



**Convention on the  
Rights of the Child**

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**Committee on the Rights of the Child**

**Consideration of reports submitted by States  
parties under article 12, paragraph 1, of the  
Optional Protocol to the Convention on the Rights  
of the Child on the sale of children, child  
prostitution and child pornography**

**Initial reports of States parties due in 2005**

**Argentina\***

[15 February 2010]

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

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## I. Presentation

1. The problem of the sexual exploitation, sale and trafficking of children and adolescents must be approached from the standpoint of gender and human rights.
2. In this regard, priority must be given to promoting the recognition of and access to the exercise of rights by children and adolescents.<sup>1</sup> Comprehensive protection cannot be understood independently of the overall conditions within which citizens are aware of the historical development of society.
3. In a historical and geographic context that is fraught with inequities, the State -- at all levels -- must act as the great healer of social inequality. It must constantly strive to foster inclusion, creating opportunities for universal and equal access to education, health care and housing, and promoting social progress through the efforts and the work of every individual citizen.
4. From the moment that we took on the responsibility of governing Argentina, in 2003, we have made great strides towards ensuring that children and adolescents and their families have access to and effectively enjoy their rights.
5. We have put in motion a national State which, in the midst of a serious social and economic crisis, has been determined to play a leading role in the reconstruction of the country, ensuring its presence throughout the territory, promoting a productive economy and integrating the social fabric.
6. To promote the social development of our people, we have set aside foreign solutions and urged men, women and communities to begin, through community participation, to be protagonists in public policy.
7. The idea of “beneficiaries” and targeted plans was replaced by democratic processes geared towards building citizenship and guaranteeing rights.
8. This social and political process enabled us to put an end to “patronage” in our institutions and by working together with provinces, municipalities and social organizations, to begin building a system that will provide comprehensive protection of the rights of children and adolescents.
9. We believe we have followed the right path but that much remains to be done. Our efforts are explained in this report. We have achieved significant progress; however, we face many challenges which must be addressed by the national State every day, with humility but with great conviction. The recognition of the rights of children and adolescents clearly paves the way for the realization of those rights and lays the foundation for a just, free and sovereign homeland.

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<sup>1</sup> See articles 3.1 and 4 of the Convention on the Rights of the Child and articles 3, 5 and 29 of Act No. 26061.

## II. Introduction

10. With the adoption in 2005 of Act No. 26061 on the Comprehensive Protection of the Rights of Children and Adolescents, the Argentine Republic repealed the previous Act No. 10903 on the Welfare of Minors, which enshrined the so-called doctrine of “irregular situation” and put underway a special institutional process that gave priority to the doctrine of comprehensive protection of children and adolescents.

11. The National Secretariat for Children, Adolescents and the Family (SENNAF) was established within the Ministry of Social Development of the Presidency of the Nation, which is the specialized body of the executive branch responsible for the rights of children and adolescents.

12. As the institution that guides public policy in this area, SENNAF is responsible for preparing reports to be submitted under article 44 of the Convention on the Rights of the Child. It represents the State in that connection, thus serving as the depositary of any recommendations made.

13. On the occasion of the fifth session of the Federal Council for Children, Adolescents and the Family (COFENAF) and following the pattern of federal participation and institutional coordination adopted for the third periodic report on the Convention on the Rights of the Child (CRC) recently submitted to the United Nations, SENNAF called on the child protection bodies of all the administrative divisions in the country to contribute to this report, thus involving them in the process of drafting the present document.

14. The methodology involved inquiring about promotion, prevention and recovery actions carried out by provincial executives in the context of their work agendas to address the issues in question. This information was then summarized and included at different points in this report.

15. Certain areas of the national executive branch that are concerned with these issues were also asked to contribute, as were some units within the judiciary, so as to provide an overview of public policies. Thus, the goal has been to ensure the involvement of a maximum number of government actors who have responsibilities pertaining to the issues discussed below.

16. The format for this report follows the guidelines adopted by the United Nations Committee on the Rights of the Child at its 777<sup>th</sup> meeting, held on 1 February 2002.

17. Finally, this report describes the progress made by the Argentine Republic in dealing with the offences addressed by the Optional Protocol and the challenges we face as we continue to reaffirm our commitment to the promotion and protection of the human rights of children and adolescents.

## III. General aspects

### A. Legal status

18. The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography was adopted by Act No. 25763, ratified on 23 June 2003 and promulgated on 22 August 2003, with the following declaration:

“With reference to article 2, the Argentine Republic would prefer a broader definition of sale of children, as set out in the Inter-American Convention on International Traffic

in Minors which Argentina has ratified and which, in its article 2, expressly defines traffic as the abduction, removal or retention, or attempted abduction, removal or retention, of a minor for unlawful purposes or by unlawful means. Therefore, under article 41 of the Convention on the Rights of the Child, this meaning shall continue to apply. For the same reasons, the Argentine Republic believes that the sale of children should be criminalized in all cases and not only in those enumerated in article 3, paragraph 1 (a).”

With regard to article 3, the Argentine Republic further states that it has not signed international instruments on the international adoption of minors, has entered a reservation in respect of subparagraphs (b) to (e) of article 21 of the Convention dealing with international adoption, and does not permit international adoption of children domiciled or resident in its jurisdiction.

19. With regard to article 7, the Argentine Republic construes the term “confiscation” (*confiscar*) to mean the seizure of goods and proceeds as part of a sentence or penalty (*decomisar*).

20. With regard to the reservation entered with respect to article 21 (b) to (e) of the Convention, the Argentine State reiterated, in the third periodic report on the Convention on the Rights of the Child, that intercountry adoption shall not be permitted within its jurisdiction because, in its view, a rigorous legal arrangement to prevent the sale of children and child trafficking must be in place before such adoptions are authorized. The Argentine State considers that this reservation strengthens the guarantees afforded to children and adolescents within the national territory, since the child’s origin, culture, distinctive characteristics and current residence are respected.

## **B. Mechanisms for implementation**

21. As stated in the third periodic report on the Convention on the Rights of the Child, pursuant to Act No. 26061, on Comprehensive Protection of the Rights of Children and Adolescents, SENNAF is the body within the executive branch that specializes in the rights of children and adolescents.

22. Pursuant to Decree No. 416/06, the national executive branch decided that it should be placed under the auspices of the Ministry of Social Development, thus ensuring that it carries out its work within the framework of comprehensive social policies. The National Secretariat for Children, Adolescents and the Family (SENNAF) was established with a separate financial administration regime so as to enable it to implement its policies more expeditiously.

23. In addition, so as to ensure the crosscutting nature of its work, SENNAF serves as a full member on the National Council for the Coordination of Social Policies, a body that coordinates the policies of the national ministries of Social Development; Education; Science, Technology and Productive Innovation; Health; Economic Affairs and Production; Justice, Security and Human Rights; and Federal Planning, Public Investment and Services.

24. The new institutional framework, which designed to put into effect the doctrine of comprehensive protection of the rights of children and adolescents and their families; has a new organizational structure, as set forth in Decree No. 28/2007. This involves raising the rank of the implementation agency, in particular, by creating the Under-Secretariat for the Rights of Children, Adolescents and the Family and the Under-Secretariat for Institutional Development and Federal Integration, as well as the National Directorate for Comprehensive Promotion and Protection and the National Directorate for Adolescent Offenders against

Criminal Law; the Systems of Comprehensive Protection of the Rights of Children and Adolescents, and of Institutional Management and Development.

25. Specifically, an Area for the Prevention of Sexual Exploitation of Children and Trafficking in Persons has been set up within the Under-Secretariat for the Rights of Children, Adolescents and the Family, in addition to the Training and Action Programme on Domestic Violence, Ill-treatment of Children and Sexual Abuse.

26. Given that the Argentine Nation has a representative, republican and federal form of government, the body responsible for protecting rights at the federal level is COFENAF. This Council is made up of representatives of the bodies responsible for protecting rights throughout the provinces and in the Autonomous City of Buenos Aires. It is chaired by the authority responsible for SENNAF.

27. At its inaugural meeting on 15 December 2006, COFENAF ratified its commitment by issuing a statement, which was signed by every jurisdiction in the country, to the effect that it would “ assign priority as a matter of special urgency to joint efforts aimed at protecting child and adolescent victims of crime, and to take coordinated action against such pernicious phenomena as child trafficking, smuggling, sexual exploitation and pornography and issues related to migration, child labour and all other violations of fundamental rights.”

28. The national executive branch also drew up a National Plan of Action for the Rights of Children and Adolescents. This Plan, which is implemented by SENNAF, serves as an interministerial policy (currently in the second stage of implementation), entitled *Niñas, niños y adolescentes: Protagonistas del Bicentenario* (Children and adolescents: Protagonists of the Bicentennial). This National Plan of Action will serve as a planning tool for the major strategic areas of policies on children, adolescents and the family over the next four years.

29. This is an integrating mechanism whereby objectives are prioritized, goals are established, actions are coordinated, adjustments to rules are made, and guidelines are laid down for monitoring and following up on policies for action which, under the new legal and institutional order, guarantee the rights of children and adolescents as State policy.

30. In particular, one of the goals of the Plan is to strengthen and establish policies for action (procedures, services, networks, etc.) to provide protection against ill-treatment, neglect, exploitation, violence and all other forms of discrimination.

31. Given the complexity of the issues discussed herein and the many factors that are involved, several different agencies of the national State have developed approaches and strategies within their own areas of competence, as follows:

32. The following programmes are carried out by the Ministry of Justice, Security and Human Rights:

(a) The National Programme for the Prevention and Eradication of Trafficking in Persons and Assistance to its Victims, created by Decree No. 1281/2007. Its main duties are:

- To promote coordination between State agencies and civil society organizations and to propose protocols for interinstitutional work and assistance relating to prevention and the care and reinsertion of victims into society;
- To carry out effective programmes to enhance capacities for detection, law enforcement and disarticulation of trafficking networks;

- To ensure for victims the respect and full enjoyment of their rights and guarantees, providing them with technical guidance so that they can participate in free comprehensive care services (medical, psychological, social, legal, among others).
- To generate activities, in conjunction with the relevant agencies, to facilitate training and to provide assistance in seeking and finding job opportunities;
- To prevent and put an end to revictimization;
- To organize dissemination, sensitization and training activities relating to the problems of trafficking, bearing in mind the need to ensure respect for human rights, for mainstreaming the gender perspective and for addressing the issues that specifically affect children and adolescents.

(b) The Special Unit to Promote the Eradication of Sexual Exploitation of Children and Adolescents, which is presided over by the Human Rights Secretariat. Its main duties are to promote policies for the promotion, protection, defence and restoration of the rights of children and adolescents who are victims of offences against their sexual integrity;

(c) The Office for the Rescue of and Assistance to Victims of Trafficking Offences, created by Resolution No. 2149 (of 6 August 2008) within the Justice Secretariat of the Ministry of Justice. This Office is staffed by an interdisciplinary team made up of personnel from the relevant divisions of the security forces, psychologists, social workers and attorneys. They are responsible for centralizing all activities relating to prevention and investigation of human trafficking offences, as well as for providing support and legal assistance to victims of trafficking, up until the moment when their testimony is heard;

(d) The National Programme on Prevention of the Abduction and Trafficking of Children and Crimes against their Identity. This Programme operates the National Missing Children Registry (Act No. 25746), the purpose of which is to centralize, organize and cross-reference information from all parts of the country in a database concerning children whose whereabouts are unknown, children living in care, protection, detention or internment establishments whose filiation or identification data are unknown, and children who have been traced.

(e) The National Directorate of the Single Registry of Applicants for Guardianship with the Aim of Adoption, which is responsible for the nationwide Single Registry of Applicants for Guardianship with the Aim of Adoption, was created by Act No. 25854. Decree No. 383/2005 established the regulations for its operation as a second-degree registry, i.e., to receive data that have already been recorded in local registries.

(f) The Victims against Violence Programme, one of the aims of which is to provide care for victims of abuse and ill-treatment caused by the exercise of any kind of violence, in a contained and safe environment where their rights are guaranteed.

33. Bearing in mind the federal organization of the country and the special characteristics of the different regions and in order to reduce to a single registry the eligibility requirements for prospective guardians and considering also that the purpose of the Single Registry of Applicants for Guardianship with the Aim of Adoption is to foster the creation of local registries in those jurisdictions that do not yet have them, and to provide all the technical support necessary for the operation of new and existing registries, a drafting committee was set up to draw up the regulations for Act No. 25854. These regulations propose far-reaching



changes in the very nature of the Registry. The changes were laid down in Decree No. 1328 of 28 September 2009. Accordingly, the purposes of the Registry are now established as follows:

- To set up an online communications network to connect all the provincial registries of applicants for guardianship with the aim of adoption, so that all children in the country who need it may have the opportunity to be with a guardian family with the aim of adoption in their own province or region or, if that is not feasible, in some other region;
- To promote the creation of registries in those jurisdictions where they do not yet exist;
- To provide applicants for guardianship with the aim of adoption with a single registry in the area where they live; that single registry will be valid for purposes of accrediting their candidacy in all other provinces, thus expediting the process and making it more efficient, so that applicants will not have to register in multiple locations;
- Pursuant to article 15 of Act No. 25854, and upon the request of a court or of the Office of the Public Prosecutor with competence in cases of guardianship with the aim of adoption, to provide a list of applicants who have been accepted on the terms set forth in article 8 of Act No. 25854; the list should include the data specified in article 5 of the regulations, as well as the information requested by the aforementioned court;
- To provide support with information technology and/or professional support to local regions when requested by local authorities, both for their initial organizational efforts and for their operation and interconnection.

34. As the authority in charge of the Federal Police, the Ministry of Justice, Security and Human Rights has created the Division on Human Trafficking as an addition to the existing Division on Crimes against Minors and the Division on Crimes in Technology.

35. The National Commission for the Eradication of Child Labour (CONAETI) was created in 2000, within the framework of the Ministry of Labour, Employment and Social Security. From its inception, CONAETI has promoted the establishment of Provincial Commission for the Eradication of Child Labour. Most provinces now have such a commission.

36. The National Commission for the Eradication of Child Labour (CONAETI) has led the process of designing the National Plan for the Prevention and Eradication of Child Labour, which was adopted by CONAETI and all the provinces in June 2006. It was introduced at the Third Meeting of Provincial Commissions for the Prevention and Eradication of Child Labour.

37. Act No. 26390, raising the minimum age for employment to sixteen (16), was adopted in June 2008.

38. Between 2003 and 2005, the Technical Secretariat of the Ministry of Labour, Employment and Social Security coordinated the implementation of the *Luz de Infancia* (Light of Childhood) Programme for the prevention and eradication of the commercial sexual exploitation of children, based in Ciudad de Puerto Iguazú, Misiones province. This programme received financing from the International Labour Organization (ILO).

39. The Responsible Tourism and Children Programme run by the Tourism Secretariat seeks to protect the rights of children and adolescents in the context of travel and tourism.

