



**Convention against Torture  
and Other Cruel, Inhuman  
or Degrading Treatment  
or Punishment**

Distr.: General  
21 March 2022  
English  
Original: Spanish  
English, French and Spanish only

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**Committee against Torture**

**Seventh periodic report submitted by Argentina  
under article 19 of the Convention pursuant to the  
simplified reporting procedure, due in 2021\* \*\***

[Date received: 12 May 2021]

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\* The present document is being issued without formal editing.  
\*\* The annexes to the present report are available on the Committee's web page.



## I. Methodology

1. This report was prepared by the National Directorate for Matters Relating to International Human Rights Law of the Secretariat for Human Rights of the Ministry of Justice and Human Rights.
2. The report was drafted on the basis of input received from various authorities with specific expertise in this field, including the Ministry of Justice and Human Rights, the Ministry of Security, the Ministry of Health, the Ministry for Women, Gender and Diversity, the National Secretariat for Children, Adolescents and the Family, the National Migration Directorate, the Federal Criminal Court of Cassation and the Office of the Prosecutor for Institutional Violence of the Public Prosecution Service.
3. To ensure that the report had a federal focus, the Federal Human Rights Council, which is attached to the Secretariat for Human Rights, consulted with the provincial authorities. In all, information was received from 14 Argentine provinces. While much of that information is provided in the main body of this report, all of the contributions received have also been attached as annex I.

## II. Introduction

4. On 10 December 2019, a new national Administration took office in Argentina and pledged to strengthen the country's institutions and ensure the full enjoyment of human rights.
5. The current President, Alberto Fernández, acknowledged in his earliest public statements that Argentina, as a democracy, still had pending matters to resolve. He also expressly affirmed that the defence of human rights would be the cornerstone of the policies to be adopted.
6. As will be shown below, a number of measures have been adopted with a view to ensuring that the human rights of the Argentine people, and especially the rights of the most vulnerable groups in society, are promoted and protected.
7. The fact remains, however, that the global crisis caused by the coronavirus disease (COVID-19) pandemic has exacerbated the economic and social crisis in which the country was mired when the new authorities took office. The rising levels of poverty, indigence and external debt being experienced at that time forced the Government to introduce various policies designed to mitigate the impact of the pandemic on the human rights of the entire population.
8. It is against this backdrop that the seventh periodic report is being presented. It is based on the list of issues prior to reporting provided by the Office of the United Nations High Commissioner for Human Rights under article 19 of the Convention and in accordance with paragraph 45 of the Committee's previous concluding observations ([CAT/C/ARG/CO/5-6](#)).

## III. Information related to the list of issues

### **Specific information on the implementation of articles 1 to 16 of the Convention, including with regard to the Committee's previous recommendations**

#### **1. Issues identified for follow-up in the previous concluding observations**

9. Supplementing the information provided in the follow-up report ([CAT/C/ARG/CO/5-6/Add.1](#)), the present report presents further information on the progress made in complying with the recommendations related to the investigation of human rights violations committed by security forces and the appropriate punishment of the perpetrators of those violations.

10. Unlike the situation under the previous Administration, one of the priorities of the current leadership of the Secretariat for Human Rights is to promote a cultural change in the organization that will put an end to any and all types of human rights violations by law enforcement officials. It is understood that established practices carried out by officers of the security or armed forces, prison officials or persons providing health-care services in detention facilities that violate human rights should be classified as acts of institutional violence.

11. Accordingly, the Secretariat has strengthened and modified the staffing structure of the National Directorate to Combat Institutional Violence and has acted as a plaintiff on behalf of victims of institutional violence. In so doing, it makes use of a strategic approach to litigation in order to secure convictions for serious violations. It has also firmly and publicly condemned every identified case of institutional violence.

12. One of the main activities being carried out by the Secretariat for Human Rights is a national survey on judicial proceedings related to cases of institutional violence. The purpose of this undertaking is to augment the quality and quantity of the available information on this subject. The National Directorate of Criminal Justice and Legislation of the Ministry of Justice and Human Rights and the National Directorate to Combat Institutional Violence of the Secretariat for Human Rights are working together to build up the corresponding database.

13. The first entries in the database will be the results of a national desk survey on convictions based on the National Register of Repeat Offenders. Information is being gathered both on offences committed by public officials and members of the security forces and on other offences that, in view of their nature, may be related to possible cases of institutional violence and thus be of interest for this study.

14. Entries in the database distinguish between sentences handed down for completed offences and sentences handed down for attempted offences. Information is being gathered on the following crimes: homicide resulting from abuse of authority by a member of the security forces, the police or the prison service; sexual abuse committed by members of the police or security forces while on duty; unlawful deprivation of liberty by a public official; aggravated unlawful deprivation of liberty by a public official; abusive deprivation of liberty, harassment, ill-treatment and unlawful coercion; genocide; torture; failure to prevent or report torture; and crimes against humanity.

15. The initial results of this nationwide survey are expected in 2021.

16. The Secretariat for Human Rights was also actively involved in drafting and advocating for a comprehensive law on institutional violence. The bill was submitted by members of the governing party in the Chamber of Deputies and is intended to establish a comprehensive set of tools for preventing and eradicating institutional violence throughout the country and providing support and reparation to victims.

17. Some of the most important aspects of the bill are that it provides for an initial and ongoing training programme with a cross-cutting human rights perspective for the security forces; the establishment of complaints processing centres; the creation of a national register in order to generate statistical information for use in preparing assessments and informing decision-making processes; the application of protocols on the provision of support and reparation to victims; and the development of basic principles on the use of lethal and non-lethal weapons in accordance with international standards. The bill has been attached to the present report as annex II.

18. With a view to bringing about a paradigm shift in the way institutional violence is addressed, the National Directorate for Human Rights Training of the Office of the Undersecretary for the Promotion of Human Rights of the Secretariat for Human Rights is developing human rights training initiatives for members of the security forces, including training courses for officers of the provincial and federal security forces, in collaboration with the Ministry of Security.

19. As mentioned in the follow-up report ([CAT/C/ARG/CO/5-6/Add.1](#)) of 11 May 2018, the National Committee for the Prevention of Torture was formed on 27 December 2017 and has been functioning regularly since then.

20. In follow-up to the information previously provided by the State in relation to the judicial proceedings conducted in connection with the torture of Ezequiel Villanueva and Iván Navarro, it can now be reported that Federal Criminal and Correctional Court No. 9 issued its judgment on 21 September 2018. The Court convicted the six officers of the Argentine Naval Prefecture who had been under investigation as suspected co-perpetrators of the criminal offence of infliction of torture, combined with the offences of aggravated illegal deprivation of liberty, infliction of minor bodily harm and aggravated robbery, and imposed on them sentences of between 8 and 10 years' imprisonment and a general disqualification from public service for life. The reasoning of the judgment has been attached to the present report as annex III.

## Articles 1 and 4

### 2. Amendment of the definition of the offence of torture

21. As stated in the combined fifth and sixth periodic reports of the Argentine Republic (CAT/C/ARG/5-6), the core element of the criminal offence established under article 144 ter of the Criminal Code<sup>1</sup> is the infliction of any form of torture, understood as acts that cause serious mental or physical suffering to a person lawfully or unlawfully deprived of liberty and that are wilfully committed by State agents or persons acting under their protection, regardless of the motive.

22. Under Argentine law, torture is an offence comprising multiple violations, including violations of freedom in its broadest sense and of a person's psychological and moral integrity, life, human dignity and honour. The legal definition of the offence refers to situations in which the perpetrator is a public official and the victim is a person deprived of his or her liberty; it is not necessary for the official who inflicted the torture to be the same official who took the person into lawful or unlawful custody.

23. Two bills to amend article 144 ter of the Criminal Code are currently under consideration: in the Chamber of Deputies, bill No. 0413-D-2020, available at <https://www.hcdn.gob.ar/proyectos/textoCompleto.jsp?exp=0413-D-2020&tipo=LEY>, and, in the Senate, bill No. 52-PE-2019 of March 2019. The latter has not expired thanks to an exception established in Act No. 13.640 on the Expiration of Bills, available at <https://www.senado.gob.ar/parlamentario/comisiones/verExp/52.19/PE/PL>.

## Article 2

### 3. Protection of rights at the time of arrest

24. With regard to the measures taken to prevent police misconduct in the context of arrests made by the security forces without a warrant, the National Directorate of Criminal Statistics of the Ministry of Security keeps records on the arrests made every month by the four federal forces, namely, the Federal Police Force, the Airport Police Force, the National Gendarmerie and the Naval Prefecture.

25. In addition to providing information on the number of arrests made, the database contains information on the age, sex assigned at birth, gender and nationality of the arrested person, indicates whether the arrest was conducted in flagrante delicto or with a court order, and specifies the type of offence for which the arrest was made. The database also provides a clear picture of the actions taken by law enforcement officers prior to the arrests. This information provides a basis for developing the necessary recommendations and/or protocols to reduce rights violations during arrests to an absolute minimum.

26. Undoubtedly, the distancing measures taken to stop the spread of COVID-19 have led to additional challenges in terms of police misconduct. From March 2020 on, as the security forces began to play an important role in ensuring compliance with social distancing measures, a series of recommendations were issued to the federal forces to forestall violations

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<sup>1</sup> The text of the updated Criminal Code is available at: <http://servicios.infoleg.gob.ar/infolegInternet/anexos/15000-19999/16546/texact.htm>.

of the rights of persons who infringed the stay-at-home order, including operating procedures to reduce the apprehension or arrest of transgressors. These recommendations were sent to the security ministries of each of the provinces by the Federal Internal Security Council.

27. The Ministry of Security also maintains a telephone hotline (line 134) to receive complaints concerning institutional violence, police misconduct and irregularities committed by police officers or members of the security forces. The hotline operates 24 hours a day, 365 days a year. Complaints of institutional violence and/or police misconduct occurring, for example, in the course of arrests made without a warrant are referred to the Directorate for the Prevention of Institutional Violence.

28. Of the complaints received between December 2019 and December 2020, less than 1 per cent concerned allegations of misconduct committed in the course of an arrest. All those cases involved verbal and/or physical aggression.

29. The National Directorate to Combat Institutional Violence of the Secretariat for Human Rights also provides legal advice and psychosocial assistance to victims of institutional violence. For example, it manages a free, widely publicized helpline (0800-122-5878) which operates 24 hours a day to provide assistance to victims of acts of violence committed by members of security forces or public officials.

30. To further regulate the actions of federal security forces in situations involving children and adolescents, whether as victims or as juvenile offenders, a technical committee has been formed within the Ministry of Security to draft a protocol containing basic rules and mandatory procedures to be followed during all operations conducted by the federal police or security forces where children or adolescents are involved, as well as procedures for the collection of relevant information. This operational protocol will also regulate arrest and detention procedures to ensure that they comply with the applicable international standards.

31. The website of the Ministry of Justice and Human Rights provides statistics on the judicial and prison systems, broken down by year, compiled by the National Directorate of Criminal Justice and Legislation, which runs the National Judicial Statistics System and the National Prison Statistics System.

32. The general purpose of the National Judicial Statistics System is to compile information on the structure and activities of the judicial and prosecution authorities in the judicial system, and particularly the criminal justice system, in Argentina. The National Prison Statistics System gathers statistical information on the country's prisons and annual data on the total number of persons deprived of liberty for criminal offences.

33. These national statistical systems represent a first step towards systematizing and increasing the accessibility of data on the national judicial and penitentiary systems while at the same time ensuring their transparency and allowing for regular updates.

34. The following links provide access to the reports of the National Judicial Statistics System and the National Prison Statistics System, the database query system and special reports:

<https://www.argentina.gob.ar/justicia/politicacriminal/estadisticas/snej>.

<https://www.argentina.gob.ar/justicia/politicacriminal/estadisticas/sneep>.

#### **4. Local mechanisms for the prevention of torture**

35. The Secretariat for Human Rights is actively working to promote local mechanisms for the prevention of torture in all provinces that do not yet have them in place.

36. To this end, at the plenary meeting of the Federal Human Rights Council held on 15 July 2020, the Council and the human rights departments of all jurisdictions in the country signed a pledge to set up and operationalize local mechanisms of this type.<sup>2</sup> In follow-up to this pledge, in December 2020, the Secretary for Human Rights sent a formal note to the

<sup>2</sup> More information on this pledge is available at <https://www.argentina.gob.ar/noticias/por-una-argentina-sin-violencia-institucional>.

governors of every province that had not yet established a mechanism in which it urged them to launch such a process.

37. The need to establish local mechanisms of this sort is on the agenda for the bilateral meetings held by provincial officials and the National Directorate to Combat Institutional Violence of the Secretariat for Human Rights, which offers technical assistance in that regard.

38. From the date of submission of the follow-up report ([CAT/C/ARG/CO/5-6/Add.1](#)), i.e. May 2018, to the present, some progress has been made in the provinces that had not legally established or designated local mechanisms for the prevention of torture.

39. In the Province of Jujuy, the provincial legislature adopted Act No. 6137 on 13 September 2019.<sup>3</sup> This law provides for the establishment of the Local Mechanism of the Province of Jujuy for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Mechanism comprises the Provincial Committee, which constitutes the local mechanism proper, and the Inter-Institutional Advisory Council, whose role is to assist the Committee by issuing recommendations and proposing prevention measures and policies. On 2 February 2021, the Governor of Jujuy issued Decree No. 2662-G2021, which sets out the Act's implementing regulations and thus puts the Local Mechanism into operation.

40. In the Province of Neuquén, Act No. 3213 was adopted on 20 November 2019.<sup>4</sup> It provides for the establishment of the Provincial Committee for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Committee is attached to the provincial legislature and has functional and financial autonomy. It has the power to establish independent agencies, appoint their personnel and manage their budgets in accordance with the legislation in force. Until such time as the Committee's budget is approved, the provincial government is legally responsible for carrying out the necessary budgetary restructuring (art. 16). A decree establishing the implementing regulations for Act No. 3213 is slated for adoption in the near future.

