and validity of travel or identity documents issued or purported to have been issued in its name and suspected of being used for purposes of conduct set forth in Article 6 of this Protocol.** |  | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
| **Prevention**  **Information** | The legal provisions, plans, and/or State programs for preventing and publicizing MS as a crime have been approved and/or implemented, and the structural, organizational, human, technical, and economic resources that guarantee the execution thereof have been allocated. | **Article 15.** Other Prevention Measures  1. Each State Party shall take measures to ensure that it provides or strengthens **information programs** to increase public awareness of the fact that the conduct set forth in Article 6 of this Protocol is a criminal activity frequently perpetrated by organized criminal groups for profit and that it poses serious risks to the migrants concerned.  2. In accordance with Article 31 of the Convention, States Parties shall cooperate in the field of **public information for the purpose of preventing potential migrants from falling victim to organized criminal groups**.  (...) |  | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
| **Prevention**  **Training** | The legal provisions, plans, and/or State programs for training officials and civil society actors regarding MS have been approved and/or implemented, and the organizational, human, technical, and economic resources for the execution thereof have been allocated. | **Article 14.** Training and Technical Cooperation  1. **States Parties shall provide or strengthen specialized training for immigration and other relevant officials in preventing the conduct set forth in Article 6 of this Protocol and in the humane treatment of migrants who have been the object of such conduct, while respecting their rights as set forth in this Protocol.**  2. States Parties shall cooperate with each other and with competent international organizations, non-governmental organizations, other relevant organizations, and other elements of civil society as appropriate to ensure that there is adequate personnel **training in their territories to prevent, combat, and eradicate the conduct set forth in Article 6 of this Protocol** and to protect the rights of migrants who have been the object of such conduct. Such training shall include:  **(a) Improving the security and quality of travel documents;**  **(b) Recognizing and detecting fraudulent travel or identity documents;**  **(c) Gathering criminal intelligence, relating in particular to the identification of organized criminal groups known to be or suspected of being engaged in conduct set forth in Article 6 of this Protocol, the methods used to transport smuggled migrants, the misuse of travel or identity documents for purposes of conduct set forth in Article 6, and the means of concealment used in the smuggling of migrants;**  **(d) Improving procedures for detecting smuggled persons at conventional and non-conventional points of entry and exit; and**  **(e) The humane treatment of migrants and the protection of their rights as set forth in this Protocol.**  **3. States Parties with relevant expertise shall consider providing technical assistance to States that are frequently countries of origin or transit for persons who have been the object of conduct set forth in Article 6 of this Protocol. States Parties shall make every effort to provide the necessary resources, such as vehicles, computer systems, and document readers, to combat the conduct set forth in Article 6.** |  | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
| **Attention and Protection**  **Assistance Measures**  **Protection  of Rights**  **Non-**  **Discrimination**  **Refuge/Asylum**  **Principle of  Non-Refoulement**  **Consular Assistance** | The legal provisions, plans, or programs for serving and protecting MSS have been approved and/or implemen-ted, and the organizational, human, technical, and economic resources that guarantee the execution thereof have been allocated. | **Article 2.** Statement of Purpose  The purpose of this Protocol is to prevent and combat the smuggling of migrants, as well as to promote cooperation among States Parties to that end, **while protecting the rights of smuggled migrants**.  **Article 16**. Protection and Assistance Measures  1. In implementing this Protocol, each State Party shall take, consistent with its obligations under international law, **all appropriate measures, including legislation if necessary, to preserve and protect the rights of persons who have been the object of conduct set forth in Article 6 of this Protocol as accorded under applicable international law, in particular the right to life and the right not to be subjected to torture or other cruel, inhuman, or degrading treatment or punishment.**  **2. Each State Party shall take appropriate measures to afford migrants appropriate protection against violence that may be inflicted upon them, whether by individuals or groups, by reason of being the object of conduct set forth in Article 6 of this Protocol.**  **3. Each State Party shall afford appropriate assistance to migrants whose lives or safety are endangered by reason of being the object of conduct set forth in Article 6 of this Protocol.**  **4. In applying the provisions of this article, States Parties shall take into account the special needs of women and children.**  **Article 19**. Saving clause  1. Nothing in this Protocol shall affect the other rights, obligations and responsibilities of States and individuals under international law, including **international humanitarian law and international human rights law and, in particular, where applicable, the 1951 Convention and the 1967 Protocol relating to the Status of Refugees and the principle of non-refoulement as contained therein.**  2. The measures set forth in this Protocol shall be interpreted and applied in a way that is **not discriminatory to persons on the ground that they are the object of conduct set forth in Article 6 of this Protocol. The interpretation and application of those measures shall be consistent with internationally recognized principles of non-discrimination.** |  | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