40. Within the Ministry of Foreign Affairs, International Trade and Worship, the General Directorate of Legal Affairs -- Directorate for International Judicial Assistance -- acts as the central authority for the application of treaties currently in force in the area of international protection for children, such as the Inter-American Convention on the International Return of Children, the Inter-American Convention on International Traffic in Minors, the Convention on the Civil Aspects of International Child Abduction and the United Nations Convention against Transnational Organized Crime and its supplementary Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

41. The aforementioned Directorate plays an especially important role in terms of international legal cooperation, since it coordinates with national and foreign authorities the proper application of international instruments, facilitating compliance with the measures suggested and improving the speed and efficacy of communications.

42. The Office for Comprehensive Assistance for Victims of Crime (OFAVI) was created by Resolution No. 58/98 of the Office of the Attorney General, and it operates under that Office. In providing assistance to child victims of crime, the Office seeks to achieve the objective of ensuring that the best interests of the child are taken into account in criminal proceedings through its contacts with child victims or the persons who are responsible for their custody. It also ensures that criminal proceedings apply practices and rules that avoid or attenuate the revictimization which can result from the child's experience with the criminal process.

43. In addition, the Public Prosecution Unit for the Investigation of Crimes against Sexual Integrity, Trafficking in Persons and Child Prostitution (UFI-INTEGRIDAD SEXUAL) was established by Resolution No. 63/05 of the Office of the Attorney- General.

44. The creation of a specialized public prosecution unit for the receipt of complaints in a context of support and activism helps to protect persons who have been affected from being revictimized, and it also provides the judges assigned to the Public Prosecutor's Office with an appropriate framework for developing expertise in the area and ensuring more effective supervision and coordination of law enforcement agencies.

45. Many agencies of provincial jurisdictions are following the same rationale applied by the national State; in other words, although there is a special body in charge of promoting and defending the rights of children and adolescents, intersectoral interventions are also promoted in which the individual areas contribute to the effort within their own area of expertise.

46. In the province of Santiago del Estero, for example, the Directorate for Child Welfare and the Under-Secretariat for Human Rights carry out training programmes for providers in the fields of health, education and justice, human rights promoters and the general public, with a view to raising awareness and inspiring social actors, common citizens and State agents to be committed to taking notice of and acting in situations in which the rights of children, adolescents and their families might be violated.

47. As noted recently in the third periodic report to the Committee on the Rights of the Child, the Argentine Republic is currently implementing administrative adjustments in the bodies responsible for the protection of rights. Thus, it has put underway what is known as the System of Comprehensive Protection of the Rights of Children and Adolescents established by Act No. 26061, which outlines a framework and an institutional structure for approaching the comprehensive protection of rights in the Argentine Republic.

48. Without prejudice to the above and despite the fact that the coordination of activities and policies on behalf of children and adolescents has recently given rise to rates of growth and

expansion that are without precedent in the country's institutional history, much remains to be done in terms of coordinating the protection of children's rights in general and the rights of the victims referred to in the Optional Protocol in particular.

### **C. Coordination with social organizations**

49. The Argentine State is taking action in defence of the rights of children and adolescents, working in close coordination with many different social organizations and civil society organizations throughout the country.

50. As noted in the third periodic report to the Committee on the Rights of the Child, the executive branch of the current administration, adopting an approach based on participation and decentralization, espouses a strategy aimed at coordinating actions and policies with these social movements. This is necessary both for prevention and for the protection of the rights of children and adolescents.

51. These organizations are often based in outlying territories where the social risk is critical and in which the sale and trafficking of children is often facilitated.

52. Through the National Council for the Coordination of Social Policies, the Argentine State carried out, in 2008, the National Programme of Comprehensive Strategies, or "*Plan Ahf*". This programme calls for the national ministries of social development, health and education, as well as the Secretariat of Culture, to work with public officials, providers of public and social services and members of communities in the most backward areas of Argentina to help restore the social fabric and foster the development of families and their rights (for more information, see chapter VII).

53. Finally, SENNAF carries out policies with social organizations concerned with the prevention of sexual exploitation of children and assistance to victims.

### **D. Sensitization and training**

54. Several campaigns and sensitization and training activities have been carried out by the different agencies concerned with the issue. In coordination with the rights protection agencies in the different jurisdictions, SENNAF has organized lectures, discussion forums, training workshops and other meetings relating to the promotion and protection of the rights of children and adolescents who are victims of sexual exploitation.

55. In addition, the Ministry of Justice, Security and Human Rights, the Human Rights Secretariat and the Victims against Violence Programme have carried out training and sensitization activities for provincial and municipal officials as well as for community agents, health care providers and trade union leaders.

56. Through its National Programme on the Rights of Children and Adolescents, the Ministry of Education provides training on the issue for teachers in every jurisdiction. It has also developed sensitization materials.

57. National providers are not the only ones that work to raise public awareness of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. The activities carried out in two jurisdictions are described below as examples of such efforts.

## 1. Santa Cruz

58. In line with its duty to promote and protect human rights and fundamental freedoms, the Secretariat of State for Human Rights of the province of Santa Cruz organized a number of training seminars on trafficking in persons and comprehensive assistance to victims. The following seminars were carried out for government agencies and social organizations:

- The first, second and third seminars on trafficking in persons and assistance to victims, in 2006 and 2007;
- Workshops on trafficking in persons, prevention, assistance and criminal prosecution of the crime of trafficking; promotion and dissemination of Act No. 26364, for cadets in the Police School of Santa Cruz province, in 2008;
- Training seminars on introduction to human rights and trafficking in persons and assistance to victims, in Puerto Santa Cruz, Comandante Luis Piedra Buena, Pico Truncado and Río Gallegos, in 2008.

## 2. Santa Fe

59. The province of Santa Fe has carried out initiatives such as the following:

- Provincial awareness-raising and sensitization workshops on trafficking in persons, carried out by the Office of the Ombudsman of Santa Fe province;
- Programme on prevention of social conflicts, organized by the Office of the Ombudsman of Santa Fe province. Publication of the book entitled *Violencia, Teoría y Realidad*, by the Office of the Ombudsman, Santa Fe province, 2006;
- Publication of papers and dissertations for the first provincial workshop on awareness-raising and sensitization. *Trata de personas, Esclavitud del Nuevo Siglo*, Office of the Ombudsman, Santa Fe province, 2007;
- Second international seminar on Violence in the family, the school and society, carried out by the Office of the Ombudsman of Santa Fe province, the Spanish Agency for International Cooperation and the Ombudsmen's Association of the Argentine Republic, Rosario, Santa Fe, November 2006;
- Publication of the book entitled *Más allá de la Mediación en la Escuela, una reconstrucción de los lazos sociales desde el aula*, Office of the Ombudsman of Santa Fe province, 2007;
- Publication of the brochure entitled *Trata de Personas. Esclavitud del Nuevo Siglo*, Office of the Ombudsman of Santa Fe province.

## E. Periodic evaluation mechanisms

60. Decree No. 28/07, of December 2007, established the organizational structure for the first operational level of SENNAF. In this context, the National Directorate for Institutional Management and Development was created to carry out the following actions, among others:

- Launch and direct activities designed to monitor and assess programmes, projects and activities in support of the promotion, protection and restoration of the rights of children, adolescents, older persons and their families;
- Administer research programmes to promote knowledge building in areas of relevance to children, adolescents, older persons and their families;
- Promote the establishment of documentation centres covering topics within its fields of competence;
- Direct the monitoring and evaluation of programmes and projects designed to promote, protect and restore the rights of children, adolescents, older persons and their families.

61. The National Secretariat for Children, Adolescents and the Family (SENNAF), is currently working through the National Plan of Action for the Rights of Children and Adolescents, in conjunction with the United Nations Children's Fund (UNICEF) and the National Institute of Statistics and Censuses (INDEC), on development of a statistical information system that will make it possible to create and systematize data showing trends in respect for the rights enshrined in the Convention on the Rights of the Child.

62. Nevertheless, the institutions of the Argentine State are faced with the challenge of developing meaningful estimates of trends in behaviours prohibited by the Optional Protocol.

## F. Budgetary resources

63. One of the key principles embodied in Act No. 26061, following the model of all international human rights instruments, is that of the indivisibility and interdependence of rights. This means that every right has an impact on the exercise of every other right.

64. In that regard, as mentioned in the third periodic report to the Committee on the Rights of the Child, the Government of the Argentine Republic and UNICEF signed a Master Plan of Operations for the period 2002-2004.

65. In this context, the Economic Policy Secretariat of the Ministry of the Economy and Production, acting through the Directorate for Analysis of Public Expenditure and Social Programmes (DAGPyPS),<sup>2</sup> agreed with UNICEF to ensure joint implementation of the report on Public Expenditure on behalf of Children in Argentina, the purpose of which was to devise methodological procedures for quantifying public expenditure on behalf of children and, in the process, to draw up a preliminary quantitative estimate of such expenditure for the national and provincial branches of government.

66. In the study, the various budgetary programmes benefiting children and adolescents were defined, taking into account whether the expenditure concerned was specific, indirect or expanded or in the form of public goods. Thus, the analytical category of National Public Social Expenditure benefiting children was established.<sup>3</sup>

<sup>2</sup> Formerly the Directorate for Consolidated Social Expenditure (DGSC).

<sup>3</sup> *Gasto Público Social Dirigido a la Niñez en la Argentina 1995-2007*. Directorate for Analysis of Public Expenditure and Social Programmes. Ministry of the Economy and Production and UNICEF. 2009.

67. The third periodic report on the application of the Convention on the Rights of the Child provides an exhaustive review of trends in the category over the last few years. The study was updated in a recent publication.<sup>4</sup>

68. As shown in the following table, there has been a steady increase in the country's investment per child. This correlates with the share of investment in the gross domestic product (GDP).

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<sup>4</sup> “*Gasto Público Social Dirigido a la Niñez en la Argentina 1995-2007*”. Directorate for Analysis of Public Expenditure and Social Programmes. Ministry of the Economy and Production and UNICEF. 2009.

**Table 1: National Public Social Expenditure on behalf of children. 1995-2007****In millions of pesos. in millions of 2001 pesos. in pesos per child and in percentages**

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
In millions of \$	3 636.5	3 654.8	4 014.3	4 057.0	4 090.0	4 426.1	4 212.3	5 162.2	7 022.9	6 917.1	11 068.7	13 682.6	1 771.59
Group I (SE+IE)	1 327.5	1 409.4	1 575.6	1 555.9	1 717.7	1 960.9	1 938.6	2 702.0	4 041.7	4 964.5	5 560.1	6 412.5	8 538.8
Group II (EE+EPG)	2 309.0	2 285.4	2 438.7	2 497.1	2 372.3	2 465.2	2 273.7	2 460.3	2 961.0	3 952.5	5 508.7	7 270.1	9 177.1
In millions of \$ 2001	3 575.1	3 565.3	3 861.7	3 949.0	4 062.4	4 353.3	4 212.3	3 407.7	3 955.2	4 777.1	5 444.0	6 083.0	7 311.3
Group I (SE+IE)	1 305.0	1 360.0	1 515.7	1 518.4	1 714.5	1 928.6	1 938.6	1 783.6	2 299.3	2 659.6	2 734.6	2 850.9	3 523.9
Group II (EE+EPG)	2 270.0	2 205.3	2 346.0	2 430.6	2 367.9	2 424.6	2 273.7	1 624.1	1 695.9	2 117.5	2 709.3	3 232.1	3 787.4
In \$ per child	298.6	302.4	328.1	331.4	334.1	361.4	343.9	421.4	573.5	728.4	904.4	1 118.0	1 447.7
Group I (SE+IE)	109.0	115.4	128.8	127.4	140.3	160.1	158.3	220.6	330.1	405.5	454.3	524.0	697.8
Group II (EE+EPG)	189.6	187.1	199.3	204.0	193.8	201.3	185.6	200.9	243.4	322.9	450.1	594.1	749.9
In % of TNPE	7.4	7.5	7.8	7.8	7.5	8.1	7.9	10.1	10.7	11.9	11.0	11.1	10.6
Group I (SE+IE)	2.7	2.9	3.1	3.3	3.1	3.6	3.7	5.3	6.2	6.6	5.3	5.2	5.1
Group II (EE+EPG)	4.7	4.6	4.7	4.3	4.3	4.5	4.3	4.8	4.6	5.3	5.5	5.9	5.5
In % of NPSE	11.4	11.1	11.7	11.8	11.9	12.9	13.0	15.0	16.5	17.4	17.8	17.33	17.0
Group I (SE+IE)	4.1	4.2	4.6	4.5	5.0	5.7	6.0	7.8	9.5	9.7	8.9	8.1	8.2
Group II (EE+EPG)	7.2	6.9	7.1	7.2	6.9	7.2	7.0	7.1	7.0	7.7	8.8	9.2	8.8
In % of GDP	1.4	1.4	1.4	1.4	1.4	1.6	1.6	1.7	1.9	2.0	2.1	2.1	2.2

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Group I (SE+IE)	0.5	0.5	0.5	0.5	0.6	0.7	0.7	0.9	1.1	1.1	1.0	1.0	1.1
Group II (EE+EPG)	0.9	0.8	0.8	0.8	0.8	0.9	0.8	0.8	0.8	0.9	1.0	1.1	1.1

SE – Specific expenditure

EE – Expanded expenditure

TNPE – Total national public expenditure

NPSE – National public social expenditure

NPEC – National public expenditure on behalf of children

Total national public expenditure (TNPE) and national public social expenditure (NPSE) are not consolidated with the provincial or municipal levels of government (they include transfers from the Nation to the provinces and municipalities)

National public social expenditure on behalf of children cannot be consolidated with the provincial level of government.

-" : Figure equal to zero - "0,0\* Figure rounded to zero



## IV. Prohibition of the sale of children, child pornography and child prostitution

69. After a heated debate on the situation of children and adolescents who are victims of sexual exploitation, the Congress adopted Act No. 26388, on Cybercrime, and Act No. 26364, on Prevention and Punishment of Trafficking in Persons and Assistance to Victims.

70. Thus, the Argentine State reaffirmed its commitment to move forward with an ethical approach aimed at ensuring that all children and adolescents are able to enjoy all their human rights and all fundamental freedoms in full equality with all other groups.

### A. Definition of the behaviours described in the Optional Protocol

#### 1. Sale of children

71. The Protocol defines the sale of children as any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration.

72. In this regard, articles 138, 139 and 139 *bis* of the Criminal Code, on offences involving omission and simulation of the civil status and identity of persons, are pertinent.

73. Article 138 provides for a penalty of *one to four years* imprisonment for anyone who creates uncertainty about, alters or suppresses the civil status of another.

74. Article 139 establishes a penalty of *two to six years* for any woman who feigns pregnancy or childbirth in order to improperly give her alleged child rights, and provides the same penalty for anyone who, through any action whatsoever, creates uncertainty about, alters or suppresses the identity of a child under 10 years of age as well as to the person who retains or hides that child.

75. Article 139 *bis* establishes a penalty of *three to ten years* for anyone who facilitates, promotes or in any other way acts as an intermediary in the commission of the offences described above, regardless of whether or not a price or a promise of remuneration has been mentioned or a threat has been made or there has been an abuse of authority. Public officials or health officials may also be disqualified.