41. In the Province of Buenos Aires, the Federal Council of Local Mechanisms, by Decision No. CFML 1/19 of 13 November 2019, designated the Provincial Memory Commission as the provisional local mechanism under the procedure provided for in article 22 (h) of Act No. 26.827 until a permanent local mechanism can be established and designated by law.

42. In several provinces, bills for this purpose are under consideration or are being drafted.

43. In June 2020, the Province of Chubut submitted a bill to the provincial legislature on the establishment of a provincial committee to evaluate the implementation of the Convention against Torture. In August 2020, an initial briefing was held by the legislative committee, at which public agencies and experts presented their views on the bill and provided input. The National Committee for the Prevention of Torture also provided input. The bill is currently under consideration by the legislative committee.

44. In the Province of La Pampa, in late 2020, the Office of the Undersecretary for Human Rights submitted a bill on the establishment of a local mechanism for the prevention of torture and other forms of ill-treatment to guarantee the enjoyment by persons deprived of their liberty of their rights under the law.

45. In the Province of La Rioja, in March 2021, a bill on the establishment of a local mechanism, which had originally been submitted in 2014, was resubmitted to the provincial parliament. In this context, the president and several members of the provincial legislature received a visit from the Secretary for Human Rights and made a pledge to consider and adopt the bill.

46. In the Province of Santa Fe, the provincial Secretariat for Human Rights and Diversity advocated the passage of a bill on the establishment of a local mechanism drafted by the

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<sup>3</sup> The text of Act No. 6.137 is available at <http://boletinoficial.jujuy.gob.ar/?p=166915#:~:text=La%20presente%20Ley%20promueve%20el,per%20privadas%20de%20su%20libertad.>

<sup>4</sup> The text of Act No. 3.213 is available at <https://boficial.neuquen.gov.ar/pdf/bol1912273726.pdf>.

National University of Rosario in line with the principles established in the Optional Protocol to the Convention.

47. In the Province of Santa Cruz, the provincial Human Rights Secretariat is advocating an initiative to establish a local mechanism; in August 2020, it sent a request for technical assistance to the National Committee for the Prevention of Torture with a view to submitting a bill to the provincial chamber of deputies.

48. In the Province of Tierra del Fuego, a bill on the establishment of a local mechanism is currently being drafted. The province has two laws on mechanisms that complement, but are not substitutes for, a local mechanism, namely, Act No. 857, which provides for the establishment of the Committee for the Evaluation of the Monitoring and Implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and Act No. 1027, which provides for the establishment of the Office of the Ombudsman for the Prison System.

49. The comments below relate to those provinces that have established local mechanisms.

50. In the Province of Misiones, the Misiones Provincial Commission for the Prevention of Torture undertook various activities in 2020: it conducted 237 visits to prisons, police stations, Guaraní communities and homes for the elderly submitted 270 reports to provincial agencies; developed 13 protocols; filed 13 criminal complaints; made 24 legal submissions; and received complaints through formal channels, by telephone and via WhatsApp.

51. In the Province of Chaco, in 2020, under Act No. 3264-B, the provincial prevention system was completely overhauled and brought fully into line with the requirements of the Optional Protocol and the recommendations of the Subcommittee on Prevention of Torture, particularly with regard to transparency in the selection of its members, their suitability and their functional and personal independence. Since the local mechanism was set up, its budget has increased exponentially, rising by 1,497.41 per cent between 2016 and 2021.

52. In the Province of Río Negro, in 2020, the adoption of Decree No. 317/20 provided for the establishment of the Special Committee on Combating COVID-19 in Situations of Confinement, whose purpose is to ensure that the human rights, in particular the right to health, of persons deprived of their liberty during the pandemic are upheld while they serve their sentences.

## 5. Violence against women, girls and adolescents

53. Regarding measures to prevent femicide, the trafficking of women and all forms of violence against women, the establishment of the Ministry for Women, Gender and Diversity in December 2019 is an important step.<sup>5</sup> The establishment of this Ministry reflects the commitments made by the State with respect to women's rights and diversity<sup>6</sup> and shows that gender issues are being treated as a priority item on the public agenda.

54. The mandate of the Ministry for Women, Gender and Diversity is to formulate, coordinate and carry out policies to guarantee the right of women and LGBTI+ persons throughout Argentina to an autonomous life free from violence and inequality.

55. One of the Ministry's priorities is to formulate and implement education and training policies on gender and violence against women and LGBTI+ persons pursuant to Act No. 27.499 on mandatory gender training for all persons serving in any of the three branches of government (the Micaela Act.)<sup>7</sup> In January 2020, the President of the Republic and his entire cabinet received training, which has since been provided to various government agencies, the

<sup>5</sup> The Ministry for Women, Gender and Diversity was established pursuant to Decree No. 7/2019, available at <https://www.boletinoficial.gob.ar/detalleAviso/primera/223623/20191211>.

<sup>6</sup> The Argentine Republic has ratified and granted constitutional status (art. 75 (22) of the Constitution) to the main international and regional human rights instruments that include provisions on equality and non-discrimination, which include heightened obligations in relation to groups in particularly vulnerable situations, including women.

<sup>7</sup> The complete text of Act No. 27.499 is available at <https://www.argentina.gob.ar/normativa/nacional/ley-27499-318666>.

Chamber of Deputies and the Senate. To date, only the judges of the Supreme Court of Justice have yet to receive training in this area.

56. With regard to measures to prevent and eradicate femicides and to punish the perpetrators of that crime, the Ministry for Women, Gender and Diversity has departments specialized in addressing extreme gender-based violence. In particular, the Directorate for the Comprehensive Approach to Cases of Femicide, Transvesticide, Transfemicide and Sexual Offences, which is attached to the Secretariat for Policies against Gender-based Violence, is responsible for developing and managing public policies related to the prevention and prosecution of gender-based violent crimes, the punishment of persons committing such crimes and the provision of reparations to victims.

57. In July 2020, the executive branch presented the National Action Plan for Combating Gender-based Violence 2020–2022<sup>8</sup> under the Act on Comprehensive Protection to Prevent, Punish and Eradicate Acts of Violence against Women in Their Interpersonal Relations (No. 26.485).<sup>9</sup> This action plan is intended to address a widespread and structural problem in a comprehensive manner. It includes more than 100 commitments for which 42 national government agencies are directly responsible.<sup>10</sup> One of its components is the Interministerial Programme for a Comprehensive Approach to Extreme Gender-based Violence, a strategy that was jointly developed by the Ministry for Women, the Ministry of Justice and the Ministry of Security to address the issue of femicide, transvesticide and transfemicide.

58. In February 2021, the Federal Council for Preventing and Addressing Femicides, Transvesticides and Transfemicides was established under the above-mentioned interministerial programme and tasked with developing federal guidelines to harmonize measures and ensure a coordinated approach among the various State agencies, provincial bodies and institutions of the Autonomous City of Buenos Aires.

59. In July 2020, the Programme for Urgent Support and Immediate Comprehensive Assistance in Cases of Femicide, Transvesticide and Transfemicide<sup>11</sup> was established. The aim of the programme is to provide comprehensive assistance through financial support and psychological and/or legal advice to family members and/or relatives of victims of femicide, transvesticide and transfemicide.

60. With regard to complaints of gender-based violence, the Integrated System for Cases of Gender-based Violence was established within the National Directorate for Planning, Monitoring and Information Management of the Ministry for Women, Gender and Diversity to systematize the available information on cases of gender-based violence. The guidelines for participation in the Integrated System for Cases of Gender-based Violence by national and provincial agencies and municipal authorities were adopted by Decision No. 60/2021.

61. A free nationwide hotline (Line 144) that operates 24 hours a day, 365 days a year, offers guidance, support, coordination, follow-up and consultations regarding situations of gender-based violence. A report by the Ministry for Women, Gender and Diversity on the use of Line 144 from 2017 to 2020 has been attached as annex IV.

62. Official femicide statistics are compiled by the Supreme Court of Justice on the basis of a register of statistical data on court cases involving the violent, gender-motivated deaths of women, established pursuant to Decision No. 42/2017. According to the operating protocol

<sup>8</sup> More information on the National Action Plan for Combatting Gender-based Violence 2020–2022 is available at

[https://www.argentina.gob.ar/generos/plan\\_nacional\\_de\\_accion\\_contra\\_las\\_violencias\\_por\\_motivos\\_de\\_genero](https://www.argentina.gob.ar/generos/plan_nacional_de_accion_contra_las_violencias_por_motivos_de_genero).

<sup>9</sup> The text of Act No. 24.485 is available at

<http://servicios.infoleg.gob.ar/infolegInternet/anexos/150000-154999/152155/norma.htm>.

<sup>10</sup> On 15 July 2020, the Special Rapporteur on violence against women, its causes and consequences of the United Nations Human Rights Council sent a note to the head of the Ministry for Women, Gender and Diversity in which she congratulated the Federal Government on adopting the Plan and stressed that the planned measures could contribute substantively to compliance with international recommendations on the prevention and protection of gender violence.

<sup>11</sup> Established by Decision No. 80/2020, available at

<https://www.boletinoficial.gob.ar/detalleAviso/primer/231788/20200706?busqueda=1>.

of the National Register of Femicides of the Argentine Justice System<sup>12</sup> of the Supreme Court of Justice, information is gathered on all judicial cases involving the killing of women, transgender women or transvestites for gender-related reasons in the country's 24 jurisdictions, in accordance with the definitions established in the Convention of Belém Do Pará.

63. According to the National Register of Femicides of the Argentine Justice System, the total number of victims of direct or linked femicide in 2019 was 268, including 252 direct victims and 5 victims of transvesticide or transfemicide. Statistics for 2020 are not yet available, as the data are processed six months after the end of the year under study. The report shows that intimate femicide is the most common form of the offence, as 90 per cent of the victims had a previous relationship with the perpetrators.<sup>13</sup> It is also reported that 82 per cent of femicides were committed in the context of domestic violence. In only 7 per cent of the cases was the perpetrator not previously known to the victim, while no information on this variable could be obtained in 3 per cent of the cases.

64. On 8 March 2021, the Council of the Judiciary issued Decision No. 8/2021, thereby establishing a public register of complaints against judges in relation to cases of gender-based violence.<sup>14</sup> This constitutes an important step towards mounting an effective judicial response to cases of gender-based violence. The register was set up in fulfilment of a commitment assumed by the Argentine State within the framework of an amicable settlement that is the subject of follow-up by the Committee on the Elimination of Discrimination against Women.

65. With regard to hospital protocols for access to legal abortions, by Decision No. 1/2019, the Ministry of Health adopted a protocol for the comprehensive care of persons entitled to the legal termination of a pregnancy, which provides guidance to ensure that health teams fulfil their responsibility with regard to legal termination under Argentine law.

66. This protocol is an essential component of the national sexual and reproductive health policy and is guided by the following objectives: to guarantee the sexual and reproductive rights of individuals and the rights of patients; to be based on up-to-date scientific evidence; to protect and provide guidance to the health teams responsible for protecting the health of the population; and to be guided by the principle of equity in order to ensure that the best possible practices are available to those who need them most. It also incorporates international recommendations related to abortion procedures, including with regard to drug doses and manual vacuum aspiration, and reinforces the importance of rapid access to comprehensive care.

67. Regarding access to legal abortions, the Congress adopted Act No. 26.710 on Access to Voluntary Termination of Pregnancy and Post-Abortion Care, which came into force in January 2021 and amends articles 85 to 88 of the Criminal Code.<sup>15</sup>

68. The purpose of Act No. 26.710 is to regulate access to the voluntary termination of pregnancy and post-abortion care in fulfilment of the commitments assumed by the Argentine State in the areas of public health, women's rights and the rights of persons with other gender identities who are able to gestate.

69. Women and other persons who are able to gestate have the legal right to decide to undergo the voluntary termination of their pregnancy up to and during the fourteenth week of pregnancy; after this period, they have the right to decide to undergo the legal termination of their pregnancy if the pregnancy is the result of rape or if the life or health of the pregnant person is in danger.

<sup>12</sup> More information is available at

<https://www.csjn.gov.ar/omrecopilacion/omfemicidio/homefemicidio.html>.

<sup>13</sup> The perpetrator was a partner (113 cases) or former partner (66 cases) in 66 per cent of the cases, a family member in 10 per cent and a person with another link to the victim in 14 per cent of the cases.

<sup>14</sup> The text of Decision No. 8/2021 is available at:

<https://www.csjn.gov.ar/omrecopilacion/omfemicidio/homefemicidio.html>.

<sup>15</sup> The text of Act No. 27.610 is available at:

<https://www.boletinoficial.gob.ar/detalleAviso/primera/239807/20210115?busqueda=1>.

70. This new law is of a public nature and its application is mandatory throughout the country. This obligation applies to all three health subsystems, i.e., all public health-care providers, social insurance companies and providers of prepaid health plans, all of which must implement the necessary measures and changes to ensure their compliance with the law.

### Article 3

#### 6. Rights of migrants and refugees

71. On 5 March 2021, Emergency Decree No. 138/2021<sup>16</sup> was issued by the executive branch, thereby repealing Emergency Decree No. 70/2017 and restoring the full force and effect of the Migration Act (No. 25.871).<sup>17</sup>

72. One of the reasons for this measure was that the substantive aspects of the existing regulation were incompatible with the Argentine Constitution and the international system for the protection of human rights. Some of the specific problems were that it violated the principle of due process and the right to legal assistance and defence, restricted the judiciary's broad and adequate supervision of the conduct of administrative authorities, made extensive provision for pretrial detention without requiring a determination of the reasons for its use and restricted the right to family reunification and the scope for exceptions for humanitarian reasons, all without making concrete improvements in other areas.

