

# EL SALVADOR

Salvadoran authorities report that 2.8 million Salvadorans live abroad, with the largest emigrant community residing in the USA. This corresponds to roughly 40% of the national population. Remittances from Salvadoran migrants are a crucial source of capital for the country, equivalent to 18% of its GDP in 2009.<sup>1</sup>

In recognition of the scale of emigration in El Salvador and of emigrants' contribution to the national development and promotion of the Salvadoran culture beyond national boundaries,<sup>2</sup> national authorities have increasingly recognized emigrants' political and social rights and provided channels for them to maintain links with their homeland. The Special Law for the Protection and Development of Salvadoran Migrant Persons and their Families (*Ley Especial para la Protección y desarrollo de la persona migrante salvadoreña y su familia*) and the Special Law for the Exercise of the Vote from Abroad in Presidential Elections (*Ley Especial para el Ejercicio del Voto desde el Exterior en las Elecciones Presidenciales*) are clear examples of increasing interest of the Salvadoran state in its diaspora.

As a sign of the importance given to emigrant policies, El Salvador has assigned the rank of a vice-ministry (under the Ministry of Foreign Affairs) to the body in charge of emigrant policies and has promoted visits of Foreign Affairs authorities to migrants abroad. El Salvador, however, has not developed a full-fledged range of emigrant policies yet. Although El Salvador allows emigrants to participate in home elections and to hold other nationalities (dual nationality) and has a wide array of economic policies (from return to investment schemes), it has not adopted other policies, such as social protection of nationals abroad.

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## CITIZENSHIP/NATIONALITY

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### DUAL OR MULTIPLE NATIONALITY REGULATION

The Salvadoran Constitution fully recognizes the right of Salvadorans by birth to hold dual or multiple citizenship.<sup>3</sup> Nationals from countries that belonged to the former Federal Republic of Central America (1823-40)<sup>4</sup> residing in El Salvador may apply for Salvadoran citizenship without renouncing their original nationalities and will be considered Salvadorans by birth.<sup>5</sup>

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1 Ada Ábrego, "Viceministerio para los Salvadoreños en el Exterior."

2 La Asamblea Legislativa de la República de El Salvador, *Decreto No. 825, por el que se declara el 26 de noviembre "Día nacional de los salvadoreños en el exterior"*.

3 La Asamblea Legislativa de la República de El Salvador, *Constitución de El Salvador*, Art. 91.

4 The Republic was composed of present-day Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua.

5 La Asamblea Legislativa de la República de El Salvador, *Constitución de El Salvador*, Art. 90.3.

Nationals from other countries are subject to international treaty regulation on dual citizenship and can also maintain their former citizenship(s), if the principle of reciprocity is respected.<sup>6</sup>

No degree of consanguinity applies for Salvadorans by birth who seek to hold dual or multiple citizenship.

#### LOSS OF CITIZENSHIP/NATIONALITY

No explicit distinction is made in the Constitution between citizenship and nationality, however the definition of these two categories in the law suggests that such a distinction exists:

- a) *Nationality* can be lost under certain circumstances. In this regard the Constitution distinguishes between Salvadorans by birth and naturalized Salvadorans: Salvadorans by birth cannot lose their nationality save for by express renunciation, which can be reversed.<sup>7</sup> Naturalized Salvadorans can lose their nationality in two ways: by living in their country of origin for more than two consecutive years or abroad generally for more than five consecutive years without legal permission. They may also be deprived of nationality through an executive order, in which case it cannot be regained.<sup>8</sup>
- b) *Citizenship* can be suspended in cases of incarceration, legal injunction, mental disorder, or for refusing to serve in an elected office.<sup>9</sup> Citizenship rights can be lost in cases of corruption, criminal conviction, buying or selling votes, electoral fraud, or by officials interfering with the free exercise of suffrage.<sup>10</sup> Not, however, by residence abroad or the acquisition of further nationalities.

#### DIFFERENT RIGHTS FOR EXTERNAL CITIZENS

No differences are made in the Constitution between external and resident citizens regarding their political rights and duties.<sup>11</sup> However, the right to popular consultation on the reformation of the Federal Republic of Central America, mentioned in the Constitution,<sup>12</sup> is still not granted for Salvadoran emigrants, who can only vote in presidential and vice-presidential elections.<sup>13</sup>

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6 Ibid. Art. 93.