| **Cooperation**  **Smuggling by Sea** | The legal regulations, proce-dures, and/or mechanisms established by the State for creating or improving formal and informal communication channels with other countries to coordinate actions related to preventing and combatting **migrant smuggling by sea** have been approved and/or implemented, and the organizational, human, technical, and economic resources that guarantee the execution thereof have been allocated. | **Article 7.** Cooperation  States Parties shall cooperate to the fullest extent possible to **prevent and suppress the smuggling of migrants by sea**, in accordance with the international law of the sea.  **Article 8.** Measures against the Smuggling of Migrants by Sea  1. A State Party that has reasonable grounds to suspect that a vessel that is flying its flag or claiming its registry, that is without nationality or that, though flying a foreign flag or refusing to show a flag, is in reality of the nationality of the State Party concerned, is engaged in the smuggling of migrants by sea, **may request the assistance of other States Parties in suppressing the use of the vessel for that purpose. The States Parties so requested shall render such assistance to the extent possible within their means.**  2. A State Party that has reasonable grounds to suspect that a vessel exercising freedom of navigation in accordance with international law and flying the flag or displaying the marks of registry of another State Party, is engaged in the smuggling of migrants by sea, may so notify the flag State, request confirmation of registry and, if confirmed, **request authorization from the flag State to take appropriate measures with regard to that vessel. The flag State may authorize the requesting State, *inter alia*:**  **(a) To board the vessel;**  **(b) To search the vessel; and**  **(c) If evidence is found that the vessel is engaged in the smuggling of migrants by sea, to take appropriate measures with respect to the vessel and persons and cargo on board, as authorized by the flag State.**  **3. A State Party that has taken any measure in accordance with Paragraph 2 of this article shall promptly inform the flag State concerned of the results of that measure.**  **4. A State Party shall respond expeditiously to a request from another State Party to determine whether a vessel that is claiming its registry or flying its flag is entitled to do so and to a request for authorization made in accordance with Paragraph 2 of this article.**  5. A flag State may, consistent with Article 7 of this Protocol, subject its authorization to conditions to be agreed by it and the requesting State, including conditions relating to responsibility and the extent of effective measures to be taken. A State Party shall take no additional measures without the express authorization of the flag State, except those necessary to relieve imminent danger to the lives of persons or those which derive from relevant bilateral or multilateral agreements.  6. **Each State Party shall designate an authority or, where necessary, authorities to receive and respond to requests for assistance, for confirmation of registry or of the right of a vessel to fly its flag, and for authorization to take appropriate measures.** Such designation shall be notified through the Secretary- General to all other States Parties within one month of the designation.  7. **A State Party that has reasonable grounds to suspect that a vessel is engaged in the smuggling of migrants by sea and is without nationality, or may be assimilated to a vessel without nationality, may board and search the vessel. If evidence confirming the suspicion is found, that State Party shall take appropriate measures in accordance with relevant domestic and international law.**  Article 9. Safeguard clauses  1. Where a State Party takes measures against a vessel in accordance with Article 8 of this Protocol, it shall:  **(a) Ensure the safety and humane treatment of the persons on board;**  **(b) Take due account of the need not to endanger the security of the vessel or its cargo;**  **(c) Take due account of the need not to prejudice the commercial or legal interests of the flag State or any other interested State;**  **(d) Ensure, within available means, that any measure taken with regard to the vessel is environmentally sound.**  **2. Where the grounds for measures taken pursuant to Article 8 of this Protocol prove to be unfounded, the vessel shall be compensated for any loss or damage that may have been sustained, provided that the vessel has not committed any act justifying the measures taken.**  **3. Any measure taken, adopted, or implemented in accordance with this chapter shall take due account of the need not to interfere with or to affect:**  **(a) The rights and obligations and the exercise of jurisdiction of coastal States in accordance with the international law of the sea; or**  **(b) The authority of the flag State to exercise jurisdiction and control in administrative, technical, and social matters involving the vessel.**  **4. Any measure taken at sea pursuant to this chapter shall be carried out only by warships or military aircraft, or by other ships or aircraft clearly marked and identifiable as being on government service and authorized to that effect.** |  | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