76. In this regard, it should be noted that the Argentine State has criminalized the sale of persons in article 15 of the National Constitution. Article 140 of the Criminal Code lays down regulations directly pertaining to the constitutional rule and establishes a penalty of three to 15 years imprisonment for any action that reduces a person to servitude or a similar condition and for taking that person in order to keep him or her in that situation.

77. For purposes of interpreting the definition of the offence, it should be borne in mind that pursuant to article 75, paragraph 22 of the National Constitution, the following instruments have been integrated into the Argentine legal system and have constitutional rank: the Declaration of the Rights and Duties of Man, the Universal Declaration of Human Rights, the American Convention on Human Rights, the International Covenant on Civil and Political Rights and the Optional Protocol thereto, the Convention on the Prevention and Punishment of the Crime of Genocide, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of

Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Rights of the Child.

78. Article 146 of the Criminal Code establishes a penalty of five to 15 years imprisonment for the abduction, retention and concealment of a child under 10 years of age from the control of his parents or guardian; this article also includes offences of a more general nature.

79. In addition, article 337 of the Civil Code provides that an adoption is absolutely null and void if it involved the commission of an unlawful act as a prerequisite, including the presumed or apparent abandonment of the child subsequent to the commission of an offence of which the child and/or his or her parents were victims.

## **B. Sexual exploitation**

80. The Protocol defines child prostitution as the use of a child in sexual activities for remuneration or any other form of consideration.

81. Article 125 *bis* of the Criminal Code provides that whoever encourages or facilitates prostitution of persons under 18 years of age, regardless of whether the victim has given consent, shall be sentenced to detention or imprisonment of between *four and 10 years*. The penalty is increased to between *six and 15 years* when the victim is under 13 years of age. This behaviour is also considered punishable, irrespective of the age of the victim, when there has been deception, violence, threats, abuse of authority or any other form of intimidation or coercion, or if the perpetrator is an ascendant relative, spouse, brother, guardian or a person who lives with the victim or is charged with his or her education or care. In such cases, the penalty shall be between 10 and 15 years imprisonment.

82. Article 127 requires that in an offence of this type, the perpetrator must exploit economically the exercise of prostitution by another person, without specifying the age of the victim, but it also requires that there be deception, coercion, abuse of a relationship of dependency, of authority, of power, violence, threats or any other form of intimidation; in other words, that consent must be vitiated.

## **C. Child pornography**

83. Child pornography is defined in the Protocol as any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes.

84. Article 128 of the Criminal Code (as amended by Act No. 26388) states that:

Anyone who produces, finances, offers, sells, publishes, facilitates, disseminates or distributes by whatever means any representation of a person under eighteen (18) years of age engaging in explicit sexual activities or any representation of the minor's genitals for primarily sexual purposes, as well as anyone who organizes live shows involving explicit sexual representations in which the aforesaid minors participate shall be sentenced to between six (6) months and four (4) years imprisonment.

Anyone who has in his or her power representations such as those described in the preceding paragraph for the unequivocal purpose of distributing or selling them shall be sentenced to between four (4) months and two (2) years imprisonment.

Anyone who facilitates access to pornographic shows or who provides pornographic material to minors under fourteen (14) years of age shall be sentenced to between one (1) month and three (3) years imprisonment.

## D. Trafficking in persons

85. Without prejudice to the aforementioned general rules on prohibition of the sale of persons and suppression of the reduction of persons to servitude, as well as the offences defined in articles 28 to 32 of Act No. 24193 on transplantation of organs and anatomical materials, in April 2008, the Congress adopted Act No. 26364 on Prevention and Punishment of Trafficking in Persons and Assistance to Victims. This Act adds to title V of the Criminal Code, on offences against liberty, the following definition of the offence of trafficking in persons over and under 18 years of age:

**Article 2.** - “Trafficking in persons over eighteen (18) years of age”: This means the recruitment, transportation and/or transfer -- either within the country, or from or to another country --, the harbouring or receipt of persons over eighteen (18) years of age, for purposes of exploiting by means of deception, fraud, violence, threat or any means of intimidation or coercion, abuse of authority or a position of vulnerability, receiving or giving of payments or benefits to achieve the consent of a person having control over the victim, even when the victim has given consent (article 2 of the Act).

**Article 3.** - “Trafficking of persons under eighteen (18) years of age”: This means the offer, recruitment, transportation and/or transfer -- either within the country or from or to another country --, harbouring or receipt of persons under eighteen (18) years of age, for purposes of exploitation.

Trafficking of children exists even in the absence of deception, fraud, violence, threat or any means of intimidation or coercion, abuse of authority or of a position of vulnerability, giving or receiving of payments or benefits to obtain the consent of a person having control over the victim.

The consent of victims of trafficking in persons under eighteen (18) years of age shall have no effect whatsoever (article 3 of the Act).

**Article 4.** - Exploitation. For the purposes of the law, exploitation exists in any of the following situations:

- (a) When a person is reduced to or maintained in a position of slavery or servitude or is subjected to similar practices;
- (b) When a person is required to perform forced labour or services;
- (c) When any form of sexual commerce is promoted, facilitated, carried out or when profit is obtained from it;
- (d) When there is unlawful extraction of human organs or tissues.

86. The following penalties are prescribed:

(a) Trafficking in persons over eighteen (18) years of age (article 10 of the Act; article 145 *bis* of the Criminal Code):

(i) Between three (3) and six (6) years for anyone who recruits, transports or transfers, within the country or from or to another country, harbours or receives persons over eighteen years of age, when there has been deception, fraud, violence, threat or any other means of intimidation or coercion, abuse of authority or of a position of vulnerability, giving or receiving of payments or benefits to obtain the consent of a person having control over the victim, for purposes of exploitation;

(ii) Between four (4) and ten (10) years imprisonment when: (a) the perpetrator is an ascendant relative, spouse, direct relative, brother or guardian of the victim, living with the victim, a curator (conservator), a person responsible for the education or care of the victim, a minister of a religious group, whether recognized or not, or a public official;

(b) The act was committed in an organized manner by three (3) or more persons;

(c) There were three (3) or more victims.

(b) Trafficking in persons under eighteen (18) years of age (article 11 of the Act, article 145 *ter* of the Criminal Code):

(i) Between four (4) and ten (10) years imprisonment for anyone who offers, recruits, transports or transfers, within the country or from or to another country, or who harbours or receives persons under eighteen (18) years of age, for purposes of exploitation;

(ii) Between six (6) and fifteen (15) years imprisonment when the victim is under thirteen (13) years of age;

(iii) Between ten (10) and fifteen (15) years imprisonment in any of the abovementioned cases when: (a) there has been deception, fraud, violence, threat or any other means of intimidation or coercion, abuse of power or of a position of vulnerability, giving or receiving of payment or benefits to obtain the consent of a person having control over the victim; (b) the perpetrator is an ascendant relative, spouse, direct relative, brother or guardian of the victim, living with the victim, a curator (conservator), a person responsible for the education or care of the victim, a minister of a religious group, whether recognized or not, or a public official; (c) the act was committed in an organized manner by three (3) or more people; (d) there were three (3) or more victims.

87. The Act also provides that victims of trafficking shall not be punished for the commission of any offence that is the direct result of having been the object of trafficking; neither will the penalties or impediments established in the legislation on immigration be

applicable when the violations are a result of the activity carried out during the commission of the unlawful act that caused them harm.

88. Although the Act defining the offence was only recently adopted, the first prison sentence for trafficking in persons for purposes of sexual exploitation involving persons under 18 years of age was handed down in November 2009.

89. Several people are currently being tried in different courts around the country for trafficking offences, including recruitment, transportation and/or transfer -- either within the country or from or to another country --, harbouring or receiving persons for purposes of sexual exploitation, labour exploitation, slave labour, reduction to servitude and others.

## **E. Immigration legislation**

90. The entry and exit of persons to and from Argentine territory are regulated by Act No. 25871 on Migration. Article 29 of this Act lists, among others, the following grounds for denying foreign nationals the right to enter or remain in the national territory:

(a) The submission, to a national or foreign authority, of documents that are materially or ideologically false or falsified. The penalty for this act shall be denial of the right to re-enter the national territory for a minimum period of five (5) years;

(b) The fact of having been sentenced or serving sentence for, in Argentina or abroad, or of having a history of, trafficking in weapons, persons or drugs, or the laundering of money or investments as part of unlawful activities or of an offence punishable under Argentine law with a minimum of three (3) years in prison;

(c) The fact of having been sentenced in Argentina for, or of having a history of, promoting or facilitating, for personal gain, the illegal entry into, continued stay in, or exit from the national territory by foreign nationals;

(d) The fact of having been sentenced in Argentina for, or of having a history of, submitting documents that are materially or ideologically false in order to obtain an immigration benefit for oneself or for a third person;

(e) The fact of having promoted or profited from prostitution; having been sentenced for, or having a history, in Argentina or abroad, of promoting or profiting from prostitution or carrying out activities related to trafficking in, or the sexual exploitation of, persons;

(f) The fact of having entered, or attempted to enter the national territory by evading immigration controls in a place or at a time not authorized for this purpose.

91. Offences against immigration law are dealt with in Chapter VI, which provides for penalties of imprisonment or confinement of:

(a) Between one (1) and six (6) years for anyone who:

- Undertakes, promotes or facilitates illegal trafficking in persons within, in transit through, or en route to the Argentine Republic (article 116);

- Promotes or facilitates the unlawful stay of foreigners in the territory of the Argentine Republic for the purpose of obtaining a direct or indirect profit (article 117);
  - Submits materially or ideologically false documents to apply for any type of immigration benefit on behalf of a third person (article 118).
- (b) Between two (2) and eight (8) years for anyone who:
- Engages in any of the behaviours described in this chapter by using violence, intimidation or deception or by abusing the neediness or inexperience of the victim.

92. Illegal trafficking in persons means the act of undertaking, promoting or facilitating the unlawful movement of persons across national borders for the purpose of obtaining a direct or indirect profit.

93. Pursuant to article 120, the penalties shall be increased by 3 to 10 years when any of the following circumstances are proven:

- (a) If the act was committed on a habitual basis;
- (b) If a public officer or employee is involved in the act, in the exercise of his or her duties or through abuse of his or her position. In this case the individual shall be disqualified for the performance of public duties, absolutely and for life.

94. Likewise, the penalties shall be increased by 5 to 15 years whenever an immigrant's life, health or integrity is endangered or whenever the victim is a minor, and by from 8 to 20 years whenever trafficking in persons is carried out with the aim of committing acts of terrorism, drug trafficking or money-laundering (cf. Article 121 as amended by Act No. 26364).

## F. Prescription

95. Prescription is provided for in Argentine criminal law both for the presumption of actions and for penalties. The rules on prescription that are pertinent for the purposes of this report are those contained in articles 59(3), 62, 63 and 65 to 67 of the Criminal Code, as follows:

**Article 59.** - Criminal action shall be extinguished:  
 (...) 3. By prescription.

**Article 62.** Criminal action shall prescribe during the period established below:

- (1) After fifteen years, in the case of offences that are punishable with sentences of confinement or life imprisonment;
- (2) After the maximum duration of the sentence applicable to the offence, in the case of acts punishable with confinement or imprisonment; in no case shall the period of prescription be more than twelve years or less than two years;

(3) After five years, in the case of an act that is punishable only with permanent disqualification;

(4) After one year, in the case of an act that is punishable only with temporary disqualification;

(5) After two years, in the case of acts that are punishable with fines.

**Article 63.** The period of prescription of an action shall begin on midnight of the day on which the offence was committed or, should the offence be ongoing, of the day on which it stopped being committed.

(...)

**Article 64.** Sentences shall prescribe within the following periods:

(1) Permanent confinement, after twenty years;

(2) Life in prison, after twenty years;

(3) In the case of temporary confinement or imprisonment, after a period of time equal to that of the sentence;

(4) In the case of a fine, after two years.

**Article 66.** The prescription of a sentence shall begin on midnight of the date on which the convict is notified that the sentence is definitive or from the date on which the sentence is interrupted, should it have been started.

**Article 67.** Prescription shall be suspended in cases when the offences for which the trial requires the resolution of prior or prejudicial issues, which must be resolved in another trial. Once the reason for the suspension is over, prescription shall continue running.

96. Prescription shall also be suspended in cases in which the offences were committed in the exercise of public duties, for everyone who participated, while any one of them is holding a public position.

97. The period of prescription of criminal action in the case of the offences referred to in articles 226 and 227 *bis* shall be suspended until such time as the constitutional order is restored.

98. Prescription shall only be interrupted for:

(a) The commission of another offence;

(b) The first call made to a person, in the context of a trial, for the purpose of taking a deposition in connection with the offence being investigated;

(c) The accusatory instrument calling for a trial, carried out in the manner established in the relevant criminal legislation;

- (d) The writ of summons to trial or equivalent legal action;
- (e) The handing down of the guilty verdict, even if it is not final.

99. Prescription shall remain in effect, be suspended or be interrupted separately for each offence and for each participant in the offence, with the exception envisaged in the second paragraph of this article.

## **G. Attempts, commission and complicity**

100. Under Argentine criminal law, the attempt to commit a fraudulent act that is a criminal offence, as required in article 42 of the Criminal Code, is also covered by the prohibition.

**Article 42.** Anyone who for the purpose of committing a given offence begins to carry it out but does not consummate it because of circumstances beyond his control, shall be subject to the penalties specified in article 44.

**Article 43.** A person who has attempted an offence shall not be subject to punishment if he or she voluntarily desists from the offence.

**Article 44.** The penalty that would be applicable to the perpetrator if he or she had consummated the offence shall be reduced by between one third and one half. If the penalty would be confinement for life, the attempt shall be punished with confinement of from between fifteen and twenty years.

If the penalty would be life imprisonment, the attempt shall be punished with imprisonment of from 10 to 15 years.

If the offence was impossible, the penalty shall be reduced by one half and may be reduced to the legal minimum or exempted, depending on how dangerous the offender proves to be.

101. With regard to forms of complicity in a crime, the provisions of articles 45 to 48 of the Criminal Code criminalize the actions undertaken by co-perpetrators, participants and instigators and describe the aggravating and attenuating circumstances of the perpetrator in relation to these actions.

102. Without prejudice to the criminalization of the aforementioned forms of complicity, article 210 of the Criminal Code defines as a separate offence the establishment of an unlawful association in the following terms: “ participation in an association or group of three or more persons existing for criminal purposes; simply being a member of the association is an offence.” The minimum penalty for the heads or organizers of the association shall be five years imprisonment or confinement.

## **H. Seizure and confiscation of property**

103. Although article 17 of the National Constitution prohibits the confiscation of property, the seizure of property as punishment is fully authorized by article 23 of the Criminal Code, the relevant part of which stipulates the following:



In all cases when a sentence is handed down for offences envisaged in this Code or in special criminal laws, it shall include a decision on the seizure of the things that have been used to commit the act and of the things or profits that constitute the proceeds or the benefits from the offence; with the exception of the rights to restitution or compensation of the person harmed or of third parties, the seizure shall be executed on behalf of the national State, of the provinces or of the municipalities.