7 Ibid. Art. 91.

8 Ibid. Art. 94.

9 Ibid. Art. 74.

10 Ibid. Art. 75.

11 Ibid. Art. 73.

12 Ibid. Art. 73, in relation to Art. 89.

13 La Asamblea Legislativa de la República de El Salvador, *Ley Especial para el ejercicio del voto desde el exterior*.

## SUFFRAGE

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### VOTING RIGHTS OF NON-RESIDENT CITIZENS

Since 2014, all non-resident citizens legally residing abroad can exercise the right of suffrage for presidential elections in El Salvador, but not for the legislative assembly.<sup>14</sup>

### CANDIDACY RIGHTS OF NON-RESIDENT CITIZENS

The Electoral Code makes no explicit reference to the candidacy rights of non-resident citizens. Candidacy for the national executive or legislative branches is only limited to Salvadorans by birth.<sup>15</sup>

For local mayoral and municipal council elections, candidates are required to prove origin or residence for at least a year prior to the elections in the district they are seeking to represent.<sup>16</sup> The same applies to local legislative elections, with the residence period extended to two years.<sup>17</sup>

### VOTING METHODS AVAILABLE TO NON-RESIDENT CITIZENS

Postal voting is the only method available to non-resident citizens in national elections.<sup>18</sup>

### REGISTRATION FOR FRANCHISE

Different registration methods exist for citizens in El Salvador for residents and for non-resident citizens. Registration is automatic for residents, who need only present their identification card at their local polling station.<sup>19</sup> Emigrants, on the other hand, must register no later than sixty days prior to the elections by way of a form submitted to the Supreme Electoral Court.<sup>20</sup>

The state encouraged the registration and participation of emigrant voters in the presidential elections of 2014 with a general campaign abroad, carried out through the diplomatic network and online.<sup>21</sup>

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14 Ibid. Art. 1.

15 La Asamblea Legislativa de la República de El Salvador, *Código Electoral*, Art. 151 and 126.

16 Ibid. Art. 164; La Asamblea Legislativa de la República de El Salvador, *Constitución de El Salvador*, Art. 202.

17 La Asamblea Legislativa de la República de El Salvador, *Constitución de El Salvador*, Art. 201.

18 La Asamblea Legislativa de la República de El Salvador, *Ley Especial para el ejercicio del voto desde el exterior*, Art. 4.

19 La Asamblea Legislativa de la República de El Salvador, *Código Electoral*, Art. 9.

20 La Asamblea Legislativa de la República de El Salvador, *Ley especial para el ejercicio del voto desde el Exterior*, Art. 5.

21 The online portal [www.rree.gob.sv/votosalex/](http://www.rree.gob.sv/votosalex/) provides information on external voting.

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## REGULATION OF POLITICAL COMPETITION

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### PARTY OFFICES IN HOST COUNTRIES

External party offices are neither explicitly permitted nor prohibited according to law in El Salvador. However, unofficial “party houses” exist where informal political activity takes place, financed by emigrants themselves.<sup>22</sup>

### POLITICAL CAMPAIGNS

Political campaigns are also not legally regulated. If they take place, they are unofficial and privately financed and organized.<sup>23</sup>

### MEMBERSHIP

Emigrant membership in political parties is, at least according to the statutes of political parties, equal to membership of resident citizens.<sup>24</sup>

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## INSTITUTIONAL PARTICIPATION

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### CONSULTATIVE BODIES AT NATIONAL LEVEL

The *Ley especial para la protección y desarrollo de la persona migrante salvadoreña y su familia* created a new national consultative body called *Consejo Nacional para la Protección y Desarrollo de la Persona Migrante y su Familia* (CONMIGRANTES). It is defined as an autonomous, non-profit, inter-institutional public body designed to ensure the implementation and respect of policies relating to the protection of migrants and policies connecting migration and development. It serves as a link between the state and Salvadoran emigrants.<sup>25</sup>

The consultation of this body is structural.<sup>26</sup> It is composed of representatives of the national government and non-governmental representatives: three representatives from emigrants’ associations, one for Salvadoran NGOs dealing with migration issues, one from private universities, one from the University of El Salvador, and one from associations of small and medium

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22 Leandro Uzquiano Arriaza (Minister Counsellor of the Embassy of El Salvador in Germany), interview on March 11, 2015.

23 Ibid.

24 FMLN, *Estatuto del Partido Político Frente Farabundo Martí para la Liberación Nacional*, FMLN; ARENA, *Estatuto del Partido Político Alianza Republicana Nacionalista*; La Asamblea Legislativa de la República de El Salvador, *Ley de Partidos Políticos*.