73. Emergency Decree No. 138/2021, to which the National Migration Directorate actively contributed, is also explicitly based on the observations of the Committee against Torture, the Committee on the Rights of the Child<sup>18</sup> and the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families<sup>19</sup> in which they expressed deep concern and urged the Argentine State to repeal Emergency Decree No. 70/2017.

74. The repeal prompted these three committees to issue a joint communication in which they commended President Alberto Fernández's decision to rescind Decree No. 70/17.<sup>20</sup>

75. The repealing decree establishes a migration policy advisory commission within the National Migration Directorate. The commission will be responsible for proposing non-binding measures related to the application and updating of the Migration Act.

76. Also noteworthy is the establishment in 2020 of a national directorate for racial equity, migrants and refugees under the Human Rights Secretariat. The directorate is tasked with ensuring the incorporation of an intersectional and ethno-racial perspective in national public policies, as well as further promoting the rights of migrants and refugees and coordinating action for the effective implementation of the International Decade for People of African Descent.<sup>21</sup>

77. Regarding the non-refoulement of persons at risk of falling victim to torture, the Refugee Recognition and Protection Act (No. 26.165) establishes the right of all foreign nationals to apply for refugee status and the obligation to respect the principle of non-

<sup>16</sup> Emergency Decree No. 138/2021 is available at:

<http://servicios.infoleg.gob.ar/infolegInternet/anexos/345000-349999/347595/norma.htm>.

<sup>17</sup> The text of Act No. 25.871 is available at:

<http://servicios.infoleg.gob.ar/infolegInternet/verNorma.do?id=92016>.

<sup>18</sup> Committee on the Rights of the Child, CRC/C/ARG/CO/5-6, 1 October 2018, available at:

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FARG%2FCO%2F5-6&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FARG%2FCO%2F5-6&Lang=en).

<sup>19</sup> Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, CMW/C/ARG/CO/2, 13 September 2019, available at:

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CMW/C/ARG/CO/2&Lang=En](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CMW/C/ARG/CO/2&Lang=En).

<sup>20</sup> Argentina: UN Committees welcome decision to repeal deportation decree, 24 March 2021, available at: <https://www.ohchr.org/en/press-releases/2021/03/argentina-un-committees-welcome-decision-repeal-deportation-decree?LangID=S&NewsID=26942>.

<sup>21</sup> Administrative Decision 1838/2020 establishing the new organizational structure of the Human Rights Secretariat available at:

<https://www.boletinoficial.gob.ar/detalleAviso/primera/235940/20201013>.

refoulement (arts. 2 and 7), as well as the obligation to immediately notify the Executive Secretariat of the National Committee for Refugees (CONARE) when such applications are submitted.<sup>22</sup>

78. The procedure for requesting international protection at the border is governed by National Migration Directorate Regulation No. 20193/2005. This regulation establishes that when foreign nationals present themselves to the migration authorities at the border and request international protection in Argentina, after consultation with the competent migration authority, they must be admitted and granted a 48-hour stay so that they can appear before the nearest migration office or agency and apply for refugee status.

79. Currently, in the context of emergency health measures and the provisions of Decree No. 331/2020 et seq. on border closures, the National Committee for Refugees (CONARE) has requested the National Migration Directorate to take specific criteria into consideration when dealing with exemption requests for the entry of persons in need of international protection and/or humanitarian situations and/or requests for family reunification.

80. With respect to victims of human trafficking and gender-based violence, the Ministry for Women, Gender and Diversity has a coordination unit for addressing gender-based violence against migrants. One of the unit's objectives is to assist and care for migrants who are victims of gender-based violence.

81. There is also a coordination office for the support and monitoring of policies designed to combat human trafficking and exploitation. That office is tasked with assisting in the development of public policies for the prevention of human trafficking and exploitation and taking part in the work of the Executive Committee for the Fight against Human Trafficking and Exploitation and for Victim Protection and Assistance, as provided for in Act No. 26.842<sup>23</sup> on human trafficking.

82. As part of the 2020–2022 National Plan to Combat Human Trafficking and Exploitation,<sup>24</sup> which was formulated by the Executive Committee, a series of commitments and actions have been undertaken in the areas of prevention, assistance, prosecution and institution-building with a view to defining public policies against human trafficking and ensuring victims' full enjoyment of their rights and guarantees.

## 7. Information on refugees

83. Disaggregated statistics are provided below from 2017 to date on total applications for refugee status and total approved applications. There have been no cases of refoulement, extradition or expulsion of persons applying for refugee status.

**Graph No. 1: Total applications, by year**

<b>SOLICITUDES DEL ESTATUTO DE REFUGIADO 1985-2019</b>	
<b>Año</b>	<b>Total</b>
<b>2017</b>	<b>1924</b>
<b>2018</b>	<b>2661</b>
<b>2019</b>	<b>3184</b>
<b>2020</b>	<b>1509</b>
<b>01/01/2021 al 15/03/2021</b>	<b>451</b>
<b>TOTAL</b>	<b>9729</b>

<sup>22</sup> The text of Act No. 26.165 is available at: <http://servicios.infoleg.gob.ar/infolegInternet/verNorma.do?id=122609>.

<sup>23</sup> The text of Act No. 26.842 is available at: <http://servicios.infoleg.gob.ar/infolegInternet/anexos/205000-209999/206554/norma.htm>.

<sup>24</sup> More information on the 2020-2022 National Plan to Combat Human Trafficking and Exploitation is available at: [https://www.argentina.gob.ar/sites/default/files/plan\\_2020-2022\\_digital\\_1.pdf](https://www.argentina.gob.ar/sites/default/files/plan_2020-2022_digital_1.pdf).

Graph No. 2: Total applications, by year and age

TOTAL INICIADOS POR RANGO DE EDAD AL INICIO DEL TRAMITE											
EDAD/AÑO	2017		2018		2019		2020		01/01/2021 al 15/03/2021		TOTAL
SEXO	F	M	F	M	F	M	F	M	F	M	
0 a 4	20	27	55	80	141	177	76	74	23	12	685
5 a 11	25	41	67	69	120	131	66	81	20	18	638
12 a 17	22	31	40	51	79	69	39	45	12	23	411
18 a 59	529	1205	802	1463	1037	1342	516	555	153	177	7779
60 y +	14	10	17	17	54	34	29	28	7	6	216
<b>SUBTOTAL</b>	<b>610</b>	<b>1314</b>	<b>981</b>	<b>1680</b>	<b>1431</b>	<b>1753</b>	<b>726</b>	<b>783</b>	<b>215</b>	<b>236</b>	<b>9729</b>
<b>TOTAL</b>	<b>1924</b>		<b>2661</b>		<b>3184</b>		<b>1509</b>		<b>451</b>		<b>9729</b>

Graph No. 3: Total applications, by year and nationality

Nacionalidad	2017	2018	2019	2016	2021 *	Total
Senegalesa	395	228	98	17	4	742
Otras	327	360	251	92	27	1057
Colombiana	55	55	65	44	2	221
Cubana	222	252	188	56	3	721
Siria	62	32	8	17	6	125
Dominicana	184	240	196	31	2	653
Haitiana	385	483	86	19	2	975
Ucraniana	22	19	9	0	0	50
India	30	40	33	3	0	106
Nigeriana	6	16	16	1	0	39
Armenia	98	53	21	5	0	177
Venezuela	135	883	2157	1159	405	4739
Bolivia	3	0	56	65	0	124
<b>Total</b>	<b>1924</b>	<b>2661</b>	<b>3184</b>	<b>1509</b>	<b>451</b>	<b>9729</b>

Graph No. 4: Total approvals, by year

AÑO	PERSONAS RECONOCIDAS COMO REFUGIADAS
2017	87
2018	135
2019	431
2020	116
01/01/2021 al 15/03/2021	33
<b>TOTAL</b>	<b>802</b>

Graph No. 5: Total approvals, by year and age

REFUGIADOS SEGÚN RANGO DE EDAD Y SEXO AÑOS - EDAD ACTUAL											
EDAD/AÑO	2017		2018		2019		2020		01/01/2021 al 15/03/2021		TOTAL
SEXO	F	M	F	M	F	M	F	M	F	M	
0 a 4	4	5	4	4	7	11	2	1	0	1	39
5 a 11	5	7	5	16	15	16	3	4	4	3	78
12 a 17	3	4	6	5	15	13	5	2	1	0	54
18 a 59	24	29	34	57	140	201	36	57	12	11	601
60 y +	3	3	2	2	7	6	1	5	1	0	30
SUBTOTAL	39	48	51	84	184	247	47	69	18	15	802
TOTAL	87		135		431		116		33		802

**Graph No. 6: Total approvals, by year and nationality**

Nacionalidad	2017	2018	2019	2020	2021 *	Total
Siria	16	15	21	6	1	59
Otros	52	88	83	37	26	286
Colombiana	3	3	11	2	0	19
Ucraniana	13	12	11	1	0	37
Ghanesa	1	1	0	0	0	2
Haitiana	0	0	6	2	2	10
Cubana	0	1	5	2	3	11
Nigeriana	1	1	0	1	0	3
Armenia	0	0	0	0	0	0
Venezolana	1	14	294	3	1	313
Boliviana	0	0	0	62	0	62
<b>Total</b>	<b>87</b>	<b>135</b>	<b>431</b>	<b>116</b>	<b>33</b>	<b>802</b>

\* Statistics as of 15 March 2021.

84. Annex V contains detailed data from 2017 onward on court-ordered deportations of migrants.

## 8. Refoulement and expulsion

85. The principle of non-refoulement is one of the cornerstones of refugee protection in Argentina. The Argentine State is a party to the 1951 Convention Relating to the Status of Refugees and thus assumes its obligation to prohibit expulsion and refoulement. This principle is specifically regulated by the provision setting out the exceptional administrative procedure for the expulsion of a refugee (or applicant for such status) contained in Act No. 26.165.

86. In all cases, refugees shall have the right to present any form of exculpatory evidence and to appeal the measure through administrative and judicial proceedings.

87. In the event that an expulsion order is upheld, the refugee must be granted a reasonable period of time to seek legal admission to a third country and may only be expelled to the territory of a State that guarantees the right to life, liberty and security of person, as well as protection against expulsion, refoulement or extradition. The exceptional expulsion procedure provides for the strongest possible safeguards for refugees and a legal procedure that upholds the principle of non-refoulement.

88. There are no recorded cases in which a removal procedure has been carried out with respect to applicants or recognized refugees whose extradition was being requested by their country of origin.

89. Pursuant to article 18 of Act No. 24.767 on international cooperation in criminal matters, Argentina – prior to extraditing a wanted person – asks the requesting State to

guarantee that the person will not be charged, prosecuted or troubled in any way, without prior authorization from Argentina, for acts prior to and different from those constituting the crime for which the extradition was granted.

90. Article 8 (e) of the Act expressly provides that extradition shall not proceed should there be reasonable grounds to believe that the wanted person may be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Therefore, the requesting authority is called upon to ensure that there would be no such grounds in the event that the person is extradited to that State.

## **Articles 5 to 9**

### **9/10. Extradition and judicial assistance**

91. Torture and the related crimes mentioned in article 4 of the Convention are extraditable offences, insofar as they are defined as criminal offences under the Argentine Criminal Code, provided that all requirements are met under the treaties signed by Argentina and its national laws and regulations on international criminal cooperation.

92. Argentina has signed the Inter-American Convention to Prevent and Punish Torture, which provides that, “The States Parties shall take the necessary steps to extradite anyone accused of having committed the crime of torture or sentenced for commission of that crime, in accordance with their respective national laws on extradition and their international commitments on this matter.”

93. It should be noted that no crime – including torture – is expressly mentioned in the treaties or conventions signed by Argentina; the formula generally used in relation to extraditable offences refers to “acts defined as crimes by the legislation of both parties which are punishable by deprivation of liberty for a maximum period of not less than ...”, with no specific mention being made of any crime whatsoever.

## **Article 10**

### **11. Training of security forces**

94. One of the central areas of work of the Office of the Undersecretary for Training and Careers of the Ministry of Security is the training of federal security and provincial police forces on the rational and progressive use of force. After it commenced operations in December 2019, one of the first actions of its National Directorate for Education and Training was the development of a course on entitled “Operational Model for the Rational Use of Force: Considerations for Police Action.”

95. The content of this course is based on professional intervention frameworks that are aligned with international human rights standards and national regulations. The aim is to introduce the operational model for the rational use of force in order to improve the professional conduct of police personnel. This virtual, self-administered course consists of 40 hours of training and includes a mandatory final evaluation. In June 2020, more than 2,000 members of the federal forces were trained, and a second cycle planned for the current year will also be made available to provincial security forces.

96. The National Directorate has also initiated a review of the annual training plan drawn up by the federal security forces. This is being done with a view to assessing the scope, comprehensiveness and characteristics of the model for the rational and progressive use of force that is presented in the training courses in order to identify good teaching practices and opportunities for improvement.

97. In addition, the Ministry of Security has established basic guidelines for the adaptation of the curriculum of the initial training course for officers and non-commissioned officers of the federal security forces. The training course will now be extended to cover a nine-month period, thus increasing the number of hours of training provided for agents of the Argentine Federal Police, airport security police, sailors and gendarmes. The curricula are designed to

allow for the inclusion of cross-cutting conceptual, normative and police action frameworks with a human rights perspective.

98. The Internal Security Secretariat of the Ministry of Security develops rights-focused training activities for the provincial police forces. Courses have been offered on human rights, security policy and the rational use of force.

99. The provincial jurisdictions have been invited to sign an agreement to adhere to Ministry of Security Resolution No. 37/2020 on the conduct of security forces related to respect for gender identity and non-discrimination based on sexual orientation.

100. A proposal has also been drafted for the promulgation of regulations under Security Forces Act No. 26.290<sup>25</sup> that will require the forces that form part of the country's internal security system to include training on the human rights of children and adolescents in their curricula.