If the things represent a danger to general security, the seizure may be ordered even if it affects third parties, except to the extent that it interferes with their right, if they are acting in good faith, to receive compensation.

When the perpetrator or the participants have acted as agents of an individual or as organs, members or administrators of a body corporate, and the proceeds or gains obtained from the offence have benefited the principal or the body corporate, the confiscation shall be ordered against the latter.

When the proceeds or the profits from the offence have gratuitously benefited a third party, the seizure shall be ordered against that third party.

104. The aforementioned rule also allows for the possibility of sequestering property as a precautionary measure both in order to ensure that the seizure is carried out and in order to put an end to the commission of the crimes or their effects:

From the beginning of judicial proceedings, the court may take such precautionary measures as are necessary to ensure the seizure of the real property; intangible assets; deposits; transportation equipment; computer, technical and communications equipment, and all other properties or assets which, being instruments or effects related to the offence or offences under investigation, may be subject to seizure.

Precautionary measures of similar scope shall be taken to put an end to the commission of the offence or its effects, prevent the realization of the profits thereof or ensure that the participants do not go unpunished. In all cases, the rights of the person harmed or of third parties to restitution or compensation shall be safeguarded.

105. As regards the use to be made of the seized property, article 522 of the Code of Criminal Procedures stipulates that when a sentence entails the seizure of some object, the court shall decide on its disposition as appropriate in the light of its nature. When the sequestered things are not subject to seizure, restitution or embargo, they shall be returned to the party against whom the sequestration was ordered (cf. Article 523, first paragraph of the Code); nevertheless, any sequestered things belonging to the person sentenced may be held as security to cover the expenses and cost of the trial and the pecuniary obligations assessed (cf. Article 523, last paragraph of the Code).

106. Finally, as stipulated in article 525 of the Code of Criminal Procedures, if within one (1) year after conclusion of the trial, no one claims or alleges to be entitled to restitution of the things that had not been sequestered from a particular person, the property shall be confiscated.

107. With regard to the procedures to be followed by the different courts, Act No. 20785<sup>5</sup> establishes the disposition to be made of property that has been sequestered in criminal cases under the competence of national and federal courts. This, of course, is without prejudice to the provisions of specific rules.

108. Article 4 provides that when it is not in order to sell or return property that has been sequestered, after the expiration of the time period established in article 6, such property shall be destroyed.<sup>6</sup> This would be the case with anything related to child pornography.

## I. Bodies corporate

109. The civil and administrative responsibility of bodies corporate is expressly dealt with in Argentine law in articles 42 and 43 of the Civil Code, as follows:

**Article 42.** Bodies corporate may be sued in civil proceedings, and any resulting judgements may be executed in respect of their assets.

**Article 43.** Bodies corporate shall be liable for damage caused in the exercise or performance of their duties by the individuals who direct or manage them. They shall also be liable for damage caused by their dependents or by the things, in the circumstances described in the title on obligations arising from unlawful acts that are not offences.

110. The following provisions, which are applicable to bodies corporate by reference to article 43, are included in the title on obligations arising from unlawful acts that are not offences, and:

**Article 1109. [relevant part]:** Anyone who carries out an act which, because of his fault or negligence, causes harm to someone else, shall be required to pay compensation for the damage. This obligation is governed by the same provisions relating to offences under civil law.

**Article 1113. [relevant part]:** The obligation of a person who caused the damage shall extend to damage caused by persons who are under his or her control, or by the things that he or she uses or that are under his or her care.

111. As regards administrative aspects, bodies corporate are liable for violations they commit in respect of the different rules relating to administrative oversight (cf. Act No. 22315, articles 12 to 14). Likewise, serious failure to comply with the law, statutes and other rules currently in force or carrying out an action that is against the public interest may give rise to withdrawal of the body corporate's legal standing and the dissolution and liquidation of associations and foundations (Civil Code, article 48 and Act No. 22315,

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<sup>5</sup> B.O. 17-10-1974.

<sup>6</sup> Act No. 20785. Article 6: In the same decision ordering the destruction or sale of the property, except in the cases referred to in article 3 (a), the parties shall be notified and given five days within which to request an expert opinion on the property before it is destroyed or sold. Should they request an expert opinion, they shall specify the points to be considered. Should the perpetrators of the alleged offence or other parties be at large, the public defender shall be asked to intervene. Should an expert opinion be requested within the aforementioned period, the court shall decide, giving a reasoned opinion, whether to admit or reject the request and whether to carry out or suspend the destruction or auction of the property in question. That decision may be appealed, in which case the effect of the decision shall be suspended.

article 10(i)). In addition, unlawful activity carried out by corporations for a lawful purpose may give rise to their dissolution and liquidation when so decided by the authority exercising oversight, as established in article 19 of Act No. 19550.

112. In criminal matters, although bodies corporate cannot be held criminally liable, the last paragraph of article 23 of the Criminal Code stipulates that when the perpetrator or participants in the commission of a crime have acted as agents of an individual or as organs, members or administrators of a body corporate, and the proceeds or gains obtained from the offence have benefited the principal or the body corporate, confiscation shall be ordered against the latter.

## **V. Criminal procedure**

### **A. Jurisdiction**

113. Pursuant to article 1 of the Criminal Code, criminal proceedings shall be applicable for offences committed or which would have an effect in the territory of the Argentine Nation, or in places under its jurisdiction; and for offences committed abroad by agents or employees of Argentine authorities in the performance of their duties.

### **B. Extradition**

114. Act No. 24767 on International Cooperation in Criminal Matters, which was adopted on 18 December 1996 and promulgated on 13 January 1997, governs not only all matters pertaining to extradition -- both active and passive -- but also all matters pertaining to assistance in the investigation and prosecution of offences and the fulfilment in Argentina of sentences handed down abroad or sentences handed down in Argentina which may be fulfilled abroad.

115. On the issue of extradition, Act No. 24767 may be applied in subsidiary or supplementary fashion, given that the general principle is that the decision on its admissibility and the relevant procedure shall be governed by the treaty between the requesting State and Argentina (Act No. 24767, article 2). Only in the absence of an extradition treaty shall Act No. 24767 govern the process and the admissibility of extradition, which shall always depend on the existence of reciprocity (article 3).

116. Assistance with investigation and prosecution shall be provided even if the act giving rise to the request does not constitute an offence in Argentina. However, it shall be a requirement that such act must constitute an offence in Argentina if the assistance requested relates to seizure of property, searching of premises, surveillance of persons, interception of mail or telephone tapping.

117. Pursuant to article 5(2) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, in cases where there is no reciprocity, the Optional Protocol may be considered a legal basis for extradition.

118. Specifically with reference to extradition, the Act covers two distinct types of extradition, namely:

**1. Passive extradition**

119. In order for the extradition of a person to be admissible, the act forming the subject of the proceedings shall constitute an offence which under both Argentine law and the law of the requesting State carries a sentence of imprisonment for which the sum of the minimum and maximum terms divided by two shall be at least one year.

120. If a State requests extradition for two or more offences, it shall be sufficient that one of them meets this condition for the extradition to be granted with regard to the others.

121. If extradition is requested for the purpose of enforcement of a sentence, it shall also be a requirement that the extent to which the sentence remains to be served be not less than one year's imprisonment at the time when the request is submitted.

122. The Act provides that in the extradition process, all the guarantees of due process set forth in the National Constitution and international human rights instruments must be respected.

**2. Active extradition**

123. This refers to cases in which Argentina requests the extradition of a person and establishes that it is *prima facie* admissible under the law of the country in which the person sought is present.

124. If the case is governed by a treaty, the rules specified therein shall be observed.

125. Judges shall refer extradition requests to the Ministry of Foreign Affairs, International Trade and Worship, which, prior to acting on them, shall decide on their admissibility and request that the relevant requirements be met.

126. In extremely urgent cases, provisional detention with a view to extradition of a person may be requested. Such request shall be transmitted through diplomatic channels and shall be issued in keeping with the terms of the existing treaty or, in the absence of such a treaty, in accordance with the provisions of Act No. 24767. Depending on what country is requested, detention may be requested by means of an Interpol Red Notice issued by the Interpol Department of the Federal Police of Argentina. In some countries, the Red Notice has the same validity as a request for provisional detention issued through diplomatic channels.

127. Finally, it should be noted that requests for extradition are transmitted solely through diplomatic channels and that like any other request for assistance, they must be issued in accordance with the terms of the relevant treaty or agreement; in the absence of such treaty or agreement, they must comply with the terms of our domestic legislation. This is established in article 2 of Act No. 24767, according to which the provisions of the Act may serve to interpret the text of existing treaties and to any matters not specifically covered by such treaties.

## C. Specific procedures

128. Act No. 26364 replaces certain articles of the Code of Criminal Procedures, as follows:

- The federal courts shall be competent to take cognizance of the investigation of offences against individual freedom (articles 142 *bis*, 145 *bis*, 145 *ter*, 149 *ter*);
- In cases involving the investigation of one of the offences envisaged in article 142 *bis* of the Criminal Code or in procedures related to such offences, if the life of the victim is in danger or delays in the proceedings might seriously compromise the success of the investigation, the judge or the prosecutor in charge of the case may act in a territorial jurisdiction other than his own and may instruct the prevention authorities to take such measures as they may deem necessary, reporting on the measures taken to the local judge. The prevention authorities shall inform the local judge of the outcome of the measures taken;
- Special treatment shall be given to victims who are under eighteen years of age on the date on which they are to appear as witnesses.

## VI. Protection of the rights of child victims

### A. Comprehensive protection of the rights of children and adolescents

129. Act No. 26061 on Comprehensive Protection of the Rights of Children and Adolescents constitutes a milestone in institutional change from the point of view of the mechanisms and procedures that the State is required to use when providing assistance and protection to children and adolescents.

130. One of the main institutions established under the new law is known as the System of Comprehensive Protection of the Rights of Children and Adolescents, a mechanism that brings together all agencies, entities and services that design, plan, coordinate, guide, implement and oversee public policies, under State or private management, at the national, provincial and municipal levels, for the promotion, defence, support, protection, safeguarding and restoration of the rights of children and adolescents, and establishes the means whereby the principles, rights and guarantees recognized in the National Constitution, the Convention on the Rights of the Child and other human rights treaties ratified by the Argentine State are effectively enjoyed.

131. The system of comprehensive protection is made up of the following levels:

(a) At the national level, SENNAF was created as the specialized agency for matters relating to the rights of children and adolescents within the national executive branch;

(b) At the federal level, COFENAF was established as the body responsible for coordination and consensus building and for the design, planning and implementation of public policies throughout the territory of the Argentine Republic;

(c) At the provincial level, the individual provinces set up a division to be in charge of planning and implementation of policies on children.

132. At the local level, the provinces have in many cases begun to conclude agreements within the existing legal framework with municipalities and *comunas* in the provincial jurisdictions, and to establish an agency responsible for monitoring programmes aimed at comprehensive protection of the rights of children and adolescents in close coordination with non-governmental organizations acting in support of children, adolescents and the family.

133. A case in point is that of the province of San Juan which, in the context of national Act No. 26061 and provincial Act No. 7338, signed the Covenant on Children and Adolescents and the Protocol for Action by municipalities on issues relating to children and adolescents.

134. Pursuant to these agreements, in 2007, departmental mechanisms were created with a view to developing children's programmes at the municipal level. The idea was to break away from the pattern of isolated programmes carried out by separate institutions and instead launch programmes that would better reflect the realities of the communities.

135. Decentralization policies are currently being implemented in the following 19 municipalities: Rawson, Capital, Chimbab, Zonda, Ullum, 25 de Mayo, Valle Fértil, Pocito, Angaco, Sarmiento, San Martín, Santa Lucía, Rivadavia, Iglesia, Caucete, Jachal, Calingasta and 9 de Julio. These policies led to the development of areas for municipal and provincial self-management of needs, thus promoting participation by the local population.

136. As noted earlier, all this institutional re-engineering is fully underway; practices and rules, both legal and administrative are constantly under review. As an indicator of this, we might mention the new jurisdictions that have enacted legislation designed to implement the standards laid down in the Convention and/or Act No. 26061, namely: Buenos Aires, Chaco, Córdoba, Corrientes, Entre Ríos, Jujuy, Misiones, Neuquén, Río Negro, Salta, San Juan, San Luis, Santa Fe, Santiago del Estero and Tierra del Fuego.

## **B. Child development centres**

137. Act No. 26233, which promotes and regulates Child Development Centres, was enacted bearing in mind the guiding principles set forth in Act No. 26061 on Comprehensive Protection of the Rights of Children and Adolescents. The purpose of Act No. 26233 is to promote and create the Centres to provide comprehensive care for small children in order to provide essential care of good quality and to supplement, guide and support families in their role, taking a preventive, promotional and healing approach.

138. The Commission on Promotion and Assistance to Community Child Development Centres was created by Decree No. 1202/08 for the purpose of coordinating the logistics, administration and organization of inter-jurisdictional programmes, as well as any other aspects that might be pertinent to preparations for and organization of Child Development Centres, as well as to determine and facilitate measures and actions aimed at achieving their purpose.

139. In addition, Decree No. 1703/2008 outlines the organizational structure of the Commission on Promotion and Assistance to Community Child Development Centres

within the framework of SENNAF. Thus, membership of the Commission includes a Chairperson, who holds the rank of Under-Secretary, and an Executive Secretary.

140. Article 2 of Decree No. 1202/2008, regulating Act No. 26233, provides that the Centres shall target children in the age group between 45 days and four years of age, this being understood as early childhood. It also provides that the institutional design for individual Centres shall be drawn up bearing in mind the special situation of the territory in which the Centre will operate, with a view to meeting the needs and requirements of families and communities concerned.

141. Article 6 of Decree No. 1202/2008 lists the actions to be carried out by each Child Development Centre, including the following:

(a) Carrying out activities aimed at ensuring that the inhabitants of each community are able to achieve a healthy balance between their work and their family life;

(b) Promoting activities and opportunities that will encourage the inclusion of children with special needs;

(c) Guaranteeing access to local health services, preferably within the public health system;

(d) Ensuring that children are adequately fed, facilitating activities designed for workshops for parents and/or members of the family and the community;<sup>7</sup>

(e) Reporting on the results of periodic monitoring and on the growth of each child;

(f) Reaching agreement with the parents and/or family members as to how long their child will stay in the centre each day, bearing in mind the child's specific needs at his or her current stage of development, as well as the family's circumstances, with the aim of strengthening families as the best environment for rearing the children;

(g) Guaranteeing personalized care for the children.

142. In order to set up comprehensive programmes for carrying out promotion and providing prevention and care, tailored to the specific circumstances of the individual children and their families in their home communities, the Child Development Centres shall coordinate their actions with the areas of health, education and social development in each jurisdiction and with the representative organizations in the community.

### **C. Protecting the right to an identity**

143. Act No. 26413 had established that all acts or events that give rise to, alter or modify the civil status and ability of persons must register in the relevant Registries in the provinces and in the Autonomous City of Buenos Aires. In particular, article 28 of the Act establishes a period of 40 calendar days for registering births, after which time the birth shall be registered ex officio within 20 calendar days.