25 La Asamblea Legislativa de la República de El Salvador, *Ley especial para la protección y desarrollo de la persona migrante salvadoreña y su familia*, Art. 6.

26 Ibid. Art. 17.

enterprises.<sup>27</sup> The leadership of this body is held by the The Vice-Minister of Foreign Affairs for Salvadorans abroad, who chairs the Plenary of the Council. This, in turn, designates the members of the Executive Secretariat.<sup>28</sup> Rather than the *right* to propose initiatives, the *CONMIGRANTES* has the *duty* to make initiatives on migration policies.<sup>29</sup> The law establishes that it is the responsibility of the Ministry of Foreign Affairs, through the Vice-ministry of Salvadorans Abroad, to ensure that the selection process of emigrant representatives is made transparently and that it orients itself to criteria of geographic, territorial and gender representation.<sup>30</sup>

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## ADMINISTRATION

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### CONSULATES

El Salvador's diplomatic network consists of 39 embassies, and 27 consulates as of 2015.<sup>31</sup>

Salvadoran embassies and consulates do not offer financial or psychological consultancy. Expert legal/judicial consultancy is provided only on request. This requirement limits its capacity.

Nonetheless, El Salvador offers extraordinary consular assistance through mobile consulates and special weekend working hours (though not on a regular basis) and special healthcare services through the model of *Ventanillas de Salud*.<sup>32</sup>

### HOME COUNTRY ADMINISTRATION

The specific government administration for emigrant issues in El Salvador is the Vice-Ministry for Salvadorans Abroad, which is at the third rank in the public administration of the country. It was created in 2004,<sup>33</sup> directly below the Ministry of Foreign Affairs. It is structured into four General Directorates:

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27 Ibid. Art. 12, 20-25; Presidente de la República de El Salvador, *Reglamento de ejecución de la Ley Especial para la protección y desarrollo de la persona migrante salvadoreña y su familia*, Art. 4.

28 Presidente de la República de El Salvador, *Reglamento de ejecución de la Ley Especial para la protección y desarrollo de la persona migrante salvadoreña y su familia*, Art. 5.

29 La Asamblea Legislativa de la República de el Salvador, *Ley Especial para la protección y desarrollo de la persona migrante salvadoreña y su familia*, Art. 10.

30 Ibid. Art. 16.

31 Ministerio de Relaciones Exteriores de El Salvador, "Directorio de representaciones diplomáticas y consulares de El Salvador en el exterior."

32 Ventanilla de Salud Washington, DC, "Ventanilla de salud visita consulados hermanos consulado de El Salvador Walgreens."

33 Gammage, "Exporting People and Recruiting Remittances a Development Strategy for El Salvador?" 90.

- General Directorate of Migration and Development: Responsible for directing and coordinating actions directed towards Salvadorans abroad and spaces for the transfer of technology, exchange, and knowledge, and investment and business initiatives in the country and abroad.
- General Directorate of Human Rights: Responsible for ensuring the rights of Salvadoran migrants, respect of international obligations and commitments, and coordination with international actors.
- General Directorate of External Services: Responsible for diplomatic and consular affairs as well as technical legal assistance.
- General Directorate of Culture: Responsible for promoting initiatives to strengthen culture.<sup>34</sup>

A further institution - though not directly dependent on the state - concerned with emigrant issues is the Salvadoran Migrants Institute (*Instituto Salvadoreño del Migrante, INSAMI*), is a not-for-profit organization - a quasi non-governmental organization- intended to create a migration policy to guarantee the rights and obligations of “transnational” Salvadorans.<sup>35</sup> This Institute has recently criticized the state set up for administrating emigrant policies as incapable of addressing the link between migration and local development and limited in its interinstitutional coordination.<sup>36</sup>

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## ECONOMIC POLICIES

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### REMITTANCES

The *Proyecto de Cooperación Productiva y Cooperación Técnica*, introduced in 2011, seeks to reduce the costs of sending remittances to El Salvador from abroad.<sup>37</sup>

### INVESTMENT

Several governmental initiatives pursue to attract investments from emigrants. The *Proyecto de Atracción de Inversiones para los Salvadoreños en el Exterior* promotes investment through incentives for small and medium businesses and the *Proyecto de Incentivos para la Creación de Pequeñas y Medianas Empresas* provides advice and technical support and strengthens the link between remittances and business financing through cooperation with financial institutions.<sup>38</sup>

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34 Ministerio de Relaciones Exteriores, “Ministerio de Relaciones Exteriores de El Salvador - Áreas.”