| **Cooperation**  **Repatriation** | The legal regulations, proce-dures, and/or mechanisms established by the State for creating or improving formal and informal communication channels with other countries to coordinate actions related to the **repatriation of MSS** have been approved and/or implemented, and the organizational, human, technical, and economic resources that guarantee the execution thereof have been allocated. | **Article 18.** Return of Smuggled Migrants  1. Each State Party agrees to facilitate and accept, without undue or unreasonable delay, **the return of a person who has been the object of conduct set forth in Article 6 of this Protocol** and who is its national or who has the right of permanent residence in its territory at the time of return.  2. Each State Party shall consider the possibility of facilitating and accepting the return of a person who has been the object of conduct set forth in Article 6 of this Protocol and who had the right of permanent residence in its territory at the time of entry into the receiving State in accordance with its domestic law.  3. At the request of the receiving State Party, a requested State Party shall, without undue or unreasonable delay, verify whether a person who has been the object of conduct set forth in Article 6 of this Protocol is its national or has the right of permanent residence in its territory.  4. In order to facilitate the return of a person who has been the object of conduct set forth in Article 6 of this Protocol and is without proper documentation, the State Party of which that person is a national or in which he or she has the right of permanent residence shall agree to issue, at the request of the receiving State Party, such travel documents or other authorization as may be necessary to enable the person to travel to and re-enter its territory.  5. Each State Party involved with the return of a person who has been the object of conduct set forth in Article 6 of this Protocol shall take all appropriate measures to carry out the return in an orderly manner and with due regard for the safety and dignity of the person.  6. States Parties may cooperate with relevant international organizations in the implementation of this article.  7. This article shall be without prejudice to any right afforded to persons who have been the object of conduct set forth in Article 6 of this Protocol by any domestic law of the receiving State Party.  8. This article shall not affect the obligations entered into under any other applicable treaty, bilateral or multilateral, or any other applicable operational agreement or arrangement that governs, in whole or in part, the return of persons who have been the object of conduct set forth in Article 6 of this Protocol. |  |  |
| **Cooperation**  **Information Exchange** | The legal regulations, proce-dures, and/or mechanisms established by the State for creating or improving formal and informal communication channels with other countries to exchange information rela-ted to statutes and procedures for preventing and combatting migrant smuggling, intelligence, and good practices for investi-gating and prosecuting this crime, have been approved and/or implemented, and the organizational, human, technical, and economic resources that guarantee the execution thereof have been allocated. | **Article 10.** Information  1. Without prejudice to Articles 27 and 28 of the Convention, States Parties, in particular those with common borders or located on routes along which migrants are smuggled, shall, for the purpose of achieving the objectives of this Protocol, exchange among themselves, consistent with their respective domestic legal and administrative systems, relevant information on matters such as:  (a) Embarkation and destination points, as well as routes, carriers and means of transportation, known to be or suspected of being used by an organized criminal group engaged in conduct set forth in Article 6 of this Protocol;  (b) The identity and methods of organizations or organized criminal groups known to be or suspected of being engaged in conduct set forth in Article 6 of this Protocol;  (c) The authenticity and proper form of travel documents issued by a State Party and the theft or related misuse of blank travel or identity documents;  (d) Means and methods of concealment and transportation of persons, the unlawful alteration, reproduction, or acquisition or other misuse of travel or identity documents used in conduct set forth in Article 6 of this Protocol, and ways of detecting them;  (e) Legislative experiences and practices and measures to prevent and combat the conduct set forth in Article 6 of this Protocol; and  (f) Scientific and technological information useful to law enforcement, so as to enhance each other’s ability to prevent, detect, and investigate the conduct set forth in Article 6 of this Protocol and to prosecute those involved.  2. A State Party that receives information shall comply with any request by the State Party that transmitted the information that places restrictions on its use. |  |  |

**c) Specific Indicators**

| **Category** | **General Indicator** | **Palermo Protocol** | **Means of Verification** | **Status of Indicator** |
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| **Legislation: Criminalization  of MS** | Convictions have been obtained based on the criminalization of migrant smuggling and the aggravating circumstances thereof according to its degree of execution (material, attempted, and accessory perpetration). | ***Article 6.*** *Criminalization* |  | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