<sup>7</sup> The pioneering initiatives in this area were carried out in the Autonomous City of Buenos Aires, in Chubut and in Mendoza.

144. In keeping with the State policy of encouraging and facilitating access to the right to an identity and ensuring the full enjoyment and exercise of the right to an identity and to personal identification, the national executive branch issued Decree No. 90 of 2 February 2009. This decree establishes a period of one year from the date of its publication, which as an exceptional measure may be renewed for one more year, and an administrative system for the registration of births of children between the ages of one and 12 in those cases in which, as of the date of entry into force of Act No. 26413, the birth had not yet been registered or the registration was still in process.

145. This instrument entails facilitating and removing obstacles to the admissibility of a birth registration, in order to safeguard the right to an identity which is recognized in international human rights instruments that have been incorporated into our legal order, as well as in articles 11 to 13 of Act No. 26061.

146. It should be noted that with this initiative, a process was put underway for effectively guaranteeing the right to an identity. One of the goals of the National Plan of Action for the Rights of Children and Adolescents is to guarantee the right to an identity through the granting of universal, free and timely National Identity Documents (DNIs) in every province and municipality of the country.

147. Finally, by means of Decree No. 1501 of October 2009, the national executive branch authorized the National Directorate of the National Registry of Persons, the decentralized agency operating under the aegis of the Ministry of the Interior, to use digital technology for the identification of both Argentine citizens and foreign nationals, and to issue the National Identity Document (DNI). Thus, the policies aimed at improving the national documentation system by optimizing the security and quality of DNIs and using the most modern document security technologies in the world have been put into practice.

#### **D. Protection of rights in judicial and administrative proceedings**

148. As mentioned in the third periodic report on the application of the Convention on the Rights of the Child and in other sections of this report, Act No. 26061 is a legal instrument that adopts an innovative approach to the purpose and scope of State intervention, which should be regarded as a different type of action when it affects children and adolescents.

149. This relates to both the content of policies, services and programmes on behalf of children and adolescents and to the powers, responsibilities and relations among the different State and nongovernmental actors responsible for guaranteeing their well-being and the protection of their rights.

150. In addition to all the rights laid down in the National Constitution, the Convention on the Rights of the Child, the international treaties ratified by Argentina and the legislation enacted to give them effect, article 27 of Act No. 26061 establishes the obligation of the State to ensure that children enjoy the following rights and guarantees in any judicial or administrative proceedings affecting them:

(a) To be heard before the competent authority whenever the child or adolescent so requests;

(b) To have their views taken into account as a matter of priority when a decision affecting them is taken;



(c) To be assisted by counsel, preferably an expert in child and adolescent affairs, from the beginning of any judicial or administrative proceedings affecting them. If they lack economic resources, the State shall, of its own motion, assign counsel to defend them;

(d) To participate actively in the entire proceedings;

(e) To appeal to a higher court against any decision affecting them.

151. Subparagraph (c), on assistance of counsel for children and adolescents, is clarified in Decree No. 515/2006, governing implementation of the Act. In particular, the Decree includes the following provision: The right to the assistance of counsel includes the right to assign an attorney to represent the personal interests of each individual child or adolescent in administrative or judicial proceedings, without prejudice to additional representation being provided by the Child Welfare Office (*Ministerio Pupilar*). Thus, bearing in mind the different duties performed by the attorney who sponsors the individual child or adolescent and those of the public defender or advisor for children, the law in question establishes that the two roles are not incompatible.

152. Thus, the duties of the public defender for children do not overlap with those of the child's counsel and should not be confused with the technical assistance provided by the attorney, who is specifically assigned to protect the child's or the adolescent's individual interests.

153. The child's counsel protects the private personal interests of the child in question, represents that child's views before the judge and contributes his technical knowledge so that the court will decide in favour of the child he or she is representing.

154. As established in the National Constitution, the duty of the public defender is to promote the actions of the justice system in protecting the rule of law and the general interests of society. The rationale for his or her action is that the court's decision should uphold the law, without necessarily holding to the position that is most favourable to the child.

155. In this regard, one of the duties of the Office of the Public Defenders (*Defensoría General de la Nación*) is to instruct the public defenders in the Office of the Public Prosecutor to take such measures as may be necessary and pertinent to defend the people and ensure observance of the constitutional precepts and, as necessary, the effective implementation of the mechanisms established to protect the rights of children and adolescents. In Resolution DGN No. 1234/2006, the Office of the Public Defenders recommended that in complex cases or when there is a potential conflict of interests or when so requested by the child or adolescent concerned, the public defenders of minors and incompetents (*defensores públicos de menores e incapaces*) should seek to obtain the necessary means to provide the child with counsel and if necessary, by direct or indirect means, direct an appeal in this regard to the competent administrative body at the local level.

156. Another important advance is the inclusion of articles 250 *bis* and 250 *ter* in the Code of Criminal Procedures. These articles, which were added to the Code after the adoption of Act No. 25852 of 2004, lay down special conditions for the taking of testimony

from victims of offences against sexual integrity or of injuries sustained when they are under 16 years of age.

157. Article 250 *bis* stipulates that children's testimony must be taken by a professional psychologist in a consulting room that is appropriate to the minor's age and stage of development. It also offers the possibility -- subject to a request by the parties or a court order -- of using a Gesell chamber to film the testimony, and it prohibits contact between the accused and the child victim during the judicial proceedings.

158. Article 250 *ter* requires an assessment of the need to use the method described in article 250 *bis* in the case of victims who are between 16 and 18 years of age.

159. In this regard, legislation has been passed, and the necessary steps have been taken to install Gesell chambers in the provinces of Formosa, Río Negro, Santiago del Estero, Santa Fe and the Autonomous City of Buenos Aires.

160. Finally, pursuant to Act No. 26364 on Prevention and Punishment of Trafficking in Persons and Assistance to Victims, these victims have the right to:

- (a) Be informed of their rights in a language they understand and in wording suited to their age and level of maturity;
- (b) Appropriate housing, care, sufficient food and adequate facilities to maintain personal hygiene;
- (c) Psychological, medical and legal assistance free of charge;
- (d) Benefit from special conditions in terms of protection and care when giving testimony;
- (e) Protection from all possible reprisals against them or their families and to placement in the national witness protection programme as provided for in Act No. 25764;
- (f) The adoption of all means necessary to ensure their physical and psychological integrity;
- (g) Be informed of the status of the proceedings, the measures adopted and any developments in the process;
- (h) Be heard at all stages of the proceedings;
- (i) Protection of their identity and privacy;
- (j) Stay in the country, in accordance with the legislation in force, and to be given documents or other certification establishing their legal status;
- (k) Assistance in returning to their previous homes;
- (l) Free and voluntary access to assistance.

161. In the case of children and adolescents, in addition to the rights mentioned above, there is the guarantee that the proceedings shall take into consideration their special needs as individuals still in the midst of their personal development process. Under no circumstances shall they be subjected to confrontations. The measures used for the protection of their rights shall not restrict their rights or guarantees, nor deprive them of their liberty. Efforts shall be made to return them to their immediate or extended family or community.

162. With respect to housing, the Act stipulates that under no circumstances shall the victims be placed in jails, prisons, police stations or in housing with detainees or persons who have been indicted or convicted (cf. Article 7).

163. With regard to the right to privacy and protection of the victim's identity, article 8 of the Act provides that under no circumstances shall rules be established requiring the registration of victims of trafficking in persons in a special registry, or requiring them to possess a special document, or to comply with any other requirement for purposes of surveillance or notification.

164. The privacy and identity of victims of trafficking in persons shall be protected. Judicial proceedings shall be confidential. Officials taking part in the proceedings shall safeguard and protect the identity of victims.

165. Finally, the Act establishes the obligation of Argentine diplomatic and consular representatives abroad to provide assistance to Argentine citizens who, while away from Argentina, become victims of the offences described in the Act, and to facilitate their return to Argentina should they so request (cf. Article 9).

#### **E. Guidelines and protocol for assistance to victims of trafficking in persons and child victims of sexual exploitation**

166. At the seventh meeting of COFENAF, SENNAF submitted to the plenary of high-level authorities on children, adolescents and the family a draft resolution on the basic principles to be observed by protection agencies in the different jurisdictions in regard to assistance to victims of sexual exploitation of children and trafficking in persons. These principles were adopted at the eighth meeting of COFENAF, held in November 2008, and they were published in the *Boletín Oficial de la República Argentina* on 29 December 2008.

167. This is an extremely important document, not only because it seeks to generate consensus and standardize the different policies and practices applied in Argentina,<sup>8</sup> but also because it places the issue high on the agenda of the protection agencies in the different jurisdictions.

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<sup>8</sup> In this regard, it should be noted that jurisdictions such as the province of Chubut and the Autonomous City of Buenos Aires have developed procedural manuals and specific circuits to deal with the problems of sexual exploitation of children and adolescents and trafficking in persons.

## **F. Guidelines for application of the protocol on assistance to child victims of sexual exploitation**

168. The human rights of persons who are exploited through human trafficking, both sexually and in terms of employment, and through commercial sexual exploitation of children are the right to life, liberty, equality, dignity, physical and psychological integrity, health, personal safety and decent work.

169. Assistance to victims should ensure the restoration and exercise of their rights through the implementation of comprehensive strategies covering different areas, such as those relating to medical, psychological, social, legal and educational aspects, as well as income generation.

170. The following **basic principles or guidelines** must be respected and guaranteed at all stages of assistance:

### **1. Respect for human rights**

171. The fundamental principle of assistance to victims is respect for human rights. This should be understood as a person's fundamental right to dignity, integrity and full development. Accordingly, in providing assistance, at no time shall any proceeding, procedure or activity violate the victim's rights.

### **2. Non-discrimination**

172. There shall be no discrimination against any person on account of their sex, age, ethnic origin, social class, country of origin, sexual preference, type of occupation or health situation.

### **3. Information to victims regarding their rights and the assistance process**

173. At all stages of assistance, victims shall be informed of their rights and of the different options for assistance that are available to them.

174. The information provided to victims shall be provided in language that is appropriate, simple and understandable, in their own language, without creating false hopes, and when necessary, interpretation shall be provided. The information must be suited to each individual so as to ensure that it is fully understood.

175. If the victim decides to initiate legal proceedings against the traffickers/exploiters, he or she must be informed of the procedures, scope and implications of taking such action.

### **4. Informed consent**

176. It is important to ensure that informed consent is given for all services, actions and/or proceedings.

177. Complete and accurate information must be provided regarding the advantages and implications of the procedures or services available to individuals so as to facilitate their decision-making process and enable them to decide for themselves what type of assistance will best satisfy their needs and interests.

178. When a victim is a minor, informed consent shall be given by the child's legal representative or, if that is not possible, the competent judicial authority. Without prejudice to this, the victim must be informed of the type of service he or she will be receiving and the child's opinion must be taken into account. In jurisdictions in which it has been established that a child or adolescent may give consent independently taking into account his or her level of autonomy, the rule about giving precedence to the best interests of the child shall be applied.

## **5. Confidentiality and right to privacy**

179. All professionals and operators involved in the proceedings must safeguard the confidentiality of victims' identity and of the information obtained from interviews, clinical histories and any other documentation arising from the assistance.

180. The mass media (television, press, radio, internet), as well as studies and research on the issue of trafficking in persons and commercial sexual exploitation of children must respect the privacy of victims and refrain from divulging any data that would identify them.

## **6. Security and protection**

181. Because of the type of criminal organizations that are involved in these cases, the personal safety of victims must be guaranteed, given that their lives and the lives of their family members could be in danger.

182. Effective mechanisms must be in place to guarantee the security and protection of victims. Should there be a risk or a threat against their life, information must be provided regarding the possibility for victims who have testified to enter witness protection programmes on the terms envisaged in Act No. 25764.

183. To this end, it is essential that the relevant agencies coordinate their cooperation efforts prior to the return of victims, in order to guarantee their protection.

## **7. Avoiding greater harm**

184. Avoiding revictimization: this happens when State institutions, social organizations, nongovernmental organizations, communications media, etc., their representatives or suppliers, through omission, direct action or discriminatory treatment, also violate the rights of victims, acting against the mandate to protect, respect and guarantee their human rights.

## **8. Individual assistance**

185. The specific needs of each person shall be borne in mind when deciding on what actions and procedures are best, taking into account sex, age, socioeconomic level, sexual preference, the type of exploitation to which the victim has been subjected, specific health conditions, the existence or not of family and social support networks and the victim's opinion, among other things.

186. In the process of providing assistance, it is crucial that the interests and desires of each victim be taken into account in order to decide on the work plan to be followed at each stage.

187. Psychological, social and legal assistance must help to empower the victim and strengthen his or her self-reliance.

**9. Fair treatment and access to justice**

188. Victims must be assured of access to the justice system so that they can seek restoration, without discrimination, of their rights which have been violated.

**10. Right to legal assistance**

189. Legal assistance must be provided in court cases in which the victim participates as a witness and in any criminal or civil lawsuits the person might decide to bring.

**11. Stay in the country of destination and residence status**

190. Countries of destination for trafficking in persons must respect the rights of victims. They must also offer everyone all necessary information, through the appropriate agencies, in order to enable victims to request a residency permit (either temporary or permanent).

**G. Protocol for assistance to victims of trafficking and of sexual exploitation of children**

**1. Comprehensive assistance**

191. During this first stage, assistance, support and protection are provided to the victim from the moment the case is made known up to the time when the right that has been violated is restored.

192. Assistance must be comprehensive and must be provided with a human rights approach on the basis of inter-institutional agreement and effort. To this end, a system for dealing with emergencies must be set up to provide services 24 hours a day, 365 days a year. This permanent arrangement should cover, among others, the following needs:

193. **Housing:** Physical facilities must be available to protect the safety and privacy of the victim. Victims must be supplied with food, clothing, items for personal hygiene, bedclothes, a place to rest and any other component needed to cover the needs involved in providing housing. In addition, technical and professional personnel must be permanently available.

194. **Medical care:** This includes a general evaluation to determine the person's state of health as well as emergency care in acute situations that might endanger the victim. Medical care should be aimed at stabilizing the person's physical health and, if the victim will be returning to the country of origin, ensuring that he or she is in good enough health for the trip. This assistance shall be provided from the beginning of the intervention in the areas concerned and continued in the housing facility. Well-trained medical and health-care personnel must be available.

195. **Psychological care:** This includes individual care, bearing in mind the unique circumstances of each case. It is important to listen to whatever victims wish to tell, so that by allowing them to use their own words, an evaluation can be made of their situation.

196. **Social assistance:** This is aimed at restoring family, social or community ties that are important to the victim. If necessary, economic assistance should be provided to the victim and his or her family, and standardized reports should be prepared for purposes of coordination with the other agencies involved.

197. **Recreational facilities:** Facilities should be provided to allow victims freedom to express themselves through art, recreation and in any other manner so as to encourage play and leisure.