35 “Instituto Salvadoreño del Migrante: Sobre INSAMI.”

36 Ibid.; INSAMI El Salvador, “Migration in El Salvador and the 1st. Year of President Sánchez Cerén in Office.”

37 La Asamblea Legislativa de la República de El Salvador, *Ley Especial para la protección y desarrollo de la persona migrante salvadoreña y su familia*, Art. 32.

38 Ibid. Art. 35

### BRAIN-CIRCULATION NETWORKS AND BRAIN-GAIN PROGRAMS

No information has been found on brain-gain programs. However, there are a few initiatives for brain-circulation on the basis of networking: *El Salvador Global* is an initiative led by private and governmental institutions to connect Salvadorans around the world to exchange knowledge.<sup>39</sup> The initiators, on the state institution side, are the Ministries of Foreign Affairs, Economy, Public Health, Education, among others, and, on the private side, agencies such as the German International Cooperation Agency and the Agency for the Promotion of Exports and Investments in El Salvador (PROESA).

Also, the *Proyecto de Transferencia de Tecnología y de Conocimientos Científicos, Técnicos y Culturales* allows emigrants to contribute to the development of innovation and develop educational opportunities.<sup>40</sup>

### RETURN POLICIES

For the recognition of academic and professional qualifications acquired abroad, two different processes apply, corresponding to two different forms of recognitions: equivalencies and incorporations.<sup>41</sup> Both are regulated by the *Ley de Educación Superior*<sup>42</sup> and the *Reglamento para Equivalencias y Pruebas de Suficiencia en Educación Básica y Media e Incorporación de Títulos de Educación Media*.<sup>43</sup> In the case of equivalencies, a decision is taken within eight days. For incorporations, the process can take up to sixty days.

The *Ley Especial para la Protección y Desarrollo de la Persona Migrante Salvadoreña y su Familia* includes several initiatives related to the re-integration of returnees into the country, such as the *Proyecto de Cooperación Productiva y Cooperación Técnica*<sup>44</sup> and the creation of an official job board that should facilitate the reinsertion and matching of returnees, considering their abilities and skills.<sup>45</sup>

The General Directorate of Migration and Immigration also operates services for returnees, which include a variety of educational programs.<sup>46</sup>

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39 “El Salvador Global.”

40 La Asamblea Legislativa de la República de El Salvador, *Ley Especial para la protección y desarrollo de la persona migrante salvadoreña y su familia*, Art. 33.

41 Ministerio de Educación de El Salvador, *Reglamento para equivalencias y pruebas de suficiencia en educación básica y media e incorporación de títulos de educación media*, Art. 4, 7.

42 La Asamblea Legislativa de la República de El Salvador, *Ley de Educación Superior*, Art. 18, 20.

43 Ministerio de Educación de El Salvador, *Reglamento para equivalencias y pruebas de suficiencia en educación básica y media e incorporación de títulos de educación media*, Art. 6, 8 and 9.

44 La Asamblea Legislativa de la República de El Salvador, *Ley Especial para la protección y desarrollo de la persona migrante salvadoreña y su familia*, Art. 32.

45 *Ibid.* Art. 34.

46 Dirección General de Migración y Extranjería de El Salvador, “Servicio de Atención a Repatriados.”

*INSAMI*, with support of the Ministry of Labor, Vice-Ministry for Salvadorans Abroad, and the Executive Secretary of *CONMIGRANTES*, has also carried out activities for financial education, especially targeting Salvadorans returning from the USA.<sup>47</sup> *INSAMI* also created the *Red Nacional de Emprendedores Retornados de El Salvador (RENACERES)* network as a resource for Salvadoran returnees.<sup>48</sup>

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## OBLIGATIONS

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### MILITARY SERVICE, SOCIAL SERVICE, TAXES

Military service is obligatory for all Salvadorans between the ages of eighteen and thirty.<sup>49</sup> No exemption is made for emigrants, however, it is not clear in the law how they are supposed to fulfill it or defer it.<sup>50</sup>

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## CULTURAL POLICIES

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The government led by President Sánchez Cerén launched the *Proyecto de Ley de Cultura y Arte* in November 2012 to strengthen the cultural ties and connections of identity between El Salvador and its diaspora by creating the position of cultural attaché within the Ministry of Foreign Affairs to promote Salvadoran culture. The project envisions collaboration between the Ministries of Culture and Foreign Affairs to work towards these ends.<sup>51</sup>

There are no cultural programs explicitly addressing emigrants other than traditional cultural tasks carried out by the embassies (e.g. Central American film festival, several exhibitions of Salvadoran artists, folk dance groups).<sup>52</sup>

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## EXIT AND TRANSIT POLICIES

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No special restrictions exist for citizens who want to leave the country.