|  | Convictions have been obtained to punish those who fabricate, falsify, or alter identity or travel documents to provide same to MSS and/or who supply original documents to a person other than that named therein. | ***Article 6.*** *Criminalization* |  | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
|  | Convictions have been obtained to punish the intentional sheltering or concealment of MSS. | ***Article 6.*** *Criminalization* |  | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
| **Criminal Procedure Codes** | Administrative or judicial rulings have been issued showing the non-penalization of MSS in accordance with Article 5 of the Protocol. | ***Article 6.*** *Criminal Liability of Migrants* |  | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
| **Prevention**  **Human Development** | The implementation of legal provisions, plans, and/or State programs aimed at preventing MS has produced qualifiable and quantifiable results related to strengthening human development for certain sectors of the population that are vulnerable to migrant smuggling. | ***Article 6.*** *Other Prevention Measures* |  | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
| **Prevention**  **Detection** | The implementation of legal provisions, plans, and/or State programs aimed at preventing and detecting situations involving MS has produced qualifiable and quantifiable results that can be measured by the number and quality of procedures established,the number of MS cases detected along borders, and the number of cases detected involving fraudulent identity and travel documents.\*\* | ***Article 11.*** *Border Measures*  ***Article 12.*** *Security and Control of Documents*  ***Article 13.*** *Legitimacy and Validity of Documents* |  | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
| **Prevention**  **Information** | The implementation of legal provisions, plans, and/or State programs aimed at preventing and publicizing MS as a crime has produced qualifiable and quantifiable results relating to the number and quality of instruments designed and the number of persons informed (categorized by age, sex, and geographical location). | ***Article 10.*** *Information* |  | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
| **Prevention**  **Training** | The implementation of legal provisions, plans, and/or State programs for training officials and civil society actors regarding MS has produced qualifiable and quantifiable results in the number and quality of training activities designed and the number of officials and civil society actors that have been trained on issues related to MS. | ***Article 14.*** *Training and Technical Cooperation* |  | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
| **Assistance  Measures** | The implementation of legal provisions, plans, and/or State programs aimed at serving and protecting MSS has produced qualifiable and quantifiable results in the number and quality of programs established and the number of migrants assisted and protected (categorized by nationality, sex, age, and type of attention or protection). | ***Article 2.*** *Statement of Purpose*  ***Article 16****. Protection and Assistance Measures* |  | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
| **Attention and Protection**  **Rights Protection**  **Non-Discrimination**  **Right to Refuge and/or Asylum**  **Application of the Principle of  Non-Refoulement**  **Right to Consular Assistance** | The implementation of legal provisions, plans, and/or State programs aimed at protecting MSS rights has produced qualifiable and quantifiable results in the number and quality of programs established and the number of migrants protected (categorized by nationality, sex, age, and type of attention or protection). | ***Article 19****. Saving Clause* |  |  |
| **Cooperation**  **Smuggling by Sea** | The implementation of legal regulations, procedures, and/or mechanisms established by the State for creating or improving formal and informal communication channels with other countries to coordinate actions related to preventing and combatting **migrant smuggling by sea** have produced qualifiable and quantifiable results in the number and quality of procedures established and the number of cases detected. | ***Article 7.*** *Cooperation*  ***Article 8.*** *Measures against the Smuggling of Migrants by Sea*  ***Article 9.*** *Safeguard Clauses* |  | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
| **Cooperation**  **Repatriation** | The implementation of legal regulations, procedures, and/or mecha-nisms established by the State for coordinating actions related to the **repatriation of MSS** have produced qualifiable and quantifiable results in the number and quality of repatriation processes carried out and the number of repatriated migrants (categorized by nationality, sex, and age). | ***Article 18.*** *Return of Smuggled Migrants* |  |  |
| **Cooperation**  **Information Exchange** | The implementation of legal regulations, procedures, and/or mecha-nisms established by the State for creating or improving formal and informal communication channels with other countries to exchange information related to statutes and procedures for preventing and combatting migrant smuggling, intelligence, and good practices for investigating and prosecuting this crime, have produced qualifiable and quantifiable results in the number and quality of procedures established and the number of cases detected. | ***Article 10.*** *Information* |  |  |

**APPENDIX**

***Checklist: Compliance Indicators for the Protocol against the Smuggling of Migrants by Land, Sea and Air***

1. **General Indicators**

| **Category** | **Palermo Protocol** | **Status of Indicator** |
| --- | --- | --- |