101. The various education, training and development courses offered by the Federal Prison Service, which is attached to the Ministry of Justice and Human Rights, are mandatory for all prison personnel. The courses cover respect for human rights and the implementation of new correctional and security standards.

102. The National Prisons Academy, which trains prison officers, currently offers two programmes of study covering prison regulations: a three-year vocational course in prison administration and a four-year bachelor's degree in prison management. A highlight of the programme is the material on risk prevention in prisons, which covers conflict resolution mechanisms, suicide prevention and reduction, inspection and rational use of force, and offences that are potentially attributable to prison officers. A course on prison policy and legislation covers the National System for the Prevention of Torture established by Act No. 26.827 and international standards and commitments such as the United Nations Standard Minimum Rules for the Treatment of Prisoners, the concluding observations of treaty bodies, protocols and international jurisprudence. It also covers material on new constitutional paradigms regarding persons deprived of their liberty, forms of punishment and cruel, inhuman and degrading treatment, and international human rights law.

103. The training academy for non-commissioned officers provides mandatory courses on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (743 officers passed in 2017; 405 in 2018; 475 in 2019; and 45 in 2020), in addition to courses on crisis intervention and refresher courses on human rights topics for personnel who are being promoted.

104. The Higher Academy of Prison Studies provides training courses for junior and senior staff that covers issues that play a fundamental role in the promotion of human rights and the eradication of institutional violence. From 2017 to March 2021, courses were delivered on: the code of conduct for law enforcement officials (461 officers passed in 2017; 1,947 in 2018; 3,019 in 2020; and 63 so far in 2021); the prevention of torture and cruel, inhuman and degrading treatment (461 officers in 2017; 1,947 in 2018; 3,019 in 2020; and 63 so far in 2021) and; integrity and preventing corruption (79 officers in 2018; 173 in 2019; and 1,270 in 2020).

105. In 2021, training activities are being organized for the 15,600 officers of the Prison Service on compliance with the Micaela Act.

## 12. Training for judicial officers

106. In March 2020, the Office of the Prosecutor for Institutional Violence, a specialized unit of the Public Prosecution Service, in collaboration with the General Directorate for Victim Support, Guidance and Protection, published a practical guide entitled "El testimonio por hechos de violencia institucional" (testimony in cases involving institutional violence)<sup>26</sup> aimed at prosecutors, officials and employees of the Public Prosecution Service. The guide

<sup>25</sup> The text of Act No. 26.290 is available at: <https://www.argentina.gob.ar/normativa/nacional/ley-26290-134987>.

<sup>26</sup> The practical guide entitled "El testimonio por hechos de violencia institucional" is available at: [https://www.mpf.gob.ar/procuvin/files/2020/07/PROCUVIN\\_DOVIC\\_Guia-de-testimoniales-v4.pdf](https://www.mpf.gob.ar/procuvin/files/2020/07/PROCUVIN_DOVIC_Guia-de-testimoniales-v4.pdf).

offers a series of recommendations and tools for taking statements from victims of institutional violence designed to ensure that people are treated respectfully and considerately, thereby avoiding the reproduction of dynamics that evoke the moment in which they suffered the acts of violence, as well as instances of re-victimization.

107. Training has also been provided to members of the Access to Justice Department of the Public Prosecution Service, which has various offices in populous neighbourhoods of the Autonomous City of Buenos Aires. The aim of these training activities was to establish common approaches for dealing with cases and to train employees of educational and health institutions in these communities in how to determine and record the physical injuries suffered by victims as quickly as possible. The training materials are based on the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol).

## Article 11

### 13. Incarceration rates and non-custodial measures

108. One of the greatest challenges that Argentina has had to face in recent years has been the sustained growth of the prison population. This has created a difficult situation owing to the consequent decrease in the operational capacity of the federal prisons.

109. In view of this situation, in April 2017 the Functional Risk Assessment Commission was created to coordinate efforts to reduce the impact of housing inmates in the Federal Prison Service on the operational performance of the country's prisons in accordance with the guidelines set out in the United Nations Handbook on Strategies to Reduce Overcrowding in Prisons.

110. The floor space of prison cells is calculated in accordance with the guidelines on basic living conditions for establishments run by the Federal Prison Service established under Resolution No. 2892/2008.<sup>27</sup>

111. General refurbishment of sanitary facilities and electrical installations is also being carried out in accordance with articles I.1.3 and I.2.3 ("Minimum Health Services") of the above-mentioned resolution.

112. Notwithstanding the above, in 2020 the Office of the Undersecretary for Prison Affairs, under the Ministry of Justice and Human Rights established a working group with the Prison Service, the Secretariat for Human Rights and the Federal Prison Architecture Programme with the aim of drafting a new regulation to update Resolution No. 2892/2008 and set a specific quota for each federal prison, taking into account the relevant international regulations in force.

### Annual statistics on prison capacity, number of persons tried and convicted, and occupancy rate of each prison in the Federal Prison Service

113. Data for 2017 and 2018 can be found in annex XVII.

#### 2019

<i>Accommodation</i>	<i>Legal status</i>			<i>Total inmates housed</i>	<i>Accommodation capacity</i>	<i>Occupancy rate</i>
	<i>Tried</i>	<i>Sentenced</i>	<i>Not subject to criminal liability</i>			
<b>Total</b>	<b>7 598</b>	<b>6 282</b>	<b>3</b>	<b>13 883</b>	<b>12 235</b>	<b>113.47%</b>
Federal Penitentiary Complex I	1 814	620	3	2 437	1 943	125.42%

<sup>27</sup> The text of Resolution No. 2892/2008 is available at: [http://www.biblioteca.jus.gov.ar/RES\\_2892\\_2008.pdf](http://www.biblioteca.jus.gov.ar/RES_2892_2008.pdf).

<i>Accommodation</i>	<i>Legal status</i>			<i>Total inmates housed</i>	<i>Accommodation capacity</i>	<i>Occupancy rate</i>
	<i>Tried</i>	<i>Sentenced</i>	<i>Not subject to criminal liability</i>			
Federal Penitentiary Complex II	1 784	868		2 652	2 404	110.32%
Federal Penitentiary Complex III	340	297		637	471	135.24%
Federal Penitentiary Complex, Autonomous City of Buenos Aires	1 449	449		1 898	1 754	108.21%
Federal Penitentiary Complex IV	398	197		595	552	107.79%
Federal Complex for Young Adults	237	115		352	352	100.00%
Federal Penitentiary Complex VI	348	282		630	218	288.99%
Unit 4	86	449		535	476	112.39%
Unit 5	40	273		313	304	102.96%
Unit 6	48	446		494	507	97.44%
Unit 7	156	236		392	387	101.29%
Unit 8	77	92		169	162	104.32%
Federal Penitentiary Complex V	16	511		527	388	135.82%
Unit 10	59	54		113	123	91.87%
Unit 11	89	99		188	190	98.95%
Unit 12	34	269		303	317	95.58%
Unit 13	36	39		75	68	110.29%
Unit 14	33	104		137	138	99.28%
Unit 15	17	86		103	110	93.64%
Unit 16	103	85		188	136	138.24%
Unit 17	55	145		200	201	99.50%
Unit 18		1		1	9	11.11%
Unit 19	7	267		274	284	96.48%
Unit 21	19	12		31	51	60.78%
Unit 22	42	56		98	99	98.99%
Unit 23	11	3		14	22	63.64%
Unit 25		25		25	29	86.21%
Unit 30	5	16		21	25	84.00%
Unit 31	81	60		141	243	58.02%
Unit 34	63	12		75	112	66.96%
Unit 35	75	114		189	160	118.13%
Held without sentence	76			76		

*Note:* Data as of 31 December.

2020

Accommodation	Legal status			Total inmates housed	Accommodation capacity	Occupancy rate
	Tried	Sentenced	Not subject to criminal liability			
<b>Total</b>	<b>5 788</b>	<b>5 678</b>	<b>4</b>	<b>11 470</b>	<b>12 198</b>	<b>94.03%</b>
Federal Penitentiary Complex I	1 365	683	4	2 052	1 978	103.74%
Federal Penitentiary Complex II	1 417	777		2 194	2 433	90.18%
Federal Penitentiary Complex III	192	287		479	465	103.01%
Federal Penitentiary Complex, Autonomous City of Buenos Aires	1 107	420		1 527	1 187	128.64%
Federal Penitentiary Complex IV	244	133		377	533	70.73%
Federal Complex for Young Adults	188	109		297	278	106.83%
Federal Penitentiary Complex VI	359	268		627	701	89.44%
Unit 4	86	409		495	460	107.61%
Unit 5	17	262		279	304	91.78%
Unit 6	32	358		390	489	79.75%
Unit 7	147	230		377	372	101.34%
Unit 8	52	76		128	165	77.58%
Federal Penitentiary Complex V	26	430		456	530	86.04%
Unit 10	40	57		97	123	78.86%
Unit 11	90	83		173	182	95.05%
Unit 12	29	243		272	288	94.44%
Unit 13	18	27		45	83	54.22%
Unit 14	30	95		125	134	93.28%
Unit 15	14	97		111	113	98.23%
Unit 16	64	81		145	142	102.11%
Unit 17	68	136		204	201	101.49%
Unit 18		1		1	9	11.11%
Unit 19	6	159		165	283	58.30%
Unit 21	4	7		11	38	28.95%
Unit 22	19	49		68	99	68.69%
Unit 23	7	6		13	21	61.90%
Unit 25		14		14	27	51.85%
Unit 30	6	7		13	35	37.14%
Unit 31	46	46		92	249	36.95%

<i>Accommodation</i>	<i>Legal status</i>			<i>Total inmates housed</i>	<i>Accommodation capacity</i>	<i>Occupancy rate</i>
	<i>Tried</i>	<i>Sentenced</i>	<i>Not subject to criminal liability</i>			
Unit 34	52	10		62	112	55.36%
Unit 35	63	118		181	164	110.37%

Note: Data as of 31 December.

## 2021

<i>Accommodation</i>	<i>Legal status</i>			<i>Total inmates housed</i>	<i>Accommodation capacity</i>	<i>Occupancy rate</i>
	<i>Tried</i>	<i>Sentenced</i>	<i>Not subject to criminal liability</i>			
<b>Total</b>	<b>6 136</b>	<b>5 448</b>	<b>4</b>	<b>11 588</b>	<b>12 198</b>	<b>95.00%</b>
Federal Penitentiary Complex I	1 384	599	4	1 987	1 978	100.46%
Federal Penitentiary Complex II	1 567	618		2 185	2 433	89.81%
Federal Penitentiary Complex III	215	268		483	465	103.87%
Federal Penitentiary Complex, Autonomous City of Buenos Aires	1 206	378		1 584	1 187	133.45%
Federal Penitentiary Complex IV	251	134		385	533	72.23%
Federal Complex for Young Adults	207	97		304	278	109.35%
Federal Penitentiary Complex VI	371	278		649	701	92.58%
Unit 4	83	432		515	460	111.96%
Unit 5	23	269		292	304	96.05%
Unit 6	26	342		368	489	75.26%
Unit 7	146	235		381	372	102.42%
Unit 8	40	99		139	165	84.24%
Federal Penitentiary Complex V	29	463		492	530	92.83%
Unit 10	40	60		100	123	81.30%
Unit 11	93	80		173	182	95.05%
Unit 12	29	241		270	288	93.75%
Unit 13	15	31		46	83	55.42%
Unit 14	25	100		125	134	93.28%
Unit 15	19	94		113	113	100.00%
Unit 16	71	75		146	142	102.82%
Unit 17	65	135		200	201	99.50%

Accommodation	Legal status			Total inmates housed	Accommodation capacity	Occupancy rate
	Tried	Sentenced	Not subject to criminal liability			
Unit 18	0	1		1	9	11.11%
Unit 19	6	157		163	283	57.60%
Unit 21	13	1		14	38	36.84%
Unit 22	20	64		84	99	84.85%
Unit 23	7	5		12	21	57.14%
Unit 25		12		12	27	44.44%
Unit 30	7	6		13	35	37.14%
Unit 31	56	44		100	249	40.16%
Unit 34	52	10		62	112	55.36%
Unit 35	69	120		189	164	115.24%
Held without sentence	1			1		

Note: Data as of 10 March 2021.

114. The National Directorate for Crime Policy on Justice and Criminal Legislation of the Ministry of Justice and Human Rights is the body responsible for preparing official statistics on crime and the operation of the criminal justice system pursuant to Act No. 25.266.<sup>28</sup>

115. As mentioned above, the National Prison Statistics System was implemented in 2002. This nationwide database covers persons deprived of their liberty for criminal offences and provides information on sentence enforcement in a broad sense, i.e., not only on the enforcement of custodial sentences for such offences, but also on security measures and misdemeanour custodial penalties. Please refer to the above-mentioned link: <https://www.argentina.gob.ar/justicia/politicacriminal/estadisticas/sneep>.

116. In relation to non-custodial measures, the Directorate for Support for Persons Under Electronic Surveillance (DAPBVE) of the Ministry of Justice and Human Rights implements alternative measures outside prison complexes. These measures help to develop a rights-based environment and contribute to crime prevention by fostering healthy interpersonal ties that facilitate social reintegration. The Directorate also supervises the use of electronic surveillance mechanisms for persons who have been tried and/or sentenced and who are required to serve a sentence of house arrest and/or other forms of detention or sentence enforcement within Argentina.

117. DAPBVE focuses on adults who have been convicted or tried by the national, federal or provincial criminal justice systems and are eligible for house arrest or any other form of detention or sentence in accordance with the parameters established by law (National Criminal Code, Act No. 24.660 and its amendments).

118. The process begins with a court order and continues with the completion of a technical report on feasibility and socioenvironmental conditions prepared by DAPBVE and submitted to the judicial authority; the effective application of the system is then determined by the court. In addition to the aforementioned functions, an interdisciplinary support team may contribute to the development of personal skills and new ties to the community.

