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Commission de l'immigration
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El Salvador: Crime and state efforts to combat crime; state protection for victims and witnesses, including requirements to access programs, statistics on granted and refused applications for protection, duration and effectiveness of these programs (2012-August 2015)

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1. Overview

Sources indicate that homicides started to increase in El Salvador after the collapse of a truce between criminal gangs (AI 2015; AP 3 June 2015). A truce between the Mara Salvatrucha (MS-13) and Mara 18 (M-18) was reached in March 2012 with the mediation of bishop Fabio Colindres and Raúl Mijango (AFP 21 Feb. 2013; El Faro 28 Apr. 2014), a former congressman (ibid.). El País, a newspaper based in Madrid, reports that the Minister of Justice and Public Security [translation] "made [the truce] official" before the Organization of American States in April 2013 (12 Apr. 2013). The President of El Salvador, Mauricio Funes [2009-2014], declared in April 2014 that the truce had "collapsed," and blamed on the Mara 18, due to the increasing number of homicides committed by this gang (Latin American Herald Tribune 26 May 2014; El Faro 28 Apr. 2014). The UK-based newspaper the Guardian reports that the new Salvadoran President, Salvador Sánchez Cerén, ruled out any negotiations with the gangs (6 Apr. 2015). Similarly, the London-based newspaper the Independent indicates that the government "is rejecting any dialogue with the gangs" (The Independent 28 July 2015). According to sources, public figures attributed the increase in violence to the transfer of imprisoned gang leaders to maximum-security prisons (The Guardian 6 Apr. 2015; AP 3 June 2015), where they lost the benefits they used to enjoy at other prisons (ibid.). News agency Agencia EFE reports that, according to [translation] "[s]everal sectors of society,"

confrontations between authorities and gangs resemble an "undeclared war" that originated with the end of the truce (3 July 2015). InSight Crime similarly describes the situation in El Salvador as "heading towards a new phase of an increasingly bloody conflict, resembling that of a low intensity war" (18 May 2015).

2. Criminal Activity

2.1 Homicides and Disappearances

According to statistics provided by the Institute of Forensic Medicine (Instituto de Medicina Legal, IML), 2,865 homicides were committed in the first half of 2015 (NIU 5 July 2015; Agencia EFE 3 July 2015). Sources report that 677 homicides were recorded in June 2015, which makes it the [translation] "most violent month" since the end of the civil war, in 1992 (ibid.; AFP 28 July 2015). Deutsche Presse-Agentur (DPA), a German news agency, quotes the Director of the IML as saying that during the weekend of 28-29 March 2015, the IML [translation] "was not able to cope" with the autopsies for the 25 bodies of homicide victims admitted and was in a state of "emergency" (31 Mar. 2015). El Diario de Hoy, a newspaper based in San Salvador, reports that, according to authorities, the 10 municipalities with the highest number of homicides per 100,000 population were, in the first 6 months of 2015, San Pedro Perulapán, Apopa, Zacatecoluca, San Martín, San Salvador, Mejicanos, Ilopango, Colón, Soyapango, and Ciudad Delgado (3 July 2015).

Amnesty International (AI) reports that there were 1,857 homicides in the first half of 2014 (AI 2015). A qualitative study on public security in El Salvador, undertaken by the Public Opinion University Institute (Instituto Universitario de Opinión Pública, IUDOP) [1] of the Central American University "José Simeón Cañas" in San Salvador, indicates that according to the National Civil Police (Policía Nacional Civil, PNC), 26 occurrences of multiple homicide were committed in the first half of 2014 (IUDOP Sept. 2014, 4). Sources indicate that 2,499 homicides were committed in the country in 2013 (ibid.; UN n.d.), representing a rate of 39.8 homicides per 100,000 inhabitants (ibid.). In comparison, the UN Office on Drugs and Crime (UNODC) statistics webpage indicates that, for 2013, Honduras' homicide rate was 84.3, and Mexico's 18.9 (ibid.). The IUDOP further indicates that departments with the highest number of homicides in 2013 were San Salvador (781), La Libertad (233), La Paz (192), Santa Ana (180), and Usulután (177) (IUDOP Sept. 2014, 12).