198. **Legal advice:** This includes the following:

- Offering the victim guidance about his or her rights;
- Legal advice at the trial in which he or she is the victim, through the competent bodies;
- Legal assistance in the event the victim is accused of a crime that was a result of the exploitation suffered, through the competent bodies;
- Legal assistance to foreign women in all matters related to their immigration status, through the competent bodies;
- Legal advice on all matters for which it is required.

199. **Documentation:** Whenever a victim does not have personal documentation, it shall be processed through the competent agencies. Likewise, any documentation that is needed to normalize temporary residence or to enable a victim to return to the country of origin must be provided free of charge, with the cooperation of the competent body.

200. **Security:** Victims and their families must be kept safe and protected from potential threats or reprisals on the part of traffickers/exploiters, through the competent agencies.

201. **Assisted voluntary return:** The material, economic and human resources needed for a victim's return to his or her country or city of origin must be provided.

202. Child and adolescent victims of trafficking, both domestic and international, shall be accompanied by a responsible adult on domestic transfer or on return to their country of origin.

## 2. **Helping victims' rebuild their lives**

203. The second stage of assistance is aimed at helping victims rebuild their lives and fully enjoy their rights. This includes working on their surroundings, strengthening families ties and/or, depending on the victim's age, helping them become independent.

204. Among other aspects, the following should continue to be provided:

- Medical care
- Psychological care

- Social assistance
- Recreational, cultural, artistic activities, etc.
- Legal advice
- Reinsertion in an educational programme
- Job training
- Income-generating activities
- Economic assistance (subsidies, financing for undertakings, etc.)

205. In cases of domestic trafficking or commercial sexual exploitation of children, the assistance shall be provided through coordination between agencies close to the place of residence of the victim (hospital, school, child protection agency, social development, social organizations, etc.)

206. In cases of international trafficking, the authorities shall coordinate their efforts with the competent agency in the country of origin of the victim.

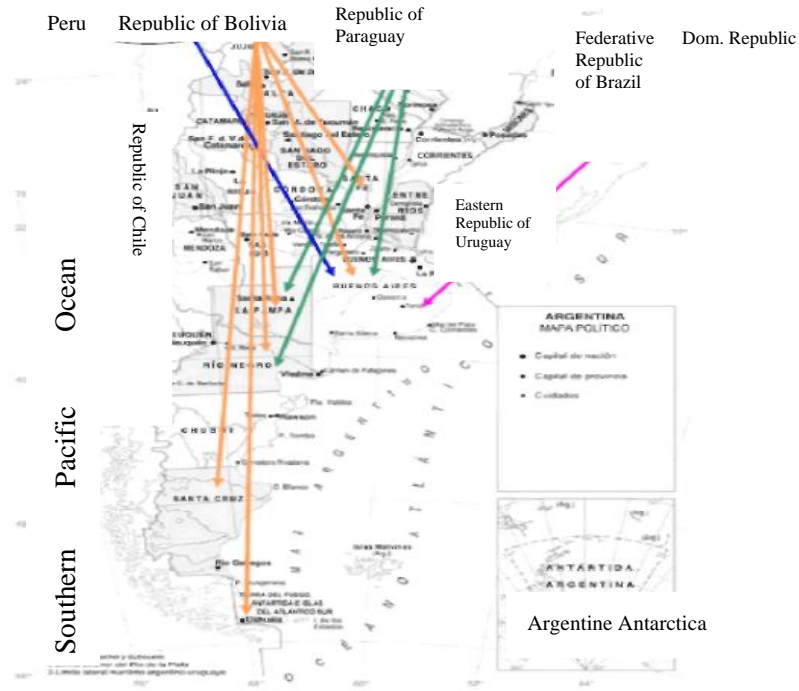
## **H. Victim assistance**

207. As the specialized agency for children and adolescents within the national executive branch, SENNAF provides assistance directly, either on its own or in coordination with rights protection agencies in different jurisdictions, to victims of the offences referred to in the Optional Protocol.

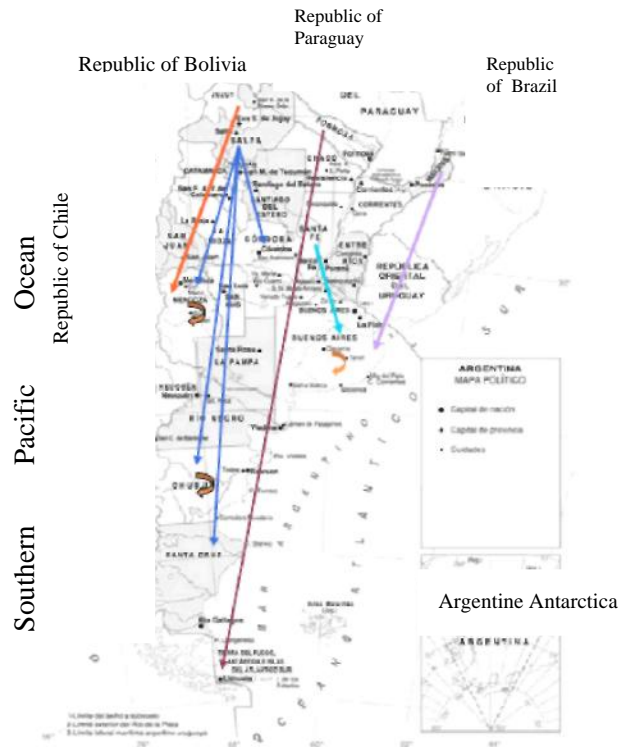
208. A study of the cases in which assistance was provided in 2009, it has been possible to determine which are the main corridors for victims of trafficking, both domestic and foreign. This information is vital for coordinating policies aimed at preventing, providing assistance and combating the offences covered by the Protocol.



External  
Corridors -  
Cases in 2009  
Trafficking from  
neighbouring countries



Internal  
Corridors -  
Cases in 2009



209. The agencies responsible for protecting rights in the provinces usually have programmes, mechanisms and services for providing care to victims of violence, exploitation and trafficking in persons which provide guidance and advice to those victims.

210. The helpline *Línea 102*, which operates in the provinces of Buenos Aires, Catamarca, Chaco, Córdoba, Corrientes, Entre Ríos, Formosa, Jujuy, La Rioja, Mendoza, Misiones, Neuquén, Salta, Santa Fe, San Juan, Tucumán and the Autonomous City of Buenos Aires, responds to reports of different types of violence with a view to offering guidance to callers.

211. The rights protection agency of the Autonomous City of Buenos Aires, for example, has been operating, since 2004, the Module on care of and support for child and adolescent victims of sexual exploitation, in the framework of the Programme against All Forms of Exploitation of Children and Adolescents. This mechanism has an interdisciplinary team that deals with potentially exploitative situations, through the following:

- The Permanent Programme for the Protection of Rights (*Guardia Permanente de Defensa de Derechos*) of the Council on the Rights of Children and Adolescents acts in cases referred to it when a situation that appears to involve sexual exploitation needs to be evaluated or when a victim needs assistance;
- The Temporary Assistance Centre acts in cases when children and adolescents are thought to be victims of exploitation (or are presumed to be in such situations), and they are referred to the Centre so that the specialized team may provide the necessary support;
- The helpline *Línea 102*, operated by the Council on the Rights of Children and Adolescents, which refers reports of situations that appear to involve sexual exploitation, so that the Module can deal with the matter;
- Other services and/or programmes operated by the Council on the Rights of Children and Adolescents, as well as nongovernmental organizations with which agreements have been signed;
- Technical teams from other programmes carried out by city governments, the national Government or nongovernmental organizations;
- Direct contact with children or adolescents who are in the areas where programmes are in place. Likewise with children and adolescents who are contacted by other children who are receiving support;
- In some situations, support is also provided to children and adolescents belonging to family groups in which one or more members are in a situation of sexual exploitation or prostitution;
- Once the situation has been reviewed, the team of professionals conducts an assessment.

212. The support provided may involve taking actions such as the following:
- Accompanying children and adolescents to health care, educational, recreational and other institutions and in cases when there are no institutions to meet the particular needs of children and adolescents;
  - Periodic meetings with children and/or adolescents in the places where they are staying (homes, institutes, private homes, hospitals);
  - Interviews with family members and/or significant persons at their places of residence, either permanent or temporary;
  - Accompanying children or adolescents to court when they are summoned, and they wish to be accompanied;
  - Preparing reports for internal distribution or for presentation to other agencies;
  - Denouncing pimps and clients to the competent institutions;
  - If necessary, preparing a report together with a professional from the legal and technical divisions, for presentation to the Coordinator of the Module;
  - If necessary and a child or adolescent requests it, accompanying the child to any office that summons him or her;
  - If an adolescent expresses interest, consideration is given to the possibility of placing him or her in a group programme;
  - When consideration is being given to the possibility of placing a child or adolescent in a home because the child's family of origin cannot be found or the child or adolescent does not have a family, or he or she is in an extremely vulnerable situation, the team requests admission to a group home or to a residential treatment centre or home.
213. From December 2004 and until the adoption of Act No. 26364 on Prevention and Punishment of Trafficking in Persons and Assistance to Victims, OFAVI served as the focal point for issues relating to trafficking in persons.
214. The collection and centralization of information on the characteristics and impact of such crimes not only contribute to the repression and investigation of various types of criminal offences but also provide credible material which, if properly managed, can serve as a basic platform for crime control and prevention policies.
215. The designation of OFAVI as the national focal point for issues relating to trafficking in persons led to the creation of a network of government agencies and nongovernmental organizations concerned with the issue, for the purpose of:
- Centralizing information for the purpose of identifying and assisting victims and prosecuting those responsible and, if necessary, designing new investigation strategies;

- Making institutions aware of the problem of trafficking in persons and the specific aspects of the offence in Argentina;
- Training public officials concerned with the problem so as to facilitate identification of trafficking situations and take such measures as may be necessary, initiate criminal prosecution and prevent future cases.

216. Since its designation as the national focal point, OFAVI has focused its efforts on three thematic lines of action: bringing legislation in line with the standards laid down in the international commitments undertaken by Argentina, in terms of both law enforcement and criminal prosecution and of victim assistance; dissemination, sensitization and training on the issue of human trafficking; and design of contingency plans for victim assistance throughout the country.

217. In order to raise the public profile of the issue, OFAVI, in conjunction with SENNAF and other official agencies, sponsored the campaign launched by the International Organization for Migration (IOM) for the purpose of raising awareness about this serious problem, avoiding further victimization and ensuring that people who are subjected to such situations find the necessary help to be freed from exploitation.

218. This campaign promotes a free nationwide 24-hour helpline made available by the National Institute against Discrimination, Xenophobia and Racism (INADI) which responds to queries and refers each case to the competent agency.

219. When it receives reports of alleged and/or actual human trafficking situations, OFAVI contacts the prosecutors of the jurisdictions involved (Autonomous City of Buenos Aires and the provinces of Buenos Aires, Corrientes, Chubut, Tucumán, Santa Fe, Córdoba, Entre Ríos, Catamarca, Tierra del Fuego and others), as well as UFI-INTEGRIDAD SEXUAL, in order to verify the commission of offences related to the issue and, if necessary, to identify and assist victims. In every case, the prosecutors have initiated investigations, and it has often been found that the offence had indeed been committed.

## **VII. Prevention of the sale of children, child prostitution and child pornography**

### **A. The promotional, high-profile and active State**

220. From this standpoint, effective prevention of the criminal behaviour referred to in the Optional Protocol is effected, first and foremost, by generating a greater and improved State presence in the territories, ensuring that the State is visible and accessible to citizens in general and to children and adolescents in particular.

221. As described in the third periodic report on implementation of the Convention on the Rights of the Child, the National Council for the Coordination of Social Policies launched a process of reinterpretation of social policies based on the following key principles:

- The concept of a promotional, high-profile and active State requires the State to assume a proactive role in the decision-making process in continuous coordination with the different national and regional social sectors;

- The individual, the family and the community are acknowledged as rights bearers. Accordingly, public policy serves as a tool for the recovery and promotion of social, cultural and economic rights. This approach recognizes a strong link between the acquisition of rights and personal and community capacity-building.
- A comprehensive approach to social policies, which recognizes the complexity of social issues and seeks to incorporate their different dimensions. The efforts of the national Government and its various ministries and programmes are therefore coordinated with a view to optimizing intervention strategies.

222. In line with this approach, the Ministry of Social Development has designed the following strategic policy thrusts for its work throughout the country:

- The development of integrated working methods: An integrated approach to management, combining and coordinating resources within the Ministry and at different levels of government; in terms of perspective, “bottom-up” planning, promoting the involvement of diverse actors and strengthening participatory forums; in terms of approach, generating promotional proposals that move beyond fragmented types of intervention on behalf of families and communities;
- Promotion of local social policies: Social policies are formulated in the light of the underlying patterns discernible in each district, municipality, province or region. This type of management needs to draw upon and apply various types of local knowledge, experience and other distinctive characteristics;
- The implementation of social policies based on regional equity: Regional equity is based on the idea of “equality through difference” as opposed to situations involving regional inequity. The Ministry makes arrangements for the distribution of support and promotional activities, seeking to ensure equality of access while respecting local characteristics;
- Promotion of community organization and participation: A policy linked to the democratic redistribution of power conducive to the mobilization of community resources. This process of “empowerment” should be constituted as a flexible process in which local authorities provide feedback for central planning.

223. These strategic policy thrusts were reflected in the experiences of different institutions which constitute a model of public administration based on policy integration and coordination at the local level.

## **B. Universal children’s welfare allowance**

224. Bearing in mind that there is consensus among communities and institutions regarding the urgent need to undertake actions to combat poverty and provide support and assistance to families, which are the natural nucleus ensuring the cohesion and welfare of society, on 29 October 2009, the President of Argentina, Dr. Cristina Fernández de Kirchner, acting in accordance with article 26 of Act. No. 26061, issued Decree No. 1602. Under this Decree, a universal children’s welfare allowance is added to the system of family allowances (Act No. 24714). This allowance is provided for children and

adolescents living in the Argentine Republic who have no other family allowance under the Act and who belong to family groups that are unemployed or who work in the informal economy.

225. The national State has stressed that although this measure will not necessarily put an end to poverty, it definitely represents a positive response to a population that has been hard hit by neoliberal economic policies. As noted in the third report, the key to finding a structural solution to the problem of poverty still lies in economic growth and the ongoing creation of jobs. Decent work continues to be a factor that keeps families and societies together and fosters personal development.

226. Thus, it is clear that the best social policy to further the development and coordination of the social fabric is employment, which when added to education, health, modernization or creation of infrastructure, basic services and housing will make it possible to improve living standards and combat hardcore poverty, gradually consolidating comprehensive, sustainable and inclusive human development.

### **C. Community Integration Centres**

227. The Community Integration Centres (CICs) established as part of the national federal network are centres for the coordination of overall social policy. The Centres are the result of joint action by the Ministry of Social Development, the Ministry of Health and the Ministry of Federal Planning, Public Investment and Services.

228. The principal objective of the Centres is to implement a model of integrated public administration throughout the country that promotes improvements in the quality of life of communities, as well as local development, while focusing on the family through interdisciplinary, continuous and intersectoral activities.