With regard to governmental campaigns aiming to regulate the forms of exit and transit of citizens across national borders, there is an overlap

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47 *INSAMI* management, via email correspondence with [direccion.insami@gmail.com](mailto:direccion.insami@gmail.com).

48 *INSAMI*, “Retornados El Salvador.”

49 La Asamblea Legislativa de la República de El Salvador, *Constitución de El Salvador*, Art. 215.

50 La Asamblea Legislativa de la República de El Salvador, *Ley del servicio militar y reserva de la fuerza armada*, Art. 2.

51 FMLN, *Proyecto Ley de Cultura y Arte de El Salvador*.

52 Leandro Uzquiano Arriaza (Minister Counsellor of the Embassy of El Salvador in Germany) interview on March 11, 2015.



between campaigns to discourage migration, campaigns to promote a safe transit, and campaigns to inform about rights of migrants. For instance, the *Si estás pensando migrar, el primer paso es informarte* campaign has been conceived by the Ministry of Foreign Affairs to address both causes and consequences of undocumented migration, with special focus on the risks for migrants and their families. It also deals with the social, political, and economic factors contributing to undocumented migration through programs and strategies to reinforce a sense of belonging of potential migrants to their local communities in El Salvador.<sup>53</sup> Also, the *No Pongas en Riesgo sus Vidas* campaign was launched in 2014 to address the migration of unaccompanied minors.<sup>54</sup>

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### SOCIAL POLICIES

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There is currently no possibility for emigrants to maintain healthcare coverage once in another country. However, El Salvador has signed and ratified the Multilateral Ibero-American Social Security Agreement, which is a fundamental tool for the protection of migrant workers and their families.

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### SYMBOLIC POLICIES

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No awards for emigrants exist. There is no reference in the national constitution to emigrants.

However, the Salvadoran Ministry of Foreign Affairs has referred to its *Política Institucional de Protección y Vinculación para los Salvadoreños Migrantes* as a clear priority of the current government. This policy aims to ensure human rights and promote the development of emigrant communities, but also to encourage their social, cultural and economic “rootedness.”<sup>55</sup> In this framework, a permanent exhibition, the *Sala de Migración y Arraigo*, was inaugurated in 2014 within the National Museum of Anthropology Dr. David J. Guzmán to describe, analyze and, display the migratory phenomenon in the country from pre-Columbian times to the present.

In 2004 and 2006, the Salvadoran government organized the so-called *Foros Presidenciales*, to bring Salvadoran migrants closer to national institutions with the participation of prominent Salvadorans around the world.<sup>56</sup> Unfor-

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53 Ministerio de Relaciones Exteriores de El Salvador, “Memoria de Labores 2013-14.”

54 Gobierno de El Salvador, “Migración Niñez - Gobierno de El Salvador presenta campaña de sensibilización sobre los riesgos que enfrenta la niñez migrante salvadoreña.”

55 Ministerio de Relaciones Exteriores de El Salvador, “Memoria de Labores 2013-14.”

56 Xiomara Peraza, “Inclusión Política de la Comunidad Migrante Salvadoreña.”

tunately, there is no record of these *Foros* being organized later on a regular basis. In contrast, the *Convención internacional de comunidades salvadoreñas residentes en el extranjero*, organized by emigrant associations, has taken place annually since 2003.<sup>57</sup>

In 2005, November 26 was designated the *Día del Salvadoreño en el Exterior* in recognition of the efforts of Salvadoran migrants and their contributions to the country.<sup>58</sup> The celebration is recognized by emigrant communities abroad and by officials in El Salvador.<sup>59</sup> Moreover, emigrants are also included in the celebration of the National Day.<sup>60</sup>

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57 El Rescate, “El Rescate.”

58 La Asamblea Legislativa de la República de El Salvador, *Decreto No. 825, por el que se declara el 26 de noviembre Día Nacional de los salvadoreños en el exterior*.

59 Cancillería El Salvador, *Día del salvadoreño y salvadoreña en el exterior*.

60 Leandro Uzquiano Arriaza (Minister Counsellor of the Embassy of El Salvador in Germany) interview on March 11, 2015.

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