119. Regarding the electronic surveillance mechanisms used for house arrests, which are established in Act No. 24.660 on the Enforcement of Deprivation of Liberty, the protocol for the priority allocation of electronic monitoring devices was introduced by Resolution No. 808/2016 of the Ministry of Justice and Human Rights.<sup>29</sup>

<sup>28</sup> The text of Act No. 25.266 is available at:

<http://servicios.infoleg.gob.ar/infolegInternet/anexos/60000-64999/63666/norma.htm>.

<sup>29</sup> Resolution No. 808/2016 is available at:

<http://servicios.infoleg.gob.ar/infolegInternet/anexos/265000-269999/265542/norma.htm>.

120. This Protocol establishes a preferential, non-exclusive order of allocation of devices to ensure the inclusion of persons in particularly vulnerable conditions and those for whom the interdisciplinary approach constitutes, a priori, a useful tool in the social reintegration process. The Resolution set out the following order of priority for allocating monitoring devices:

- (a) Pregnant women;
- (b) Mothers of children under 5 years of age or of a person with a disability who is in their care;
- (c) Mothers of children between 5 and 10 years of age, provided that the competent judicial authority considers it reasonable to grant house arrest as an exception to the provisions of the law;
- (d) Prisoners in the terminal stage of an incurable disease;
- (e) Ill prisoners for whom deprivation of liberty in a prison establishment would hinder their recovery or appropriate treatment and for whom hospitalization is not necessary;
- (f) Prisoners with disabilities for whom deprivation of liberty in a prison establishment is inappropriate for their condition and thus constitutes degrading, inhuman or cruel treatment;
- (g) Prisoners aged 70 years of age or more;
- (h) Prisoners who are deemed to represent little danger to society by the relevant technical and criminological services and/or are serving the last third of their sentence and had previously been denied a non-custodial sentence, provided that the competent judicial authority considers it reasonable to grant house arrest as an exception to the provisions of the relevant laws;
- (i) Prisoners belonging to the LGBT community;
- (j) Other cases considered by the presiding judges.

121. In addition, with regard to women deprived of their liberty, various strategies have been designed to guarantee access to rights from a gender perspective, making visible the unequal and discriminatory conditions that, structurally, have a particular impact on women deprived of their liberty.

122. DAPBVE provides psychosocial support to women under electronically monitored house arrest anywhere in the country who have been convicted or tried by federal or national courts. The aim of this is to ensure that they serve their sentence in an environment in which their rights are guaranteed with a view to strengthening their individual capacities, empowering them and helping them to create healthy ties with the community.

123. Given the need to ensure access to justice for women in situations of violence, in cases of house arrest, DAPBVE has prepared a protocol that provides for the use of emergency and non-emergency mechanisms to guarantee access to justice for female victims of any type of violence covered by Act No. 26.485. Moreover, DAPBVE, the Ministry for Women's Affairs and the Sentence Enforcement Directorate of the judiciary designed a guide for handling the cases of persons under house arrest who have been charged with committing gender-based domestic violence.

124. Since its launch in 2015, DAPBVE has served a total of 2,467 people being held under electronically surveilled house arrest or other forms of detention. For various reasons (release, death, being cleared of charges), supervision ceased in 1,277 cases, bringing the total number of persons with active electronic monitoring devices to 1,190 as of March 2021.

125. In relation to the population under house arrest who are in this programme, women currently account for 32 per cent of cases (379 women). Of this subgroup, 69 per cent have dependent children or family members and/or are pregnant, which are the main reasons for their eligibility for house arrest, and 74 per cent have been tried or convicted for drug-related offences under Act No. 23.737.

126. In view of the fact that electronically monitored house arrest is considered to be a measure that mitigates the negative effects of confinement, 70 per cent of the women are involved in ongoing criminal proceedings in which sentences have not yet been handed down, while the other 30 per cent have been sentenced.

127. The LGBTIQ+ community currently accounts for 1 per cent of the total number of people in the DAPBVE programme.

128. As of November 2020, 75 of the 1,072 persons (7 per cent) no longer under DAPBVE supervision had re-entered the Federal Prison Service. This demonstrates that the use of an alternative non-custodial measure and the provision of psychosocial support in pursuit of social integration reduces rates of re-entry among the federal prison population.

129. The National Secretariat for Children, Young People and the Family (SENNAF) is responsible for establishing guidelines and parameters for public policies on children under Act No. 26.061 on the comprehensive protection of the rights of children and adolescents. SENNAF works to maximize efforts to ensure that the rights and guarantees recognized in that law prevail. Act No. 26.061 provides that the Government shall reach agreement with provincial governments and the Autonomous City of Buenos Aires concerning the transfer of direct care services and resources for children and adolescents deprived of their liberty.

130. At present, all jurisdictions have direct services in charge of the facilities run by the juvenile criminal justice system. They include specialized units in charge of apprehension and services that come into play immediately upon the arrest of a juvenile, along with units responsible for criminal prosecution.

131. In February 2017, SENNAF launched a national programme to establish admissions and referral centres for suspected adolescent offenders and to strengthen existing centres of that nature. The programme is aimed at promoting the full application of the rule of specialty with respect to children and adolescents apprehended by security forces in each of the country's jurisdictions.

132. Admissions and referral centres are specialized detention facilities that temporarily house adolescents under 18 years of age who have been arrested on suspicion of committing a crime. These are non-residential facilities, as the stays of children and adolescents admitted to them are brief, as the procedures required for their referral should ideally be carried out within 12 to 24 hours at most. Their objective is to avoid to have adolescents being held in police stations and to afford them specialized treatment from the moment of their arrest. These centres are primarily located in strategic, easily accessible locations and operate 24 hours a day, 365 days a year.

133. Within the framework of policies intended to reduce the time children and adolescents are detained in police stations, specialized on-call teams have been created in different jurisdictions. When children under 18 years of age are arrested by the police or other security forces and are brought to a police station, these interdisciplinary teams go into action in order to arrange for their transfer as soon as possible.

134. SENNAF monitors those jurisdictions that have specialized detention facilities and specialized teams on duty in police stations on a monthly basis and monitors the daily flow of adolescents arriving and leaving these facilities.

#### **Detention in specialized holding facilities and specialized guard teams in police precincts – First semester 2019 and 2020**

<i>Detentions, by type – January–June 2019</i>			
<i>Type of facility</i>	<i>Province</i>	<i>Location</i>	<i>Number of arrests</i>
Specialized holding facility	Autonomous City of Buenos Aires	Autonomous City of Buenos Aires	1 069
	Catamarca	San Fernando del Valle de Catamarca	445

<i>Detentions, by type – January–June 2019</i>			
<i>Type of facility</i>	<i>Province</i>	<i>Location</i>	<i>Number of arrests</i>
	Río Negro	Viedma	16
Specialized teams on duty at police stations	Córdoba	Villa María	146
	Río Negro	Bariloche	35
		Bolsón	0
<b>Total</b>			<b>1 711</b>

<i>Detentions, by type – January–June 2020</i>			
<i>Means</i>	<i>Province</i>	<i>Location</i>	<i>Number of arrests</i>
	Buenos Aires	Mar del Plata	251
		San Martín	184
		San Nicolás	175
Specialized holding facility	Autonomous City of Buenos Aires	Autonomous City of Buenos Aires	921
	Catamarca	San Fernando del Valle de Catamarca	461
		Bariloche	51
	Río Negro	Viedma	22
Specialized teams on duty at police stations	Córdoba	Villa María	161
<b>Total</b>			<b>1 711</b>

135. In order to uphold the rights of children and adolescents, on 28 February 2020, the Senate approved an appointment to the position of Ombudsman for Children and Adolescents, which had been vacant for 15 years. The Ombudsman is the highest monitoring authority in the system for the comprehensive protection of children's rights. Deputy Ombudsmen were also appointed.

136. Specific information is provided for the Province of Buenos Aires, given that it and the federal district have the largest number of detention centres and detainees in Argentina. As a result, under the state of emergency declared in that province under Act No. 14.806, a building infrastructure plan was designed to progressively reduce the critical level of prison overcrowding.<sup>30</sup>

137. The plan consists of three major stages: the continuation of works in progress or planned, with a total of 1,940 new residential units; the construction of 16 hospitals in existing units; and the completion of works to create 18,000 new places by building new penitentiary units, departmental jails and pre-release houses to improve detention conditions within the provincial prison system.

<sup>30</sup> The updated text of Act No. 14.806 and its extensions is available at: <https://normas.gba.gob.ar/documentos/BjYzOuyx.html>.

138. In addition, pursuant to the ruling issued in October 2020 in Case No. 100.983 (“Inmates of Prison Units No. 17, 30 and 31 of the Prison Service of the Province of Buenos Aires without Collective Habeas Corpus”), the provincial Ministry of Justice and Human Rights prepared a proposal to progressively reduce overcrowding in police stations. The implementation of that plan is currently being monitored by the judicial authorities and the Ombudsman’s Office of the Province of Buenos Aires.

#### 14. Detention in police stations and health care

139. The detention of persons in federal facilities administered by the Ministry of Security is temporary and is not to exceed 24–48 hours; these facilities are not equipped to house persons on a permanent basis as they are not mandated to do so.

140. However, in view of the fact that, for various reasons, detainees are housed for longer than the indicated time in some facilities, the Ministry developed the Federal System of Security and Housing Measures, which provides instant access to information on the number of persons housed in each federal facility, the court in charge of the detention and the title of the legal case, as well as the date of admission and the number of housing places available in each facility.

141. This real-time monitoring makes it easier to identify overcrowded facilities in order to make the necessary arrangements with the judicial authorities that ordered the detention, evaluate the possibility of a transfer and make the necessary arrangements with the Federal Prison Service to that end.

142. Since December 2019, the Ministry of Security has taken numerous steps in this direction and has significantly reduced the number of people housed in federal facilities.

143. In the area of health care, one of the Government’s main objectives is to provide primary health care and universal access to health care for all persons housed in federal prisons, with special attention being devoted to particularly vulnerable groups.

144. As stated in previous reports, in 2012 the Programme on Health in Prison Settings was established under Resolution No. 1009/12 of the Ministry of Health.<sup>31</sup> The objective of this programme is to improve access to health care for people in prison by strengthening federal and provincial prison health-care systems throughout the country through the design of strategies that guarantee the full enjoyment of that right.

145. All procedures are carried out in coordination with the Prison Service, as the health care of persons deprived of their liberty is primarily its responsibility. To this end, cooperation and assistance agreements have been signed with the Ministry of Health, the Ministry of Justice, the Ministry of Security or the government of each jurisdiction, as appropriate.

146. Similarly, under specific agreements, the federal and provincial prison services receive medicines under the Remediator Plan.<sup>32</sup> Those supplies are sent directly to the health services of each prison.

147. In addition, this programme provides for health-related training for persons deprived of their liberty, prison officers and health teams. The most frequently addressed topics are overall health (prevention and health promotion tools), sexual and reproductive health, HIV, mental health and problematic consumption, tuberculosis, CPR and first aid, diabetes, high blood pressure, and maternal and child health. In 2020, training related to COVID-19 was added.

148. In order to meet the needs of women deprived of their liberty, programme representatives participate in management roundtables, together with representatives of the Ministry of Women, Gender and Diversity. At these meetings, they work to address the issue

<sup>31</sup> Resolution No. 1009/12 is available at:

<https://www.argentina.gob.ar/normativa/nacional/resoluci%C3%B3n-1009-2012-199488>.

<sup>32</sup> Further information on the Remediator Plan can be found at:

<https://www.argentina.gob.ar/salud/remediar>.

of access to health care for women deprived of their liberty by designing intervention and training strategies in coordination with the Prison Service.

149. The coordination unit for addressing gender-based violence in prison settings of the Ministry of Women, Gender and Diversity also assists in the development of specific policies for women and transgender people within the framework of programmes on the use of force, external prison conditions monitoring and oversight mechanisms, and programmes for the follow-up and analysis of deaths in confinement.

150. An inter-institutional working group formed by the Ministry of Women, Gender and Diversity and the Office of the Undersecretary for Prison Affairs of the Ministry of Justice and Human Rights is to conduct the first survey on the prevalence of situations of gender-based violence among persons deprived of their liberty. This initiative includes two stages: during the first, to be carried out in the first half of 2021, a survey will be conducted on the relationship between the experience of violence and the criminal histories of young adult women; during the second stage, a survey of the entire population of women and other diverse groups deprived of their liberty will be conducted that has been designed on the basis of the results obtained in the first stage.

151. Although all of the prisons attached to the Ministry of Health have a health team, in the event that any additional examination or a second opinion is required, a referral is made or an emergency occurs that cannot be resolved within the prison, the patient will be transferred to an outside hospital.

152. In the Province of Buenos Aires, the measures adopted to improve prison conditions have included the prison infrastructure expansion plan referred to earlier. That plan calls for the completion of the works needed to add to the capacity of prisons and jails administered by the provincial Ministry of Justice.

153. The plan envisages a substantial change in access to health care for detained persons, as it provides for the creation of 16 modular hospitals distributed among 12 prison complexes, with a total of 384 places for the provision of primary health care in the prisons. Within this framework, new modular hospitals were opened in Prison Unit No. 8, which houses women and transgender people, and in Prison Unit No. 33, which houses mothers with children. The Provincial Directorate for Prison Health also adopts various measures and strategies aimed at promoting health in the context of confinement, disease detection, data collection and the incorporation of epidemiological monitoring.

154. In the area of mental health, different protocols are used for the provision of psychological assistance, for addressing suicidal behaviours and for the delivery of remote psychological care and for organizing awareness-raising workshops for persons deprived of their liberty. In the Province of Buenos Aires, the Directorate for Combating Gender Violence, together with the Provincial Prison Health Directorate, carried out a survey to detect the main health problems experienced by women and transgender persons. Several policies were introduced as a result, such as the policy on a protocol for humanized childbirth in prison contexts, action protocols for pregnancies at risk and full-term pregnancies within the unit, and a plan for vaccinations and periodic check-ups for children.