| **Criminal Legislation** | **Criminal legislation exists to punish migrant smuggling.**  **Article 2,** **Article 4, Article 6.1(a)** | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
| **Criminal Procedure Codes** | The State has drafted and passed criminal procedure provisions that guarantee the non-penalization of migrants in the circumstances foreseen in Article 5 of the Protocol.  **Article 5** | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
| **Prevention** | The State has drafted and implemented regulations, programs, and permanent plans that establish measures to prevent migrant smuggling.  **Article 2,** **Article 4** | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
| **Attention and Protection** | The State has drafted, passed, and implemented plans and/or strategies aimed at **serving and protecting MSS** in strict observance of protection for their fundamental human rights.  **Article 2,** **Article 4, Article16.3** | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
| **International Cooperation** | The State has drafted, passed, and implemented legal provisions, plans, or agreements for **cooperation** between countries at the regional or extra-regional level for detecting, investigating, and prosecuting the crime of migrant smuggling that facilitate the exchange of information and experiences and guarantee the protection of MSS in strict observance of humanitarian law.  **Article 2, Article 17** | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |

1. **Intermediate Indicators**

| **Category** | **Palermo Protocol** | **Status of Indicator** |
| --- | --- | --- |
| **Legislation: Criminalization  of MS** | Migrant smuggling and the minimum aggravating circumstances thereof are duly defined as a crime.  **Article 6.1.3** | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
| **Legislation: Criminalization  of MS** | Attempted MS is defined as a crime.  **Article 6.2(a)** | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
| Aiding and abetting MS is defined as a crime.  **Article 6.2(b)** | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
| Material commission and incitement of MS are defined as crimes.  **Article 6.2(c)** | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
|  | The fabrication, falsification, or alteration of identity or travel documents in order to provide same to MSS and/or supplying of original documents to a person other than that named therein are duly defined as crimes.  **Article 6.1(i)** | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
|  | The intentional sheltering or concealment of MSS is defined as a crime.  **Article 6.1(c)** | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
| **Criminal Procedure Codes** | Specific provisions regarding the non-penalization of MSS, in accordance with Article 5 of the Protocol, have been incorporated into criminal procedure codes or applicable legislation.  **Article 5** | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
| **Prevention**  **Human Development** | The legal provisions, plans, and/or State programs for promoting  or reinforcing human development that prevents MS have been approved and/or implemented, and the structural, organizational, human, technical, and economic resources for the execution thereof have been allocated.  **Article 15.3** | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
| **Prevention**  **Detection** | The legal provisions, plans, and/or State programs for preventing and detecting situations involving MS have been approved and/or imple-mented, and the organizational, human, technical, and economic resources for the execution thereof have been allocated.  **Article 11, Article 12, Article 13** | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
| **Prevention**  **Information** | The legal provisions, plans, and/or State programs for preventing and publicizing MS as a crime have been approved and/or implemented, and the structural, organizational, human, technical, and economic resources that guarantee the execution thereof have been allocated.  **Article 15** | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
| **Prevention**  **Training** | The legal provisions, plans, and/or State programs for training officials and civil society actors regarding MS have been approved and/or implemented, and the organizational, human, technical, and economic resources for the execution thereof have been allocated.  **Article 14** | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
| **Attention and Protection**  **Assistance Measures**  **Rights Protection** | The legal provisions, plans, or programs for serving and protecting MSS have been approved and/or implemented, and the organizational, human, technical, and economic resources that guarantee the execution thereof have been allocated.  **Article 2, Article 16, Article 19** | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
| **Cooperation**  **Smuggling by Sea** | The legal regulations, procedures, and/or mechanisms established by the State for creating or improving formal and informal communica-tion channels with other countries to coordinate actions related to preventing and combatting **migrant smuggling by sea** have been approved and/or implemented, and the organizational, human, technical, and economic resources that guarantee the execution thereof have been allocated.  **Article 8, Article 9** | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
| **Cooperation**  **Repatriation** | The legal regulations, procedures, and/or mechanisms established by the State for creating or improving formal and informal communica-tion channels with other countries to coordinate actions related to the **repatriation of MSS** have been approved and/or implemented, and the organizational, human, technical, and economic resources that guarantee the execution thereof have been allocated.  **Article 18** | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