A blog entry on the website of UK-based magazine New Internationalist reports on the increasing number of murders committed in rural areas (New Internationalist 1 May 2015). The Associated Press (AP) notes that gang members increasingly take refuge in rural areas (AP 23 June 2015). The IUDOP indicates that, according to the PNC, 45.7 percent of homicides were committed in rural areas in 2013 (Sept. 2014, 11).

Sources report the presence of "extermination" groups that target gang members (APRO 23 Jan. 2015; Diario La Página 22 Jan. 2015). In a 22 January 2015 article, Diario La Página, a San Salvador-based digital newspaper, quotes a PNC officer as saying that these groups first appeared two years earlier, but increased their operations [translation] "during the past few days" as a response to the killings of police officers (ibid.). Agencia Proceso (APRO), a Mexican news agency, quotes Carlos Ponce, a criminologist and editorialist in the newspaper El Diario de Hoy (El Diario de Hoy 25 May 2015), as saying that these [translation] "extermination" groups first appeared in 2012, when the truce between the gangs created a "sense of state abandonment among

the citizens" (APRO 23 Jan. 2015). The same sources report that the killings of alleged gang members present the same characteristics: the victims are found lined up with gunshot wounds to the head (ibid.; Diario La Página 22 Jan. 2015), and there are no signs of resistance (ibid.). Armed men in fatigues are reportedly behind the killings (ibid.; APRO 23 Jan. 2015). APRO reports that in January 2015, [translation] "massacres" of alleged gang members took place in Quezaltepeque, Ciudad Delgado, San Vicente and La Unión (APRO 23 Jan. 2015). The source adds that in 2014, 128 alleged gang members died in "massacres" (ibid.). Further information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

The IUDOP indicates that, according to statistics provided by the Police Intelligence Centre (Centro de Inteligencia Policial, CIP), 1,682 people were reported missing in 2012, 924 of which were found alive and 146 killed; the whereabouts of the remaining 612 are unknown (IUDOP Sept. 2014, 23). The study further indicates that 1,140 reports of missing persons were filed in 2013, and 533 during the first 4 months of 2014 (ibid., 22). The US Travel Warning for El Salvador indicates that, according to authorities, "a significant number of disappearances are related to gang activity, since many of the missing were in gangs or were friends or family members of gang members" (22 June 2015).

2.2 Extortion

Freedom House notes that businesses and citizens are subject to extortion "on a regular basis" (28 Jan. 2015). The US Travel Warning for El Salvador explains that

[e]xtortion is a very common crime in El Salvador. Some extortion attempts are no more than random cold calls that originate from imprisoned gang members using cellular telephones, and the subsequent threats against the victim are made through social engineering and/or through information obtained about the victim's family. (22 June 2015)

Sources quote the Attorney General as saying that extortion in El Salvador has [translation] "'gone off the charts'" (El Diario de Hoy 17 Feb. 2015; ContraPunto 17 Feb. 2015). ContraPunto, a digital news portal based in El Salvador, further quotes the Attorney General as saying that his office has identified extortion cases of more than US\$50 million in total, including cases of victims in other countries and cases of extortion linked with other criminal activities, such as money laundering (ibid.). A study on public security undertaken by Jeannette Aguilar and Carmen Guevara, both of the IUDOP, indicates that 17.5 percent of citizens and 44.4 percent of business owners interviewed reported having been victims of extortion (IUDOP Dec. 2013, 57, 79). The study consisted of 2 national surveys that were carried out between 16 and 27 August 2013: one survey applied to a sample of 2,425 adults, and the other to 512 business owners (ibid., 13). The 2014 IUDOP study indicates that the PNC registered 2,785 acts of extortion during 2013, representing a rate of 44.3 people per 100,000 inhabitants (Sept. 2014, 36). In a 15 June 2013 article by Diario La Página, the PNC states that 90 percent of extortion cases are made by gangs through phone calls.