## **15. Medical examinations in custodial settings**

155. Within the Federal Prison Service, health professionals examine each inmate upon admission in order to learn about their background and state of health and to determine what measures need to be taken to ensure their proper treatment. They are also evaluated by the mental health team of each facility. All of these actions are recorded in the patient's medical record, which includes information on any injuries and/or findings noted down on the admission sheet.

156. The Buenos Aires Prison Service has been uploading of (simplified) digital medical records since the beginning of the pandemic as a first step towards the gradual standardization of those records. Priority is being placed on recording cases of communicable and non-communicable pathologies (diabetes, high blood pressure, etc.).

157. The survey conducted by the provincial Ministry of Justice revealed that access to the medical records of inmates was either completely blocked or was restricted. It was for this

reason that the medical records of the population of cisgender, transgender and transvestite women deprived of their liberty began to be digitalized. In addition, upon admission to the women's prison unit, various clinical and gynaecological examinations are performed, as well as a pregnancy test.

#### 16. Solitary confinement and procedures for searching and transferring prisoners

158. The procedure for instituting temporary solitary confinement in the Federal Prison Service has its legal basis in the Regulations of the Disciplinary System for Prisoners, established by Decree No. 18/97, which regulates Chapter IV (Discipline) of the Law on the Execution of the Penalty of Deprivation of Liberty (Act No. 24,660).<sup>33</sup>

159. Those provisions establish the legally applicable sanctions in the case of serious disciplinary infractions (article 20 (c)): up to 15 consecutive days in individual housing or in cells in which conditions are not worse than is lawfully permitted and up to 7 successive or alternating weekends in individual housing or in cells in which conditions are not worse than is lawfully permitted.

160. In addition, there are four types of cases in which temporary solitary confinement may be ordered as a precautionary measure (article 35): (a) when the infringement is, prima facie, serious; (b) when it is necessary for the maintenance of order; (c) when it is needed to protect the persons in question; or (d) when it is called for in order to clarify the facts of the case.

161. This measure must be ordered by the director of the unit and notified to the competent judge, who must decide whether to lift or extend the precautionary measure within 24 hours of its application. In the latter case, this must be done by means of a substantiated decision, and the period of solitary confinement may not exceed three days in duration.

162. Notwithstanding the foregoing, on 20 April 2021, the President of Argentina submitted a bill to the Congress that proposes the modification of the disciplinary system described above (Chapter IV of Act No. 24,660) in response to a proposal reached by consensus with the Office of the Attorney General of Argentina in connection with Case No. 12,672 (*Guillermo Patricio Lynn v. Argentina*), which is being heard by the Inter-American Commission on Human Rights.

163. In the message sent to Congress, the executive branch pointed out that the prison disciplinary system is centrally regulated under the laws of countries around the world and pointed out that the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) contain specific provisions that assign the disciplinary system the responsibility of ensuring safe custody, the safe operation of the prison and the proper organization of communal life. In particular, the executive branch noted that the regulations established under the current law are based on principles that need to be updated in order to reflect the most up-to-date regional and international standards on the subject. The bill is attached to the present report as annex VI.

164. The search procedures for visitors, inmates and their belongings are established in articles 70 and 163 of Act No. 24.660. In several of the establishments, manual searches have been replaced by non-intensive electronic sensors; the institutional procedures for the use of such sensors are set out in the protocol for federal prison entry and exit procedures.

165. Regarding the measures adopted to ensure that inmates are placed in prison facilities close to their home, on 8 February 2021, under Provision No. DI-2021-103-APN-SPF#MJ, the Protocol for the Transfer of Persons Deprived of their Liberty within the Federal Prison Service was approved. That protocol was formulated in compliance with the judgment issued in the case of *López et al. v. Argentina* by the Inter-American Court of Human Rights on 25 November 2019. The protocol is attached to the present report as annex VII.

166. The overarching principle underlying this regulation is that persons deprived of their liberty should be housed, as far as possible, in establishments close to their family, their community, the persons in charge of their legal defence and the competent judicial authority

<sup>33</sup> The text of Decree No. 18/97 is available at: <http://servicios.infoleg.gob.ar/infolegInternet/anexos/40000-44999/41366/norma.htm>.

(article 1). For this reason, special emphasis has been placed on the social welfare sector's role in the procedure. The social welfare services must: provide information about the particular and family circumstances of each person and the place of residence of the primary family group; state whether the person receives visitors or has minor children; state whether a release, prison-to-prison visit or extraordinary visit is in process; and describe what impact the transfer would have on the case in question.

167. It has been determined that, in order to ensure the suitability of the procedure, a person's legal defence counsel and the judicial authority in charge of the case must be notified of the decision at least 72 hours before the planned date of the transfer, together with the reasons justifying the measure.

168. The guidelines and principles established in Resolution No. 1938/2010 of the provincial Ministry of Justice apply to the transfer of inmates within the Buenos Aires Prison Service. Under the terms of this resolution, priority consideration is to be given to housing inmates in prison units close to their homes and families insofar as possible. Priority is also given to housing prisoners in facilities that are located near or within the jurisdiction of the judicial bodies that are presiding over the proceedings concerning them in order to help to ensure their timely access to justice.

#### **17. Inter-prisoner violence. Prevention of ill-treatment of children and adolescents**

169. The National Prison Statistics System keeps an annual record of the number of acts of violence committed by detainees in prisons throughout the country.

170. Between 2017 and 2019, the Prison Service recorded 41,109 disturbances, which included incidents in which people were injured or killed, hostage-taking, cases in which damage occurred and other types of situations.<sup>34</sup>

171. Regarding violence, data submitted by the Federal Prison Service on recorded cases of inter-prisoner violence in federal facilities between 2017 and 2020 are attached in annex VIII.

172. Also attached, in annex IX, is a report prepared by the Office of the Special Prosecutor for Institutional Violence on violence in prisons and the actions taken in response.

173. The National Secretariat for Children, Adolescents and the Family has developed a protocol for handling complaints of ill-treatment in institutions for young offenders. The protocol details the steps to be followed by response teams and has been expanded with the addition of a protocol for responding to complaints of ill-treatment. That protocol establishes the procedure for dealing with situations involving adult staff and the injury or ill-treatment of an adolescent during his/her stay in a closed or semi-closed facility.

174. The main measures provided for in the protocol are the immediate notification of the director of the establishment and the judge who ordered the person's deprivation of liberty; the filing of a complaint with the judicial authority; and the provision of support, medical assistance and legal advice to the adolescent. While the incident is investigated and administrative proceedings are carried out, the officer involved *prima facie* is separated from the adolescent complainant and assigned to tasks that do not involve contact with young people. The protocol also provides that disciplinary measures may be taken, an administrative inquiry may be initiated and, as a last resort, the adolescent may be transferred to another facility, with his or her consent and with the judge in charge of the case being notified.

175. Concerning the measures adopted at the Esperanza Complex in Córdoba Province, the provincial Ministry of Justice and Human Rights approved an institutional project for the Esperanza Complex Socioeducational Centre by Decision No. 319/18, issued on 16 November 2018, which is attached in annex X.

176. The protocol establishes and formalizes the pedagogical methods that have been used since that time, with the guiding principle being the prioritization of proper treatment as a fundamental and indispensable element of any educational and social process. It establishes

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<sup>34</sup> The annual reports of the National Statistical System on the Execution of Sentences are available at: <https://www.argentina.gob.ar/justicia/politicacriminal/estadisticas/sneep>.

that security staff at socioeducational centres<sup>35</sup> must permit the development of adolescents' individual educational plans and promotes interpersonal relations based on respect and care for others. Since 2018, efforts have been made to provide ongoing training in this area to all staff.

177. In the event of misconduct, ill-treatment or criminal behaviour on the part of an agent, a complaint must be filed with the judiciary and an administrative inquiry is to be initiated in order to determine the persons responsible. The legal unit in charge of disciplinary proceedings is external and independent of the Esperanza Complex and the provincial juvenile criminal justice system. The protocol explicitly prohibits the use of physical restraints as a punishment.

178. In 2019, Córdoba Province adopted Act No. 10.636, which establishes the position of "specialized children's lawyer" for the defence of the interests of children and adolescents in administrative or judicial proceedings, and Act No. 10.637, which modifies the system for the promotion and comprehensive protection of the rights of children and adolescents by expanding the use of non-custodial measures.

## 18. Deaths in prison

179. The Federal Prison Service's procedural guidelines for preventing deaths by violence call for the provision of prompt assistance to victims in life-threatening situations, the coordination of the action to be taken by prison staff dealing with events in which the physical integrity of prisoners is at risk and procedures for safeguarding prisoners' lives in the event of an emergency situation. Prison staff are instructed and trained in how to assist victims in life-threatening situations and what to do in the event of incidents involving hangings, burns, stab wounds and loss of consciousness.

180. The National Prison Statistics System keeps records on the number of deaths that occur in prison nationwide each year. Between 2017 and 2019, the Prison Service recorded 831 deaths of persons deprived of their liberty in establishments under its jurisdiction.<sup>36</sup>

181. Data submitted by the Federal Prison Service on deaths in federal institutions between 2017 and 2021 are attached in annex XI.

182. Annex XII contains information collected by the Statistical Management and Coordination Unit of the Buenos Aires Prison Service on deaths of persons deprived of their liberty that occurred between 2017 and 2021.

183. In November 2020, the Ministry of Justice and Human Rights of Buenos Aires Province established the Unit to Record and Monitor Deaths in Prison under the auspices of the Directorate for the Prevention of Institutional Violence, which has, since its inception, been recording and monitoring traumatic and non-traumatic deaths in the various prison facilities of the province.

184. The following information can be provided regarding investigations into specific cases identified by the Committee.

185. With respect to the death of Roberto Agustín Yrusta, the case is being handled by Special Prosecution Unit for Complex Crimes No. 135 of Santa Fe (CUIJ 21-06995476-3). The Unit summoned Estela and Alejandra Yrusta again in order to take their statements and inform them of their rights. It also requested the approval of their application to be recognized as plaintiffs in the case. In addition, further arrangements have been made, a hearing was scheduled so that prisoners who were in the same wing as Mr. Yrusta could testify, and additional steps have been taken in order to reconstruct the incident.

186. In March 2021, the judge trying the case set a date in April 2021 for the questioning of officers Julio Dellavita, Guido Reinoso, Ricardo Giménez, Adrián Quiroga and Alberto

<sup>35</sup> More information on the socio-educational centres in Córdoba Province is available at: <https://senaf.cba.gov.ar/index.php/jovenes-en-conflicto-con-la-ley-penal/centros-socioeducativos/>.

<sup>36</sup> The annual reports of the National Prison Statistics System are available at: <https://www.argentina.gob.ar/justicia/politicacriminal/estadisticas/sneep>.

Acosta on charges of torture resulting in death, as established in article 144 ter of the Criminal Code.

187. Concerning the death of Daniel Oblita Flores, on 23 January 2018, Federal Court of First Instance No. 2 of Rawson ordered a judicial investigation, which is currently being handled under Case file No. FCR. 175-2018 (proceedings entitled “N.N.S/Averiguación de Delito – Victima: Oblita Flores Daniel y otros” (“N.N.S/Criminal Inquiry – Victim: Oblita Flores Daniel et al.”)). The prison ordered the initiation of a summary proceeding (registered under Case file No. 01382/2018 (U.6)), which is currently in the investigation stage; investigators are also awaiting responses to requests made before the court hearing the case.

188. In relation to the investigation into the deaths that occurred in the fire of 15 November 2018 at Police Station No. 3 in Esteban Echeverría, Preliminary Administrative Investigation No. 1050-42874/1118 was initiated by Summary Investigation Unit No. 2, which ordered the dismissal from service of five officers on 29 November 2018; those persons are required to make themselves available to the authorities as and when required.

189. Public Prosecution Unit No. 4 of Lomas de Zamora initiated Preliminary Criminal Investigation No. 07-03-018714-18, entitled “Incendio seguido de muerte y otros, seccional 3ra. De Esteban Echeverría” (Arson resulting in death and others, third section of Esteban Echeverría) in order to determine the persons responsible for the deadly fire and the part played by various public officials on duty at the time. From August 2020 to March 2021, hearings were scheduled, and statements were taken from the prison officers involved in the incident; budget reports were requested for the works required to expand prison capacity, infrastructure works in police stations and measures to remedy prison overcrowding between 2015 and 2018; psychological and medical examinations were ordered for the victims; and interviews were scheduled with the victims’ relatives.

190. Regarding the death of Matías Iberra at Police Station No. 2 in Merlo on 1 July 2019, the circumstances surrounding the incident are the subject of Preliminary Administrative Investigation No. 1050-48329/719, which has been initiated by Summary Investigation Unit No. 3. As part of the summary investigation, a request was made for a copy of the autopsy report and the outcome of the examination of the telephones seized from police officials.

191. In addition, Public Prosecution Unit No. 3 of Morón initiated Preliminary Criminal Investigation No. 10-00-0305578-19, in which statements have been taken from police officers.

192. A suicide prevention programme is in place to detect suicide risk among persons deprived of their liberty in the Federal Prison Service and provide specific responses based on the level of that risk. The aim is to identify persons deprived of their liberty who have specific problems that may lead to self-harm. To that end, intervention guidelines are systematically applied to avert suicidal behaviour. The programme’s guidelines specify the action to be taken by the various professionals concerned (surveillance, treatment and health care).

## **19. Institutionalization of persons with psychosocial disabilities**

193. Mental Health Act No. 26.657<sup>37</sup> guarantees the rights of persons with mental illness and established the Mental Health Act Review Body to protect people’s human rights and supervise and monitor the institutionalization of persons for mental health reasons.