229. To achieve these objectives, the Centres are developing a model of public administration that incorporates and coordinates primary health care and social development policies within a single physical context at the municipal level, bringing social policy closer to the community and facilitating its access thereto. The community centres also take action in support of social inclusion and to that end promote local development by expanding community resources and building capacity.

230. The Centres in each area promote provincial and municipal participation and the involvement of community organizations, coordinating the three national plans of the Ministry of Social Development, namely the *Plan Nacional Manos a la Obra* (National “Let’s Get Down to Work” Plan), the Food Security Plan and the Families Plan. These plans are coordinated locally with the various activities already being undertaken in each area.

231. There are 263 Centres distributed throughout the country; they have been equipped with furniture, dental equipment and work vehicles. Plans are for 237 more.

232. The Centres engage in the following activities:

- Coordination of social development and primary health-care policies (prevention, promotion and public health assistance);

- Care and oversight for vulnerable sectors;
- Activities aimed at promoting local development;
- Promotion of cultural and recreational activities and adult education;
- Encouragement of networking activities involving community institutions and organizations.

#### **D. National Programme of Comprehensive Strategies**

233. The National Council for the Coordination of Social Policies has launched the National Programme of Comprehensive Strategies with the slogan “There, with the people” (*Ahí, con la gente*). This Plan is designed to improve programmes in areas of hardcore poverty by increasing the presence of the State in the territory, creating access and restoring local networks and identities.

234. The Plan promotes the social and human development of individuals, families and communities who live in situations of high social risk through the implementation of comprehensive public policies designed to ensure the fulfilment of social rights such as education, community health, work, housing, culture, recreation and access to essential public service infrastructures.

235. During the first stage, the National Council for the Coordination of Social Policies plans to optimize and maximize State resources with a view to reaching more than 6 million people, 1.2 million of whom have unmet basic needs.

236. In 2008, the Plan was carried out in 223 areas with populations of less than 12,000, throughout the country, and in 140 neighbourhoods, settlements and slums in eight administrative divisions known as *partidos* in the outlying areas of Buenos Aires (*Conurbano Bonaerense*). In other words, the Plan will impact every area that is in a situation of high social vulnerability.

#### **E. National Sports Plan**

237. The purpose of the National Sports Plan 2008-2012 organized by the Secretariat for Sports of the Ministry of Social Development is to consolidate public policy on sports and thus improve the quality of life of all citizens. A sports policy promotes the practice of social sports in order to encourage the development and practice of sports as a habit, adopting them as a lifestyle. Thus, the National Sports Plan is directed at the entire population of the country and is designed to facilitate access to the universal right to carry out physical activities and sports regardless of a person’s social situation and place of residence.

238. The National Plan promotes the practice of sports through neighbourhood clubs and community centres. It is embodied in the social and sports programme known as Evita National Games (*Juegos Nacionales Evita*), which was created by Act No. 26462. The programme pursues the following objectives:

- (a) To strengthen the organization of sports competitions that will promote full personal development and facilitate the people's enjoyment of recreation and leisure;
- (b) To promote sports as a factor in the education, culture, physical fitness and moral development of the population;
- (c) To encourage promotion of the values of physical education and sports and the development of conditions that will facilitate access to them;
- (d) To ensure adequate development, physical training and learning of sports, with priority being given to children and youth, promoting practices and sporting competitions that are appropriate in each case;
- (e) To contribute to the development of national sports, promoting the teaching of sports while ensuring equal opportunities for all;
- (f) To organize activities that will allow for all kinds of sports to be practiced in provinces or municipalities;
- (g) To promote and encourage competitions between schools in different types of sports.

239. Beyond the value of sports competitions, games are a tool for inclusion and social promotion that enable thousands of children and adolescents throughout the country to organize community teams and participate in sporting competitions, including competitions for persons with disabilities, thus fostering social tourism.

## **F. The Padre Múgica national youth programme**

240. In the context of the *Plan Ahí* programme of the National Council for the Coordination of Social Policies, the national Government launched the Padre Múgica Youth Programme (*Jóvenes Padre Múgica*). This involves assuming responsibility for helping to rebuild an active citizenry and promoting intense social promotion efforts.

241. The Programme, which is coordinated by the National Directorate for Youth of the Ministry of Social Development, is aimed at promoting solidarity in service, social commitment and participation of youth in the strengthening the social fabric, and at generating opportunities for youth to receive occupational training and have equal opportunities to enter the labour force. The Programme seeks to strengthen the creation of a collective identity by encouraging participation in different cultural activities and to promote opportunities for participation and communication, guaranteeing equal opportunities in the use of and access to new technologies.

242. The Programme is currently being implemented in the 223 areas participating in the *Plan Ahí*. Training and job opportunities are provided for one million young people between the ages of 15 and 29. The Programme has four lines of action:

- One, called the Youth Solidarity Movement, promotes values such as solidarity, commitment and participation. Promoters receive training through “train-the-trainer” and “people’s education” courses at workshops organized in the context of regional and national meetings. These courses focus on subjects such as



participation of youth, participatory analysis, social volunteerism, student centres, sexual health, drug use and abuse, road safety for youth and environmental issues.

- A second line of action, called Building Opportunities, focuses on work-related values such as equal opportunity, access to training and acquiring occupational skills.
- The third, referred to as the Young People's Cultural Movement, aims to promote participation through the arts, community radio, cultural and sports activities and creation of murals, among other activities. Thus, cultural events offer strategic opportunities for promoting inclusion, participation and communication.
- Finally, the Programme also works to ensure equal access to and use of new technologies.

### **G. Family Programme for Social Inclusion**

243. This mechanism involves implementing differentiated and well-coordinated policies in areas of persistent hardcore poverty. The programme started as an income-transfer programme, to ensure the right to basic social protection in the context of a comprehensive State response. It supplements other actions and, working in conjunction with other programmes and areas of the Ministry of Social Development, it furthers the goals of promotion, protection and social participation.

244. It has wide territorial scope thanks to the local care centres (355 throughout the country) and the Community Integration Centres. It also coordinates its work in the different provinces with other divisions of the Ministry of Social Development.

245. In addition to the income-transfer component, the Programme has a family and community promotion component which carries out promotion and prevention activities aimed at strengthening family and local capacities. It encourages the design and implementation of projects either by identifying and promoting ongoing initiatives or by channelling the people's know-how and teaching them how to obtain funding and training and build networks to enhance their activities.

246. To reinforce its potential for strengthening families and/or communities and to address problems that arise, the Programme coordinates its programmes with those of other areas in the Ministry of Social Development. These include food assistance; protection of children, adolescents and families; protection of older persons; financing of initiatives designed to create opportunities for work either through own-account work or through groups or cooperatives; promoting access to markets and inclusion in the social security system through the single social tax (*monotributo social*).

247. The Programme also plans to incorporate other types of policy implementation with a view to extending its territorial scope through a procedure that is well suited to current circumstances so as to achieve rapid results. Members of the boards of the Community Integration Centres will participate in this effort.

248. In addition, actions such as those outlined below are carried out at different levels of the national Government with the aim of preventing the offences referred to in the Protocol.

## H. Argentine migration policy

249. Act No. 25871 on Argentine Migration Policy, which was promulgated in early 2004, establishes the legal framework for the new migration policy.

250. The Act sets high standards for the protection of migrants' rights and lays the basis for public policies designed to integrate them into society. It stipulates, *inter alia*, that all foreigners in the Argentine Republic enjoy the right to health and education, even those with irregular immigration status. The State also guarantees immigrants' right to family reunification with their parents, spouses and children, since the family is recognized as a necessary and important source of support for every migrant.

251. The Act, which is based on regional historical, geographic and economic circumstances and acknowledges Argentina's tradition as a migrant-hosting country, establishes procedures that facilitate migrants' access to regular immigration status.

252. To that end, the *Patria Grande* National Programme for the Standardization of Immigration Documents<sup>9</sup> was launched. This Programme provides for the implementation of measures aimed at the incorporation and integration of the migrant population by facilitating access to legal residency status.<sup>10</sup>

253. The National Migration Directorate launched this Programme on the basis of Regulation No. 53253/05. It may be invoked by nationals of the States parties and associate members of Mercosur (Brazil, Bolivia [the Plurinational State of], Colombia, Chile, Ecuador, Paraguay, Peru, Uruguay and Venezuela [Bolivarian Republic of]).

254. The implementation of *Patria Grande* in the Argentine Republic was welcomed by the other Mercosur member countries and associated States, which endorsed the Programme by signing a declaration to that effect at the bloc's Meeting of Ministries of Internal Affairs and by stating their intention to apply similar procedures.

255. Furthermore, with a view to establishing effective communication procedures and hence ensuring more efficient prevention, control and punishment of international trafficking in minors, the National Migration Directorate (DNM) adopted Regulation No. 31100 in 2005 so as to broaden the scope of requirements for explicit authorization in the case of minors travelling alone or in the company of third parties other than their parents.

256. The regulation replaces chapter IV, title I, article 2, of annex I to Resolution DNM No. 2895 of 15 November 1985 concerning "forms of authorization" by the following text:

"EXPLICIT authorizations are those granted:

(a) By the person or persons referred to in the previous chapter before:

1. Notaries, judges, other authorities acting in their place or by means of a public instrument: the authorization shall state explicitly that the authorizing party or parties are the father or mother of the minor, in accordance with authentic documentation that has been presented and checked.

<sup>9</sup> Decree No. 836/04 and Decree No. 578/05.

<sup>10</sup>

When the authorization is for a minor travelling alone, the transport company shall fulfil the requirements imposed. If the minor is under fourteen (14) years of age, the authorization shall necessarily specify the destination of the journey and the particulars of the person meeting him or her on arrival.

When the authorization is for a person under eighteen (18) years of age accompanied by third-party adults other than his or her parents, the personal data, place of residence and document of the accompanying person and the destination of the journey shall necessarily be specified.

Without prejudice to the provisions of the preceding paragraph, the entry into and departure from the country of persons under six (6) years of age travelling alone or accompanied by third-party adults other than their parents shall be recorded in a special register maintained by the DNM Migration Control Directorate.

2. The Argentine consul: the requirements set out in the preceding section shall be met.

3. A competent court of law.

In all cases, if the inspector on duty when migration control procedures are conducted on entry or departure has well-founded suspicions regarding the authorization in terms of the best interests of the child, he or she shall immediately inform the Auxiliary Immigration Police, the competent judicial authority and the Public Prosecutor's Child Welfare Office."

257. In interpreting the amendment cited above, the following points should be noted:

(a) When the minor is travelling alone, the authorization must contain:

(i) Children under 14 years of age: destination and personal particulars of the party meeting them on arrival;

(ii) Persons in the 14 to 18 age group: destination;

(b) If a person under 18 years of age is accompanied by a third party, the authorization must contain: personal particulars of the accompanying party and destination;

(c) In the case of travel authorizations for minors between 18 and 21 years of age, it is not necessary to specify an accompanying party or the destination. The authorization of the parents and/or legal representatives is sufficient;

(d) The amendments introduced by Regulation DNM No. 31100/05 are not applicable to cases in which the minor departs in the company of one of his or her parents, whose authorization is governed by the relevant regulations which are still in force (Resolution No. 2895/85);

(e) Special records of the entry and departure of children under 6 years of age, responsibility for which lies primarily with the Migration Control Directorate, are drawn up in the manner determined by the latter when the corresponding controls are carried out.

## **I. Regime for the individual recognition of the mother-child nucleus**

258. With regard to the modification of legislation to guarantee all persons the full right to an identity from birth and to registration of their identity, special mention should be made of the drafting of a bill aimed at establishing a “regime for the individual recognition of the mother-child nucleus”. The bill creates a mandatory regime for the whole country under which the integrity of the mother-child nucleus is recognized from birth, during their stay in the institutional environment and on discharge.

259. The initiative replaces Act No. 24540 on the Regime for the Identification of Newborn Infants which is currently in force, and was decided upon when lengthy discussions aimed at regulating the latter regime broke down in the face of the difficulties and impediments encountered even by the implementing bodies when carrying it into effect. To that end, an inter-ministerial working group was established, composed of representatives of the Human Rights Secretariat and the Secretariat for Justice and Legislative Affairs at the Ministry of Justice, Security and Human Rights; SENNAF; the National Register of Persons at the Ministry of Internal Affairs, and the Ministry of Health.

260. This joint endeavour led to the consensual drafting of the abovementioned bill which was submitted to the Congress through the National Council for the Coordination of Social Policies in October 2007 (File No. 0016-PE-2007) and was adopted by the Chamber of Deputies.

## **J. National Missing Children Registry**

261. The National Missing Children Registry was created by Act No. 25476 of 2003 and is under the responsibility of the National Directorate for Direct Assistance to Vulnerable Persons and Groups of the Human Rights Secretariat. As stipulated in Decree No. 163/05, its purpose is to centralize, organize and cross-reference information from all parts of the country in a database concerning minors whose whereabouts are unknown, minors living in care, protection, detention or internment establishments whose filiation or identification data are unknown, and minors who have been traced.

262. The Registry has a free helpline which has been operating 24 hours a day 365 days a year since September 2004. This free helpline makes it possible to receive reports directly from the persons affected by the disappearance of a child and/or adolescent when it has not been previously reported, to provide guidance on reporting to the police authorities. It is also a fundamental tool for coordinating operations relating to search, location and return.

263. To facilitate the establishment, operation and dissemination of the Registry, and pursuant to article 6 of the Act, an Honorary Advisory Board was established. It is made up of representatives of the Association of Judges and Officials of Children’s and Family Courts; SENNAF; the Argentine Federal Police; the Gendarmerie; the Prefecture; the National Migration Directorate, and civil society organizations. The Board met several times and decided to expand its membership by inviting representatives of the Ministry of Foreign Affairs, International Trade and Worship; the Ministry of Education; the Airport Security Police, and the Federal Board of Courts and Superior Courts of Justice of the Argentine Republic, i.e., all stakeholders concerned.

## **K. Public Prosecution Unit for the Investigation of Crimes against Sexual Integrity, Trafficking in Persons and Child Prostitution**

264. The Public Prosecution Unit for the Investigation of Crimes against Sexual Integrity, Trafficking in Persons and Child Prostitution (UFI-INTEGRIDAD SEXUAL) was established by Resolution No. 63/05 of the Office of the Attorney-General in June 2005 in order to improve coordination between the different operators concerned with the problem and the Office of the Public Prosecutor, whose role is to promote judicial action in support of the legal interests of society in general,<sup>11</sup> with a view to achieving efficiency in the prosecution of these offences. The Unit has the following duties:

- To promote all preliminary investigations aimed at identifying acts or omissions that constitute offences against sexual integrity, trafficking in persons and child prostitution in the Autonomous City of Buenos Aires;
- To compile quantitative data from the different prosecutors' offices in the Autonomous City of Buenos Aires and to draw up a crime chart that can be used for coordination and cooperation in investigating cases in which the Unit participates;
- To collaborate with judges attached to the Public Prosecutor's Office in investigating criminal complaints substantiated through the Unit's activity;
- To request the Attorney-General to recognize the members of UFI-INTEGRIDAD SEXUAL as an intervening party on behalf of the prosecution in all criminal cases where this is deemed to be appropriate and which are of relevance to the objectives of the Public Prosecution Unit, regardless of whether the latter was involved in initiating the proceedings;
- To collaborate in the development of national and international prevention programmes, advising State agencies on the implementation of joint public policies concerning acts that may be unlawful, and to coordinate with agency officials and employees as and when appropriate;
- To request public and private bodies to provide such information as may be necessary to fulfil the functions described above.