El Diario de Hoy quotes the President of the Association of Salvadoran Bus Companies (Asociación de Empresarios de Autobuses Salvadoreños, AEAS) as saying that bus companies pay approximately US\$34 million annually to gangs in extortion fees (El Diario de Hoy 3 June 2015). He indicated that gangs demand bus drivers an average renta [or "rent," which is a euphemism for extortion] of US\$500 per month and an additional amount, usually for the same amount or higher,

at the end of the year as a [translation] "Christmas gift" (ibid.). He further said that 35 percent of bus companies in San Salvador have gone bankrupt since 2010, and that 36 people employed in bus transportation companies were killed in the first 5 months of 2015, which represents half the killings that occurred in 2014, the total being 70 (ibid.). La Prensa Gráfica, a San Salvador-based newspaper, reports on the killing of a bus service owner by gang members in San Vicente, on 1 July 2015, allegedly for not paying extortion (2 June 2015). El Diario de Hoy also reports on the killing of another bus service owner in Ilopango, on 27 October 2014, allegedly for refusing to pay an extortion fee to gang members (28 Oct. 2014).

Sources report that gangs forced the shutdown of public transportation in late July 2015 to force the government to negotiate with them (BBC 29 July 2015; Reuters 28 July 2015). Reuters indicates that, according to government officials, the "strike" was carried out to force the government to "ease a crackdown on their operations and secure less harsh conditions for imprisoned members" (ibid.). According to the BBC, the gangs behind the "strike" threatened to kill bus drivers who challenged the ban (BBC 29 July 2015). By the end of the third day of the "strike," nine bus drivers had been killed in retaliation (ibid.; NIU 29 July 2015). The BBC quotes the Secretary of Governance and the President's Commissioner for Public Security (Secretario de Gobernabilidad y Comisionado para la Seguridad de la Presidencia) as saying that, throughout the country, 142 bus routes stopped working during the "strike" (29 July 2015). However, a Northern Illinois University (NIU) article quotes bus drivers as saying that 90 percent of the 1,133 bus routes in San Salvador ceased operations (29 July 2015).

2.3 Kidnappings and Robberies

As part of their 2013 study on security in public institutions, Aguilar and Guevara conducted a survey of business owners; the report indicates that 29.5 percent of them had been victims of crime in the previous 12 months (IUDOP Dec. 2013, 76). Aside from extortion, the most common crimes reported were armed robberies (15.2), unarmed robberies without physical violence (13.9), unarmed robberies with physical violence (10.6), and threats (10.6) (ibid., 79). The survey of Salvadoran citizens found that, aside from extortion, the most common crimes were armed robberies (30.1 percent), unarmed robberies without physical violence (25.8), and threats (12.6) (ibid., 57). The 2014 IUDOP study indicates that, according to statistics on police complaints provided by the PNC, this institution registered 9,268 cases of theft during 2013 (147.4 cases per 100,000 inhabitants), 6,353 cases of threats (101), 5,346 cases of robbery (85) and 14 kidnappings (0.2) (Sept. 2014, 36).

The Canadian Department of Foreign Affairs, International Trade, and Development's Country Travel Advice and Advisories for El Salvador indicates that

[r]obberies and express kidnappings by "moto ratas" [a type of motorcycle] are on the rise and can occur day or night. Victims, generally selected on the basis of perceived wealth (including late-model cars), are identified at such places as shopping centres, gas stations, restaurants, night clubs, banks and parking lots. One or two robbers, riding on motorcycles, follow their victims and stop them at gunpoint. In most cases, victims are taken to automated banking machines (ABMs) and forced to withdraw the highest amount possible. (Canada 16 July 2015)

Further information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

2.4 Attacks Against Security Forces

Sources report that attacks against security forces have increased since the truce between gangs ended (Al Jazeera 6 May 2015; InSight Crime 18 May 2015). In a 23 June 2015 article, the AP reported that 368 clashes had been registered so far in 2015 between gang members and police and military forces. *Diario Co Latino*, a San Salvador-based newspaper, reports that 120 clashes between the police and gangs were registered between January and June 2014 (1 July 2014).