194. The Review Body’s main functions include supervising and monitoring conditions of institutionalization, monitoring compliance with the law regarding the protection of the rights of users of the mental health system and making recommendations to the Ministry of Health. The supervision of the conditions of institutionalization is carried out by making visits to the facilities in question both to deal with specific cases and to monitoring the various establishments as a whole.

<sup>37</sup> The text of Act No. 26.657 is available at:  
<http://servicios.infoleg.gob.ar/infolegInternet/anexos/175000-179999/175977/norma.htm>.

195. The National Directorate for Mental Health and Addiction of the Ministry of Health is transitioning from a confinement-based model to one that relies on the use of inclusion mechanisms to enable people to reintegrate into the community. The nationwide network of mental health services is made up of general hospitals, primary health-care centres and community integration centres.

196. In Buenos Aires Province, the present Administration has, from the outset, been committed to reforming the mental health-care model in order to build a province free of asylums by consolidating a community-based model of care. The provincial Office of the Undersecretary for Mental Health took a number of steps to this end in 2020. Basic guidelines were put in place for the reform of provincial public neuropsychiatric hospitals, along with specific deadlines for the development and implementation of the corresponding projects. In October 2020, every provincial hospital prepared an adaptation plan that outlines the comprehensive projects for institutional reform that are to be carried out. These projects include both health and non-health components, pursuant to Act No. 26.657 and international human rights treaties.

197. The target group for the Sustainable Deinstitutionalization Support Programme is composed of people who have been institutionalized in provincial neuropsychiatric hospitals. The objective of this programme is to develop tools for changing the mental health-care model by, in particular, converting neuropsychiatric hospitals into community-based facilities.

198. Work was also undertaken to devise an instrument for regularly monitoring treatment and adaptation procedures in public neuropsychiatric hospitals. The use of this instrument, which will be mandatory, will provide information on a regular basis in four areas: “Admissions in the acute care ward”, “Admissions in the long-term care ward”, “Outpatient clinics” and “Discharge and social inclusion”. In addition, a joint provision was issued with the Provincial Directorate for Hospitals to put an end to admissions and readmissions to long-term and/or chronic care services of patients from any section of the province’s public neuropsychiatric hospitals.

199. Annex XIII contains a report on the inpatient population in Buenos Aires public neuropsychiatric hospitals and the progress that has been made, which has made it possible to close Ward 12 of Cabred Hospital. The closure of one of the wards of Korn Hospital is expected to take place soon.

200. All the measures described above also apply to Alejandro Korn Neuropsychiatric Hospital in Melchor Romero, which also has a permanent working group that meets on a fortnightly basis pursuant to the court case “*Centro de Estudios Legales y Sociales (CELS) c/ Provincia de Buenos Aires s/Amparo*” (*Centre for Legal and Social Studies (CELS) v. Buenos Aires Province on a petition for amparo*). This has led to the creation of various working committees (on sexual health, the use of psychotropic drugs for therapeutic purposes, institutional violence, and human rights and access to justice). The plaintiffs, hospital authorities, hospital staff and representatives of the Office of the Undersecretary for Mental Health all participate in these committees. The working group is also moving forward with the development of the infrastructure works needed to achieve the goals set out in adaptation plans. To that end, it is arranging for bank guarantees and the construction and allocation of housing to facilitate the discharge of institutionalized persons.

## 20. Detention of migrants

201. With regard to the issue of the deprivation of liberty of migrants whose migration status is irregular, it should be made clear that the National Migration Directorate does not make arrests, as arrests are carried out on the instruction of a court in connection with the commission of an offence. The Directorate has the power only to place individuals in a holding facility. This measure is ordered by a court at the request of the Directorate and is the last step prior to expulsion.

202. Under Migration Act No. 25.871, there are two different sets of circumstances in which the National Migration Directorate can carry out administrative expulsion orders: for the purposes of deportation, under article 64, and for manifest violations of migration law, as set forth in articles 29, 61 and 62.

203. The first situation applies to foreign nationals who are serving sentences in cases tried by the criminal justice system. In other words, the foreign national is detained for the purposes of serving a sentence in connection with a criminal trial unrelated to migration matters. The competent judge is responsible for authorizing the execution of the expulsion order once the administrative authorities have confirmed the decision to withdraw the foreign national's right to remain in the country.

204. The second situation arises when the National Migration Directorate orders an expulsion and requests authorization from the federal courts to place the foreigner in a holding facility for the sole purpose of carrying out the previously issued expulsion order (article 70 of the Act and Regulatory Decree No. 616/2010<sup>38</sup>). The judge reviews the legality of the administrative proceedings and may then issue a ruling authorizing the foreign national's placement in a holding facility so that the expulsion may be carried out.

205. The National Migration Directorate does not place foreign nationals in these facilities unless the expulsion order is final, thereby avoiding situations where foreign nationals are deprived of their liberty while they await the outcome of appeals procedures.

206. As an alternative, the foreign national may choose to voluntarily leave the country. If the person can prove that he or she will do so within 72 hours of the expulsion order becoming final and there are no objective circumstances to suggest that he or she will evade the order, the National Migration Directorate may refrain from requesting authorization for placement in a holding facility.

207. The statutory maximum period that a person may be held in such a facility is 15 calendar days, which may be extended for up to a further 30 calendar days.

208. Once placement has been ordered and enforced, the National Migration Directorate must inform the court every 10 days of the progress of the administrative procedure and the reasons for maintaining the measure in each specific case, if it has not already been carried out.

209. If, while in the holding facility, the foreign national claims to be the father/mother, son/daughter or spouse of an Argentine national, the National Migration Directorate must suspend the expulsion procedure and determine whether or not the alleged relationship exists within 48 hours.

210. In cases where the migrant does not leave the country voluntarily and the authorities are unable to carry out his/her expulsion within the maximum period indicated, the foreign national shall remain at liberty on bail or personal recognizance and must appear before the National Migration Directorate at the intervals established in the administrative act that provides for his/her conditional liberty, until such time as his/her expulsion can be enforced.

211. Annex XIV provides details on expulsions of foreign nationals not deprived of their liberty that were carried out from 2017 to 2020 in accordance with the administrative procedure provided for in Act No. 25.871.

## **Articles 12 and 13**

### **21. Investigation of torture and ill-treatment**

212. Since the inauguration of the new Administration, oversight procedures and agencies in respect of the federal police and security forces have been strengthened.

213. The Office of the Undersecretary for Monitoring and Institutional Transparency has been established within the Ministry of Security. Its functions include the development and implementation of policies to promote transparency, legality, integrity and professionalism

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<sup>38</sup> Between 31 January 2017 and 5 March 2021, article 70 of Act No. 25.871 was in force, as amended by Decree No. 70/2017, which provided that: "Once the decision to expel a foreign national is final, the NATIONAL MIGRATION DIRECTORATE shall request the competent judicial authority to issue a reasoned decision and order for his/her placement in a holding facility for the sole purpose of carrying out the expulsion."

among law enforcement officers and the design of measures to implement relevant national and international regulations.

214. The National Directorate for Police Oversight, which reports to the Office of the Undersecretary, is specifically empowered to monitor the federal police and security forces. It is authorized to design guidelines for dealing with cases of institutional violence; supervise investigations and disciplinary actions in such cases; develop observation and monitoring mechanisms to prevent irregular practices and abuse; and draft regulations on the use of force.

215. In Buenos Aires Province, Act No. 13.204 authorized the establishment of the General Audit Office of Internal Affairs under the authority of the provincial Minister of Security to carry out actions to prevent, investigate and punish conduct by police officers in the province that may constitute ethical misconduct or serious abuses of authority.

216. The General Audit Office has the rank of an Office of the Undersecretary and is run by members of the civil service, which means that it is entirely independent of the police force. The Office has original jurisdiction over cases involving torture perpetrated by police officers and is authorized to act either *ex officio* or upon complaint and to launch a preliminary administrative investigation.

217. In addition, the duties of the Office of the Prosecutor for Institutional Violence of the Public Prosecution Service include the investigation and prosecution of acts of institutional violence. The Office's sphere of responsibility covers crimes under federal and/or national jurisdiction, which means that it can intervene in cases occurring in prisons under the jurisdiction of the Federal Prison Service and in respect of crimes or offences committed by federal security forces.

218. From 2017 to 2020, the Office, in collaboration with the prosecutors' offices concerned, participated directly in the investigation of 277 cases involving crimes allegedly committed by prison officials in detention facilities. Over the same period, 88 complaints were filed concerning violations in prisons, as confirmed through inspections and communications with persons deprived of their liberty.

## **22. Torture victims' rights and guarantees**

219. In order to coordinate comprehensive assistance for crime victims throughout the country, Act No. 27.372 on the Rights and Guarantees of Crime Victims<sup>39</sup> provided for the creation of the Centre for the Assistance of Crime Victims under the Ministry of Justice and Human Rights, whose primary function is to offer assistance, advice and support to victims of federal crimes anywhere in the country and, at the request of local jurisdictions, to victims of common crimes.

220. The Act provides for the coordination of the actions and measures necessary to allow the effective exercise of victims' rights and the implementation of mechanisms to ensure that all authorities, in their respective spheres of competence, comply with their obligations to prevent, investigate and punish crimes and ensure the restoration of victims' rights.

221. According to the Centre's records, since its inception in June 2018, six calls have been taken in relation to cases of torture and duly referred to the competent bodies.

222. Lastly, without prejudice to the right of all victims of publicly prosecutable offences to act as plaintiffs, Act No. 27.372 amended the Code of Criminal Procedure to enshrine a number of victims' rights, which are detailed in article 5 of the Act.

## **23. National justice system data on cases of torture**

223. The justice system of the Argentine Republic is composed of the national judiciary and the judiciaries of each province, in keeping with the federal nature of the Argentine State.

224. Thus, there is a federal justice system with nationwide jurisdiction that deals with what are considered to be federal crimes: crimes against humanity, trafficking, drug-related

<sup>39</sup> The text of Act No. 27.372 can be consulted at:  
<http://servicios.infoleg.gob.ar/infolegInternet/anexos/275000-279999/276819/norma.htm>.

crimes, smuggling, tax evasion, money-laundering and other crimes affecting the wealth and security of the nation. In addition, all the provinces of Argentina have their own justice systems that deal with common (also known as ordinary) crimes, with their own judicial bodies and procedural legislation.

225. Annex XV contains a list of pending cases and a list of decisions issued by the Federal Court of Criminal Cassation, the highest federal criminal court in the country, based on certified copies provided by the Court's chambers.

#### **24. Trials for crimes against humanity**

226. In December 2020, the Secretariat for Human Rights launched the Strategic Plan for the Advancement of Trials for Crimes Against Humanity, which seeks to establish a course of action to expedite such trials, strengthen investigations and provide greater support to victims. The Plan, attached in annex XVI, is the culmination of efforts that were already being pursued in several areas. For example, in 2019, the special unit that investigates crimes against humanity committed for economic gain, which collects information on such crimes and on corporate responsibility, was placed back under the auspices of the Secretariat. That unit has also worked with government lawyers on various areas of research, documentation and archiving to further judicial investigations.

227. In view of the state of health emergency declared as a result of the pandemic, public oral trials for crimes against humanity were held remotely. Accordingly, the Secretariat's Coordination Unit on Assistance to Victim Witnesses implemented a protocol that includes basic guidelines for safeguarding the rights of victim witnesses summoned to oral hearings and of all the parties to the proceedings, taking into account their specific needs.

228. Between 2017 and 2020, trials continued to progress with the active participation of lawyers from the Secretariat, which initiates the proceedings as the plaintiff in each case.

229. From the date trials resumed in 2006 to December 2020, a total of 1,013 people were convicted and 164 were acquitted in 250 verdicts handed down by courts throughout the country.

230. In 2020, despite the pandemic and the restrictive measures imposed as a result, 26 oral proceedings continued virtually, of which 13 concluded with the issuance of a sentence. In processing these cases, between 2017 and 2020, the Coordination Unit contacted and notified 6,856 witnesses and young persons believed to have been taken from their families, including 2,313 in 2020 alone.

231. In terms of sentence enforcement measures, of the 863 persons who are currently in detention, 638 are under house arrest and 225 are in prison. The statistics show that recourse to house arrest has increased, having been ordered in 74 per cent of the cases.

### **Article 14**

#### **25. Redress and compensation measures**

232. The civil-military dictatorship that held power in the Argentine Republic from 1976 to 1983 turned the country into a "terrorist State" that developed clandestine organizations and institutionalized repressive actions, including torture, kidnappings, enforced disappearances and the establishment of secret detention centres.

233. The return to democracy ushered in a process involving a series of initiatives to promote memory, truth, justice and comprehensive reparation for the victims of serious human rights violations. Throughout the years since that time, there have been significant developments that demonstrate the commitment of the Argentine State to the effective enforcement of human rights and the provision of reparation for rights violations.

234. The Argentine reparation system originated out of cases brought before the Inter-American Commission on Human Rights. The first step was the enactment of Decree No. 70/91, which provided for compensation for persons who had been arrested by order of the National Executive and had initiated proceedings for damages prior to 10 December 1985.

This was followed by the enactment of Act No. 24.043 on compensation for former detainees; Act No. 24.411 on compensation for enforced disappearance or death resulting from acts of State terrorism; Act No. 25.914 on persons born to mothers deprived of their liberty or who had themselves been detained in connection with their fathers/mothers; Act No. 26.564 on extending the benefits of Acts No. 24.043 and 24.411; and Act No. 26.913 on ex gratia pensions for former detainees.

235. The procedures provided for by these laws on reparation fall under the responsibility of the Reparations Policy Directorate of the Secretariat for Human Rights and are extremely accessible to applicants, since they are free of charge and do not require legal counsel, the evidentiary requirements are minimal, and the *pro persona* principle is applied. In addition, the law establishes that there is no limitation period or statute of limitations.