| **Cooperation**  **Information Exchange** | The legal regulations, procedures, and/or mechanisms established by the State for creating or improving formal and informal communica-tion channels with other countries to exchange information related to statutes and procedures for preventing and combatting migrant smuggling, intelligence, and good practices for investigating and prosecuting this crime, have been approved and/or implemented, and the organizational, human, technical, and economic resources that guarantee the execution thereof have been allocated.  **Article 10** | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |

1. **Specific Indicators**

| **Category** | **Palermo Protocol** | **Status of Indicator** |
| --- | --- | --- |
| **Legislation: Criminalization  of MS** | Convictions have been obtained based on the criminalization of migrant smuggling and the aggravating circumstances thereof according to its degree of execution (material, attempted, and accessory perpetration).  **Article 6** | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
|  | Convictions have been obtained to punish those who fabricate, falsify, or alter identity or travel documents to provide same to MSS and/or who supply original documents to a person other than that named therein.  **Article 6** | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
|  | Convictions have been obtained to punish the intentional sheltering or concealment of MSS.  **Article 6** | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
| **Criminal Procedure Codes** | Administrative or judicial rulings have been issued showing the non-penalization of MSS in accordance with Article 5 of the Protocol.  **Article 5** | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
| **Prevention**  **Human Development** | The implementation of legal provisions, plans, and/or State programs aimed at preventing MS has produced qualifiable and quantifiable results related to strengthening human development for a given number of populations that are vulnerable to migrant smuggling.  **Article 15** | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
| **Prevention**  **Detection** | The implementation of legal provisions, plans, and/or State programs aimed at preventing and detecting situations involving MS has pro-duced qualifiable and quantifiable results that can be measured by the number and quality of procedures established and the number of cases detected along borders and fraudulent identity and travel documents.  **Article 11, Article 12, Article 13** | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
| **Prevention**  **Information** | The implementation of legal provisions, plans, and/or State programs aimed at preventing and publicizing MS as a crime has produced qualifiable and quantifiable results relating to the number and quality of instruments designed and the number of persons informed (categorized by age, sex, and geographical location).  **Article 10** | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
| **Prevention**  **Training** | The implementation of legal provisions, plans, and/or State programs for training officials and civil society actors regarding MS has pro-duced qualifiable and quantifiable results in the number and quality  of training activities designed and the number of officials and civil society actors that have been trained on issues related to MS.  **Article 14** | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
| **Attention and Protection**  **Assistance Measures**  **Rights Protection** | The implementation of legal provisions, plans, and/or State programs aimed at serving and protecting MSS has produced qualifiable and quantifiable results in the number and quality of programs established and the number of migrants assisted and protected (categorized by nationality, sex, age, and type of attention or protection).  **Article 2, Article 16, Article 19** | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
| **Cooperation**  **Smuggling by Sea** | The implementation of legal regulations, procedures, and/or mecha-nisms established by the State for creating or improving formal and informal communication channels with other countries to coordinate actions related to preventing and combatting **migrant smuggling by sea** have produced qualifiable and quantifiable results in the number and quality of procedures established and the number of cases detected.  **Article 7, Article 8, Article 9** | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
| **Cooperation**  **Repatriation** | The implementation of legal regulations, procedures, and/or mecha-nisms established by the State for coordinating actions related to the **repatriation of MSS** have produced qualifiable and quantifiable results in the number and quality of repatriation processes carried out and the number of repatriated migrants (categorized by nationality, sex, and age).  **Article 8** | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |
| **Cooperation**  **Information Exchange** | The implementation of legal regulations, procedures, and/or mecha-nisms established by the State for creating or improving formal and informal communication channels with other countries to exchange information related to statutes and procedures for preventing and combatting migrant smuggling, intelligence, and good practices for investigating and prosecuting this crime, have produced qualifiable and quantifiable results in the number and quality of procedures established and the number of cases detected.  **Article 10** | Total Compliance ( )  Partial Compliance ( )  No Compliance ( ) |