Sources indicate that gangs reportedly launched a police killing campaign (Al Jazeera 6 May 2015; The Independent 28 July 2015; El Diario de Hoy 6 July 2015) in reprisal for the crackdown on gangs by the PNC (ibid.; The Independent 28 July 2015). On 6 July 2015, El Diario de Hoy reported that 34 police officers had been killed since the beginning of the year. Similarly, on 28 July 2015, the Independent reported that "at least" 33 police officers had been killed since 1 January 2015. On 22 June 2015, La Prensa Gráfica reported that, according to the Minister of Defense, 13 members of the Armed Forces had been killed since the beginning of the year, 9 of them while they were off duty. Sources indicate that the number of police officers who were killed during 2014 was 38 (Freedom House 28 Jan. 2015) or 39 (El Diario de Hoy 6 July 2015). Sources note that most killings take place while the victims are off duty (The Independent 28 July 2015; NIU 30 June 2015). On 6 July 2015 El Diario de Hoy reported on the killing of a police officer and his 16-year-old son in Soyapango while he was off duty (El Diario de Hoy 6 July 2015). The PNC arrested 10 people allegedly involved in the crime (ibid.). Sources report that a policewoman, the first to be murdered in the country, was killed in Zacatecoluca (The Independent 28 July 2015; Al Jazeera 6 May 2015). Al Jazeera reports that the killing took place on 20 April 2015, while she was off duty (ibid.).

3. State Response

Units created by the Salvadoran government to combat crime include:

a Financial Crimes Division within the PNC, the creation of which was announced in September 2013, to combat money laundering by organized criminal groups (Freedom House 28 Jan. 2015);

a new anti-extortion unit (*Diario La Página* 15 June 2013; Freedom House 28 Jan. 2015), the creation of which was announced in June 2013 (ibid.). According to June 2013 media articles, the unit was to be composed of 500 police officers and 500 members of the military, and equipped with vehicles and telecommunication devices (*Diario La Página* 15 June 2013; La Prensa Gráfica 7 June 2013).

Information on the implementation of these units could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

For information on anti-gang units, see Response to Information Request SLV105259.

El Diario de Hoy quotes the Director of the PNC as telling the rank and file officers "'to shoot criminals without fear of reprisals'" (20 Jan. 2015). La Prensa Gráfica reports that the Vice-president of the country, Óscar Ortiz, supported the Director of the PNC in this regard, and added that police officers must use their weapons to defend Salvadoran citizens and themselves, and that the law [translation] "'backs them up'" (22 Jan. 2015). A 6 July 2015 article by El Diario de Hoy

reported that 128 gang members had been killed and 100 wounded in clashes with the PNC since the end of the truce in 2014.

Sources indicate that a new law to combat extortion was passed by the Legislative Assembly in March 2015 (ContraPunto 18 Mar. 2015; El Diario de Hoy 18 Mar. 2015). The Special Law Against the Crime of Extortion (Ley Especial contra el Delito de Extorsión) prescribes a punishment of between 10 and 15 years imprisonment for those found guilty of extortion, [translation] "regardless of the amount of money" being extorted (El Salvador 2015, Art. 2). Sources report that the law introduces the confiscation of property obtained through extortion and the requirement for telecommunication companies to block cellphone signals at penitentiaries (El Diario de Hoy 17 Feb. 2015; ContraPunto 18 Mar. 2015). The law also allows authorities to investigate acts of extortion of their own initiative, without the need of a formal complaint by the victim (ibid.; InSight Crime 20 Mar. 2015). However, sources report that critics wonder if the law goes far enough (ibid.; ContraPunto 18 Mar. 2015). Sources note that representatives of telecommunication companies expressed that it was almost impossible to block cellphone signals inside jails (ibid.; InSight Crime 20 Mar. 2015). Sources point out that inmates also use satellite telephones (ContraPunto 18 Mar. 2015; InSight Crime 20 Mar. 2015), devices that cannot be disabled in the same way (ibid.).