236. The sums of monetary compensation established by these special laws were set by the National Congress on the basis of an estimate that takes into account all acts causing financially compensable damages, with appropriate increases for the most serious cases (torture, identity theft, death) and/or rehabilitation to cover regular clinical and psychological treatment expenses.

237. Through the enactment of these laws, Argentina has made a determined effort to provide reparation for the material consequences and pain suffered by the victims of State repression and terrorism. Reparation was provided to 32,027 people between 1990 and June 2020. Specifically, compensation was paid to 12,939 persons under Act No. 24.043; to 7,981 persons under Act No. 24.411; to 4,435 persons under Act No. 25.914; and to 6,672 persons under Act No. 26.913.

## **26. Rehabilitation measures**

238. The Dr. Fernando Ulloa Centre for Victims of Human Rights Violations, which is under the authority of the Secretariat for Human Rights, was created to provide direct assistance and support to victims of human rights violations and their families. The scope of its work has expanded over time, and it currently provides comprehensive assistance to other victims in addition to assisting victims of State terrorism. From 2017 to 2020, interdisciplinary psychotherapeutic assistance was provided directly to 768 victims of torture and their families with a view to their rehabilitation, and interdisciplinary health teams were trained and advised at the federal level in all the jurisdictions that requested it.

239. At various stages in the process of administering justice, support has been provided to 4,037 victims and their families at the request of the various parties involved in the criminal proceedings (Public Prosecution Service, judges and plaintiffs).

240. The Ulloa Centre also provides support and assistance to victims of institutional violence, including victims of torture, and carries out training and education activities for mental health managers in different parts of the country.

## **Articles 15 and 16**

### **27. Excessive use of force**

241. The reasonable and proportionate use of force by law enforcement officers is a fundamental pillar of the Ministry of Security.

242. At the beginning of its term, in December 2019, the current Administration repealed Resolution No. 956/2018 approving the General Regulations on the Use of Firearms by Members of the Federal Security Forces, which significantly expanded the circumstances in which the police and security forces could use lethal weapons.

243. In addition, the Programme on the Use of Force and Employment of Firearms was re-established by Resolution No. 377/2020, and a permanent working group with representatives from various relevant departments was set up to evaluate every case involving the use of force and regulation weapons by members of the federal security forces.

244. Resolution No. 32/2021 established working groups for each of the federal security forces with the aim of programming training and refresher courses based on an operating model for the reasonable use of force. The working groups will draw up a plan to ensure that, over the next three years, all members of the federal police and security forces take a refresher course based on that model.

245. In Buenos Aires Province, the Ministry of Justice and Human Rights is preparing a new protocol that sets out principles governing the regulated use of force and the protection of life and mental and physical integrity in conflict situations involving the Buenos Aires Prison Service. The application of this protocol will be mandatory in all conflict situations requiring the intervention of prison officers and involving persons in the custody of the Service.

246. The situation with regard to the specific cases mentioned by the Committee is as follows:

- In the case relating to the death of Lucas Cabello, the trial was held before Criminal Correctional Court No. 1, which, on 5 December 2019, sentenced Ricardo Ayala, an officer of the then Metropolitan Police, to 16 years in prison for the crime of “attempted homicide aggravated by having been committed in abuse of police powers and by the use of a firearm”. In addition, Mr. Ayala was banned from owning or carrying firearms and performing security tasks for a period of 10 years.
- With regard to the proceedings relating to the disappearance and death of Santiago Maldonado during an operation carried out by the Gendarmería Nacional Argentina in the early days of the current Administration, the Minister of Security, Dr. Sabina Frederic, ordered the Gendarmería to conduct an investigation into its clearance and dispersal operations in Chubut Province. In doing so, she stated that her Ministry was committed to the search for truth from a disciplinary or administrative perspective, without prejudice to any action taken by the judiciary, whose independence is respected, and that the disciplinary investigation should uncover elements that would allow this case to be studied for training purposes, highlighting appropriate procedures and errors to be avoided.

247. The investigation carried out under the responsibility of the Deputy Chief of the Gendarmería, Administrative Action No. 1/2020, involved gathering and sifting through documentary evidence, film and sound recordings, and testimony from personnel who had participated in the operations and their chiefs. The evidence that was compiled amounted to three files totalling approximately 600 pages, setting it apart from the purely formal investigation conducted by the Force in 2017 (Case file No. KW7-1012/02 on the register of Group XIV, Chubut). The first investigation had sought only to confirm the impunity of those who, thanks to the new investigation, were found to be politically and operationally responsible for the clearance and dispersal operation conducted on 1 August 2017.

248. The Gendarmería has been able to prove that this operation was not necessary, prudent, reasonable or urgent and that the only explanation for it is that it was verbally ordered by the then Chief of Staff of the Ministry of Security, Pablo Nocetti, and by senior members of the Force at the time.

249. The Gendarmería’s investigation also revealed that the orders were to use force to disperse the demonstrators in accordance with the draft protocol which the then Minister Patricia Bullrich had announced and made public on 17 February 2016 but which was never adopted or given any legal force whatsoever. The peculiarity of the draft protocol was that it treated demonstrations as crimes committed in flagrante delicto and provided for all those who participated in them to be charged and arrested.

250. The investigation also highlighted the negligence and serious errors committed by the successive force commanders in charge of the operation, who left the scene on the morning of that day, thereby inexcusably abandoning their responsibilities, and the mistakes made by the commander-in-chief, who finally ordered the site to be cleared by the few personnel still present, including members of the Esquel Squadron, who were not prepared and did not have the necessary equipment. All of this occurred a few hours before the expected arrival of a

mobile detachment of the Gendarmería composed of personnel properly trained to deal with public demonstrations.

251. Based on these findings, the Ministry of Security filed a criminal complaint for the purpose of determining the responsibility of the former Chief of Staff and the consequences of his orders, which required the Gendarmería to serve as an auxiliary judicial body and take action, also instigated by senior members of the Force at the time, in accordance with the procedure for dealing with cases of flagrante delicto. This ran counter to the requirements of the protocol that was in force (Resolution No. 210/11). The criminal complaint was also directed against the commanders involved.

252. The officers in charge of the clearance and dispersal operation were also placed under evaluation by the qualification boards responsible for deliberating on the serious negligence and inexcusable errors that were committed. It has not been possible to impose disciplinary sanctions on the officers because the time elapsed since the Gendarmería closed its first investigation, in 2017, exceeded the statutory limit for such sanctions.

253. The Gendarmería has decided to incorporate this case into its study and training plans, and its National Director has formulated a specific protocol of action to guide the Force's future operations during public demonstrations in accordance with standards of democratic and public safety, the reasonable use of force and human rights.

254. In addition, as part of the international proceedings before the Inter-American Commission on Human Rights (Petition No. P-1834-19, "Sergio Andrés Maldonado"), the Argentine State, through its Ministry of Foreign Affairs and Secretariat for Human Rights, has proposed the opening of a forum for dialogue with the petitioners in accordance with its traditional policy of cooperation with the agencies of the international human rights protection system. In this regard, the parties are working to achieve the necessary consensus to reach an amicable settlement in this case.

255. In relation to the events of 25 November 2017 in which Rafael Nahuel died following an operation conducted by the Argentine Naval Prefecture, the Office of the Undersecretary for Monitoring and Institutional Transparency ordered a series of measures to be taken as part of Administrative Inquiry No. 24/17, initiated by the Prefecture on 28 November 2017, in order to ensure an efficient and objective investigation to determine the administrative responsibilities of the personnel involved. The Directorate for the Prevention of Institutional Violence is conducting a detailed follow-up of the proceedings and has instituted key measures to determine the administrative responsibilities of the personnel involved in the events.

256. Although the administrative proceedings carried out by the Prefecture are not closely linked to the progress of the court case, any developments in the case will be incorporated into the proceedings, since they provide the context for an assessment of the administrative liability of the personnel involved in the incident.

257. In court, on 2 March 2021, the alternate federal judge of Bariloche decided to accept the Secretariat for Human Rights as a plaintiff in the case of the 2017 murder of Rafael Nahuel and ordered further questioning of five of the members of the Prefecture who were involved on the day of his death. Pursuant to the ruling establishing it as a plaintiff, the Secretariat can access the case file, request evidentiary measures, monitor the investigations carried out and those yet to be undertaken, and appeal against decisions made in respect of the progress of the investigation.

258. Regarding the events that occurred during the suppression of the Women's Day march on 8 March 2017 in the City of Buenos Aires, the Office of the Prosecutor for Institutional Violence launched a preliminary investigation into what happened during the march, which allegedly included violent and unjustified actions by municipal police officers.

259. From the accounts provided by victims, it appears that several of them were subjected to humiliating searches, which included various forms of gender-based violence and discriminatory treatment based on their gender identity and sexual-affective orientation. The unit within the Police Department that deals with police violence worked in coordination with the Specialized Prosecutor's Unit on Violence against Women to take statements from the victims and prepare a criminal complaint in accordance with national and international

standards on the protection of women and dissidents, which, once submitted, gave rise to Case No. 22.765/17, which is ongoing.

260. Regarding the events that occurred during the suppression of the teachers' march on 9 April 2017 in the City of Buenos Aires, based on the statements given by the secretaries of the State Workers' Union and the CTERA teachers' union at the headquarters of the Office of the Prosecutor for Institutional Violence, Preliminary Investigation No. 6791 was opened to carry out various evidentiary measures to corroborate the sequence of events.

261. After the preliminary investigation, once all the evidentiary measures that had been ordered (reports on the security forces involved, security cameras installed at the scene, etc.) had been carried out, on 29 June 2017 the Office formalized the corresponding complaint so that the investigation could proceed.

262. Regarding the suppression of the pension reform demonstrations held in the City of Buenos Aires in December 2017 in the vicinity of the Palace of the National Congress, the Office initiated Preliminary Investigation No. 7829. In the subsequent proceedings, complaints were received from several people concerning incidents that occurred on 14 December 2017. These complaints were then referred in a timely manner to Federal Criminal Correctional Court No. 12 of the Federal Capital, which heard Cases Nos. 20270/2017 and 4412/2018.

263. In relation to the events of 18 December 2017, the Office initiated a preliminary investigation to determine what had happened. As part of the evidentiary measures that were ordered, statements were taken from several victims. Once all these measures had been carried out, the preliminary investigation was referred to National Federal Criminal Correctional Court No. 12 owing to the existence of a pending case involving the same matter.

264. As part of this case, a partial list was drawn up of charges against the accused, a federal police officer and two members of the Buenos Aires City Police, who were summoned in connection with different incidents involving two different victims. On 12 October 2020, Federal Court No. 3 of the Federal Capital sentenced the federal police officer to 3 years' imprisonment and banned him from holding public office for 6 years after finding him criminally responsible for causing serious injuries, aggravated by the abuse of his position as a member of the security forces.

## **28. Protection of civil society**

265. Pursuant to a memorandum of agreement signed on 13 February 2020, the Committee for the Alternative Resolution of Territorial Disputes Involving Indigenous Peoples was established by the Ministry of Justice and Human Rights, the Ministry of the Environment and Sustainable Development, the Ministry of Security, the National Institute of Indigenous Affairs and the National Parks Administration.

266. The Committee's mission is to address and resolve disputes by seeking consensus-based responses from the parties involved based on the principle of full respect for the rights of indigenous peoples to access land and enjoy a sustainable way of life. The Committee can be convened at the request of any of the bodies that it comprises, of the indigenous communities concerned or of one or more of the provincial governments which are invited to participate.

267. The Committee dealt with incidents of violence directed at members of the Lof Che Buenuleo Mapuche community in San Carlos de Bariloche. In April/May 2020, Committee members visited the community's territory and held a meeting with national, provincial and community authorities, who signed a memorandum of agreement in which they established principles for the resolution of the territorial dispute and the protection of the community.

268. The comprehensive bill for the prevention of institutional violence, which is attached in annex II, includes a specific chapter on minimum rules for the intervention by police and security forces in public demonstrations. The draft text establishes that the objective of the police and security forces when dealing with public gatherings or demonstrations is the protection of participants' rights. It also provides that demonstrators may not be harassed, arrested or transferred or have their rights restricted in any way merely because they are exercising their rights to freedom of expression, to protest and to petition the authorities. The

bill explicitly prohibits officers who are dealing with public gatherings or demonstrations from carrying lethal weapons, whether or not they come into direct contact with the demonstrators.

#### IV. Other issues

##### 29. Measures taken in the context of the COVID-19 pandemic

269. The Government of Argentina has adopted a series of measures to protect the life and health of the population, including measures to strengthen the health system, and has implemented a set of social, economic and tax initiatives aimed at alleviating the difficult situations caused by the pandemic.

270. The Office of the Undersecretary for Human Rights Protection and International Liaison of the Secretariat for Human Rights has prepared a document entitled “Medidas del Estado argentino para la protección de los derechos humanos durante la pandemia del Covid-19” (Measures taken by the Argentine State to protect human rights during the COVID-19 pandemic), which sets out the key measures adopted by the Argentine Government. This information is disaggregated according to the vulnerable group for which each measure is intended, in line with the main recommendations issued by international human rights bodies during the pandemic.

271. The document is available at the following link: <https://www.argentina.gob.ar/noticias/medidas-del-estado-argentino-para-la-proteccion-de-los-derechos-humanos-durante-la-pandemia>.

272. In addition to the measures covered in the report, with the pandemic ongoing and case numbers rising, new measures have been adopted to protect the public. The health and socioeconomic support measures implemented since the beginning of the pandemic have been extended and new measures have been adopted, including the Strategic Plan for Vaccination Against COVID-19 in the Argentine Republic,<sup>40</sup> under which the State is responsible for providing vaccines. The Plan is being implemented in stages, free of charge and on a voluntary basis, and the vaccines are being distributed in every part of the country for the immunization of the target population (priority and other populations).

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<sup>40</sup> More information on the Strategic Plan for Vaccination can be found at: <https://www.boletinoficial.gob.ar/detalleAviso/primera/239326/20201230>.