3.1 Effectiveness

The US Department of State's Country Reports on Human Rights Practices for 2014 states that authorities are not effective in combating crime (US 25 June 2015, 5-6). The US Travel Warning for El Salvador notes that "[m]any extortions and other crimes are not reported by victims for fear of reprisal and lack of faith in the ability of the government to protect the victims" (ibid. 22 June 2015). The 2013 study conducted by Aguilar and Guevara indicates that 73.5 percent of citizens interviewed believe that "it is little or not at all probable that the Police is able to capture the perpetrator of a crime, while 67.3% believe it is little or not at all probable that the justice system would process and punish the one responsible for a crime" (IUDOP Dec. 2013, 41). The study also indicates that 35.4 percent of victims of crime reported it to the police, of which 72.1 percent stated that authorities "had done nothing," 10.9 percent said that the investigation was ongoing, 6.7 percent indicated that the suspect had been detained, and 6.1 percent had "no knowledge of the result of the process" (ibid., 59). Of those who did not file a police report (64.6 percent), 47.5 percent asserted that they did not do so because "the authorities solve nothing," 26.9 indicated that "they feared reprisals," and 8.6 percent said that they had no proof (ibid., 60). Among business owners surveyed, 31.1 percent of victims reported the crime, of which 68.1 percent said that authorities "had done nothing to investigate the crime," 8.5 indicated that authorities were investigating, and 8.5 percent mentioned that the suspect "had been caught" (ibid. 80-81).

Country Reports 2014 states that the PNC is characterized with "[i]nadequate training ... insufficient government funding, failure to enforce evidentiary rules effectively," among other problems limiting its effectiveness (US 25 June 2015, 5-6). In addition, according to the US Travel Warning for El Salvador, equipment shortages such as radios, vehicles, and fuel, alongside limited anti-gang and crime suppression efforts and routine street-level patrol techniques, "further limit their ability to deter or respond to crime effectively" (ibid. 22 June 2015). Diario La Página reports that, according to police officers that the digital newspaper interviewed, gang members are better armed than police officers (Diario La Página 21 Apr. 2014). The same source cites both the Minister of Justice and Public Security and the Director of the PNC as saying that they have the

necessary equipment to combat gangs (ibid.). However, the article also cites a police officer as saying that they feel [translation] "unprotected," without weapons, and without the tactical training that gang members are receiving (ibid.). The website of the Ministry of Justice and Public Security indicates that, as of May 2014, the PNC had approximately 23,300 police officers (El Salvador 19 May 2014). For information on police corruption, see Response to Information Request SLV105260.

Sources state that El Salvador's judicial system is weak and plagued by corruption (US 25 June 2015, 1, 7; Freedom House 28 Jan. 2015) and obstructionism (ibid.). The same sources note that El Salvador has a high level of impunity (ibid.; US 25 June 2015, 7). Country Reports 2014 indicates that, according to the Office of the Attorney General (Fiscalía General de la República, FGR), 3,898 out of 28,324 cases that went to trial from January to September 2014 resulted in convictions (ibid.). The 2014 IUDOP study indicates that, according to statistics provided by the Supreme Court of Justice of El Salvador on the cases that were dealt with under the ordinary criminal process (procedimiento penal común or procedimiento penal ordinario) for adults, 23,008 cases were opened by the judicial system in 2013: a final sentence was rendered in 4,957 cases, and 11,146 cases were closed by a judge due to the passing of the deadline, either because there was not enough evidence or because of [translation] "inactivity of the prosecutor," which is "an indicator of the low efficiency of the prosecution at the investigation stage," according to the report (Sept. 2014, 55-56).

3.2 Witness Protection Program

The website of the Executive Technical Unit of the Justice Sector (Unidad Técnica Ejecutiva del Sector de Justicia, UTE), the government institution responsible for creating and coordinating policies and strategies to ensure efficiency in the justice sector (El Salvador n.d.), indicates that, on 26 April 2006, the government enacted the Special Law for the Protection of Victims and Witnesses (Ley Especial para la Protección de Víctimas y Testigos) (ibid. 29 Aug. 2014). The Law offers three types of protection measures:

Ordinary measures: to protect the identity and location of the victim or witness;

Extraordinary measures: to provide temporary or permanent protection through the provision of police escorts, temporary housing, or change of domicile or employment;

Support measures: to provide medical care, psychological support and legal services, and to help with housing, food, maintenance and employment (ibid.).

There are also urgent measures, which are a combination of ordinary and extraordinary measures applied [translation] "immediately" and temporarily according to the risk, before a permanent solution is found (ibid.).

The program for the protection of witnesses is composed of six [translation] "technical evaluation teams" that receive applications for protection and are distributed as follows:

three teams in the department of San Salvador with jurisdiction over the central region,

one team in the department of Santa Ana with jurisdiction over the western region,

one in San Miguel with jurisdiction over the eastern region, and

one team in the city of Cojutepeque with jurisdiction over the central part of the country that is not under the jurisdiction of San Salvador (ibid.).

Information on the duration of the witness protection program and on the requirements to access it could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

The 2014 annual report of the UTE indicates that, during that year, the witness protection program received 2,923 applications for protection, which were made by the FGR (2,714 applications), the PNC (198), courts or tribunals (5), and individuals (6), and consisted of 4,522 protection measure requests, as one application may contain one or more protection measure requests (ibid. 1 June 2015, 45). The program granted 3,888 protection measures as follows: 3,787 [translation] "ordinary measures" (out of 4,208 requests), 47 "extraordinary measures" (out of 193), and 54 "support measures" (out of 121) (ibid.). Country Reports 2014 indicates that, as of July 2014, "the PNC was providing protection to 38 victims, 81 witnesses, and 61 family members of victims and witnesses" (US 25 June 2015, 8).

Country Reports 2014 notes that "[s]ome judges denied anonymity to witnesses at trial, and gang intimidation and violence against witnesses contributed to a climate of impunity from criminal prosecution" (ibid.). El Diario de Hoy reports the killing of a person who was under the witness protection program in an extortion case in the department of La Paz (El Diario de Hoy 24 Feb. 2015). According to the police, the person was killed by gang members at a local bus stop (ibid.). Another article by El Diario de Hoy reports the killing, by alleged gang members, of a police investigator in San Vicente who was under the witness protection program after participating, the previous week, in a police operation that led to the death of a gang leader (ibid. 5 June 2014).

3.3 Directorate for Victims' Assistance

The website of the Ministry of Justice and Public Security indicates that the government created the Directorate for Victims' Assistance (Dirección de Atención a Víctimas, DAV) in 2011 (El Salvador 10 July 2012a). DAV offers legal, psychological, and social assistance to victims of crime, as well as information on their rights and the status of their cases (ibid. 10 July 2012b). DAV also facilitates contacts with NGOs and refers victims to other public and private institutions that provide legal, psychological, social, and health care services (ibid.). According to the Ministry's website, DAV can be contacted in person, by telephone, or by e-mail (ibid. 3 June 2013). Further information on DAV's services, including its effectiveness, could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

Note

[1] The IUDOP study was carried out between August 2012 and July 2014 and consisted of documentary research and 22 semi-structured interviews with scholars, government officials in security-related positions, and civil society organizations that work in the prevention of violence and rehabilitation of gang members (IUDOP Sept. 2014, xxiii-xxiv).

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