265. The Human Rights Secretariat presides over the Special Unit to Promote the Eradication of Sexual Exploitation of Children and Adolescents established in 2005, which organizes, among other activities, training, skills-development and awareness-raising workshops on the subject. The activities are designed to promote reflection on child sexual exploitation and the development of proposals to address the issue. The main goal is to create a forum for the training of trainers, focusing on exchanges of information and compilation of data and the development of skills and attitudes conducive to a varied and comprehensive approach to child sexual exploitation, based on the perspective of promotion and protection of rights.

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<sup>11</sup> In accordance with article 120 of the National Constitution.

266. In the framework of the Tourism Secretariat, an agreement was signed in 2007 on the establishment of the National Committee on the Code of Conduct for the Protection of Children and Adolescents from Sexual Exploitation in Travel and Tourism.

267. The Code of Conduct is an initiative of the World Tourism Organization (WTO) and End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes (ECPAT International) to combat and prevent the sexual exploitation of children and adolescents. Accession to the instrument is voluntary and requires a formal declaration. Its aim is to guide and regulate the ethical conduct of companies, organizations and professionals that are directly or indirectly involved in the tourism industry, to promote the protection of child and adolescent rights, and to prevent sexual or labour exploitation and trafficking for both purposes. This is the first time that the instrument has been sponsored by a national tourism authority.

268. International organizations such as UNICEF, Save the Children and ECPAT International participate in the agreement promoted by the Tourism Secretariat, and support will also be provided by the Women's Association of Tourism Company Managers (AFEET).

269. The National Committee on the Code is composed of representatives of the aforementioned organizations and by representatives of SENNAF, the Victims against Violence Programme of the Ministry of Internal Affairs and the Human Rights Secretariat. Its basic aim is to promote a Code of Conduct for tourism that encourages the implementation and development of ethical corporate policies for the protection of child and adolescent rights by all actors involved in the tourism sector and the implementation of corresponding campaigns and programmes.

270. The Victims against Violence Programme of the Ministry of Justice, Security and Human Rights has created the Children's Brigade, the main task of which is to provide care for victims who are in a situation of sexual exploitation or trafficking in persons and to prevent that offence, in coordination with the security forces.

271. The Children's Brigade began training in January 2007 and began patrolling the streets in March of that year.

272. It identifies -- in the streets -- parties who intend to engage in commercial sexual exploitation of children. The team is made up of specialized professionals, including officers of the Argentine Federal Police.

273. These procedures result in action by the criminal courts in the case of adults who seek to exploit children and/or adolescents, as well as by the Argentine Federal Police in cases of detention of clients or users.

274. If a situation of commercial sexual exploitation of children or adolescents is detected on the streets, the clients or users are taken to the police, while victims are assisted by professionals in the Brigade.

275. The Children's Brigade operates in the Autonomous City of Buenos Aires 24 hours a day every day of the year. It also has a helpline at the Centre for Care of Victims of Sexual Violence to receive complaints or reports.

276. By its Resolution No. 1679/2008, the Ministry of Justice, Security and Human Rights has instructed the National Gendarmerie, the Federal Police, the Naval Prefecture and the Airport Security Police to create special units to carry out actions aimed at preventing and investigating trafficking in persons, as well as any intelligence tasks that may be necessary in this regard.

277. The creation of these units makes it possible to coordinate the work of the security and police forces and strengthen the operational network and the criminal intelligence mechanisms needed to effectively combat the offence of trafficking in persons.

278. Finally, the Area for the Prevention of Sexual Exploitation of Children and Trafficking in Persons of SENNAF carries out technical assistance activities throughout the national territory. In particular, in 2009, training activities on strategies assistance to victims of sexual exploitation and trafficking in persons were organized in the provinces of Chubut, Jujuy, Buenos Aires, Salta, Tucumán, Tierra del Fuego and Misiones. At these meetings, training was offered for professionals from technical teams working in the areas of social programmes, health and education and for police and security personnel, as well as for nongovernmental organizations and the general public.

## **L. Prevention in the use of new technologies**

279. In 2004, the then National Council for Children, Adolescents and the Family (CONNAF) coordinated research on Smuggling of children and adolescents with a view to sexual exploitation, child pornography on the internet and regulatory frameworks, as part of the Inter-American Children's Institute project on Child trafficking, child pornography and regulatory frameworks for Mercosur, Bolivia and Chile.

280. The findings and conclusions of the study brought to light problems shared by the different jurisdictions, legal lacunae, defects and/or shortcomings in procedural and administrative regulations and good practices in the prevention and protection of child and adolescent victims of sexual exploitation.

281. Finally, it should be noted that SENNAF has set up, in the context of the Area for the Prevention of Sexual Exploitation of Children and Trafficking in Persons, a specialized team to monitor activities of paedophiles and child pornographers on the internet. The main objective is to detect situations where rights are being violated and identify the circuits in which paedophiles operate, their methodology and their constant changes.

282. This team coordinates its work with the divisions of Cybercrime and Criminal Analysis and of Offences against Minors of the Argentine Federal Police (PFA).

## **M. Federal action**

283. Through COFENAF, SENNAF used its share of the budget to guarantee a federal fund for distribution to all jurisdictions. The funds are to be used in accordance with the guidelines for comprehensive protection of rights set out in the inaugural declaration of COFENAF.

284. Following are some of the projects that were carried out in this regard during 2007:

**1. Province of Entre Ríos**

285. A plan of work has been drawn up with a view to carrying out further actions with the aim of eliminating the trafficking and exploitation of children in the province, such as: raising awareness and training professional teams both in the central agency and in local units and the general population, through educational campaigns and mass communication.

**2. Province of Misiones**

286. The project is designed to help reduce the factors that cause the problem. The main strategic approach is to strengthen families, which are fundamental to preventing commercial sexual exploitation. Among others, the following activities were carried out:

- Training workshops on prevention of commercial sexual exploitation of children and adolescents for members of public organizations in the municipalities of Posadas, El Soberbio, El Dorado, Oberá, San Vicente and Puerto Iguazú. The workshops were attended by teachers, day care personnel, members of neighbourhood committees, doctors and other health workers, civil associations, churches, tourism agencies, investigating judges and justices of the peace, and members of the security and immigration forces;
- Technical assistance and direct services to families with victims and/or potential victims of commercial sexual exploitation of children and adolescents. These families were provided with professional care, food aid, medicines, housing improvements, furniture, inputs for family-operated production enterprises, mattresses, tickets to help them move, diapers, clothing and coverage of specific needs arising from the work with the family. These efforts were coordinated with all areas of the local Directorate of Family Affairs.

**3. Province of Santiago del Estero**

287. The purpose of the work here was to ensure the exercise of the right of children and adolescents to their own identity; accordingly, they were provided with DNIs or assistance with renewal of DNIs. Children were granted citizenship and recognized as subjects of law. Activities such as sensitization campaigns, communication and training were also carried out to promote the right to one's own identity.

**4. Province of Tucumán**

288. Training was given for human resources working on problems relating to child labour and sexual exploitation of children and adolescents, with a view to strengthening the technical teams concerned with detecting and dealing with those issues. The training was received by personnel working at the provincial and municipal levels and in civil society. Technical assistance was also provided in connection with the design of assistance and prevention projects relating to the aforementioned issues.



## VIII. International assistance and cooperation

### A. Regional policies

#### 1. Actions in cities in border regions

289. Actions were coordinated by SENNAF in the area known as the Triple Frontier, where the borders of Argentina, Brazil and Paraguay meet, with a view to developing joint strategies of action against the sexual exploitation of children.

290. For instance, in the context of meetings organized by SENNAF in the town of Puerto Iguazú, Misiones Province, a Cooperation Agreement on coordinated action to combat the sexual exploitation of children on the Triple Frontier was signed between the Argentine Republic, the Federative Republic of Brazil and the Republic of Paraguay.

291. In the context of this agreement, an awareness-raising campaign on combating trafficking in children and adolescents for purposes of commercial sexual and/or labour exploitation was designed. This involved the circulation in the three countries of posters and leaflets in Spanish, Portuguese and Guaraní.

292. At its thirty-fifth Regular Meeting, held on 30 June 2008 in San Miguel de Tucumán, Argentina, the Council of the Common Market adopted Recommendation No. 03/08, which urges members to disseminate the communications campaign on combating trafficking in children and adolescents for purposes of commercial sexual and/or labour exploitation. It also urges members to promote the campaign in border countries, international airports, bus terminals, tourist agencies and similar locations in the States parties of Mercosur.



293. The meetings were attended by representatives of, *inter alia*, UNICEF; ILO; IOM; the Ministry of Foreign Affairs, International Trade and Worship; the Ministry of Education; the Human Rights Secretariat; the Ministry of Labour, Employment and Social Security; CONAETI; the National Registry of Persons (RENAPER); the National Gendarmerie of Argentina; the Federal Police of Argentina; the Police Force of Misiones Province; legislative authorities; academic institutions, and social organizations.

294. In October 2008, SENNAF repeated this successful experiment in La Quiaca (Jujuy Province, Argentine Republic) and Villazón (Modesto Omiste Province, Plurinational State of Bolivia), which are joined by the La Quiaca International Bridge. In these areas, both the Argentine and the Bolivian local protection agencies are undertaking an evaluation of the aforementioned problems and working together to address them.

295. At the meeting, it was decided to produce translations in Spanish, Quechua and Aymará of the communication campaign on prevention recommended by Mercosur in its Recommendation No. 03/08.

## **B. Third World Congress against Commercial Sexual Exploitation of Children and Adolescents**

296. The Latin American Regional Preparatory Meeting for the Third World Congress against Commercial Sexual Exploitation of Children and Adolescents was held in August 2008. The main objective of the meeting was to provide an opportunity for reflection and regional exchange of views on the efforts made, lessons learned, strengths and challenges and the priority issues of general concern to the 34 Latin American countries.

297. The Organizing Committee for the meeting was made up of representatives of SENNAF from the Ministry of Social Development; the Human Rights Secretariat of the Ministry of Justice, Security and Human Rights; the Ministry of Foreign Affairs, International Trade and Worship; ECPAT International; Save the Children; the International Labour Office and UNICEF.

298. The meeting provided an opportunity to exchange information on measures taken to dismantle criminal organizations and on comprehensive actions taken to restore child victims of commercial sexual exploitation. In this regard, the Argentine Republic, acting through COFENAF, recently adopted a resolution laying down a protocol on assistance to victims of these crimes which is described in chapter VI, on Protection of the Rights of Child Victims.

## **C. The *Niño Sur* (Southern Child) Initiative**

299. The *Niño Sur* (Southern Child) Initiative seeks to promote the coordination of national action aimed at implementing the Convention on the Rights of the Child and the alignment of national legislation with relevant international instruments, giving the best interests of the child precedence over nationality.

300. The programme targets and activities were set out in the 2006-2007 Work Plan adopted in June 2006 by the fourth Meeting of High-level Human Rights Authorities and Ministries of Foreign Affairs of Mercosur and Associated States (RAADDHH).

301. In this context, the Argentine Republic, which held the temporary presidency during the first half of 2006, submitted a draft recommendation on the rights of child and adolescent victims of trafficking, smuggling, exploitation, abuse and/or sale, and on the care to which they are entitled. It was adopted as Decision No. 1. The recommendations recognize and protect the rights of child and adolescent victims of all types of offences relating to trafficking, smuggling, sale, sexual exploitation and/or abuse, especially during the course of judicial proceedings against persons who have violated their rights. They also lay down minimum standards of care and treatment for child and adolescent victims of such offences.

302. Another measure taken under the Initiative was the establishment of a Legislative Database of Mercosur and Associated States concerning the trafficking, smuggling, sexual exploitation and sale of children and adolescents, in order to determine whether such legislation is consistent with the obligations assumed on ratification of international human rights instruments, to identify similarities and divergences in domestic legislation, and to promote corresponding legislative adjustments.

#### **D. Special Meeting on Women in Mercosur**

303. The Common Market Group, considering the advisability of preparing a study of the status of women in regard to the concept of equal opportunities, adopted Resolution No. 20/98, creating the Special Meeting on Women, with a view to contributing to the social, economic and cultural development of the States Parties.

304. The Special International Representative for Women's Issues participated in the activities of the Project on Institutional Capacity-building in the Fight against Trafficking in Persons in Argentina (FOINTRA) carried out by IOM.

#### **E. International legal cooperation**

305. On matters of international legal cooperation, the primary responsibility of the General Directorate of Legal Affairs -- Directorate of International Judicial Assistance -- of the Ministry of Foreign Affairs, International Trade and Worship is to coordinate assistance with other States and serve as a necessary liaison between foreign authorities and the national legal system.

306. The Directorate also serves as the central authority for implementation of the different treaties currently in force on issues relating to international protection of children, such as the Inter-American Convention on the International Return of Children, the Hague Convention of 1980 on the Civil Aspects of International Child Abduction, the Inter-American Convention on International Traffic in Minors, the United Nations Convention against Transnational Organized Crime and its supplementary Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

307. The participation of the Directorate of International Judicial Assistance is fundamental to international legal cooperation, inasmuch as it coordinates with domestic and foreign authorities the proper application of international instruments, thus facilitating compliance with the measures requested and expediting and improving the efficacy of communications.

308. On the question of abduction of minors by one of the parents, detailed records are available on the total number of cases, countries involved, processing of documentation, etc. However, no statistics are available to give an idea of the extent of trafficking of children at the international level.

309. The Directorate only has records on two trafficking situations, one of them linked to the Plurinational State of Bolivia and the other to the Federative Republic of Brazil. These cases were duly brought to the attention of the Office of the Attorney General with a view to investigating the possible existence of a trafficking network.

310. With regard to action taken to disseminate information on and address trafficking and smuggling of persons, there are two telegraphic circulars addressed to Argentine Consulates abroad. These circulars include instructions on procedures to be followed in potential trafficking situations with a view to filing the relevant complaints and dismantling the trafficking bands.

311. During 2005, workshops were held in the cities of Corrientes and Misiones on dissemination, awareness-raising and training in regard to the application of international conventions on abduction, return and trafficking of children and adolescents. These workshops were attended by large numbers of officials from the judiciary branch, the security forces and civil institutions in these provinces.

312. This campaign was funded by UNICEF and was aimed at maximizing the Argentine experience with child abductions over the years. The aim was to extend the scope of dissemination and aware-raising on the global problem of trafficking and return of children through dissemination of existing legislation and of information on existing protection mechanisms.

313. The seminars were led by officials of the Directorate of International Judicial Assistance of the General Directorate of Legal Affairs, the General Human Rights Directorate of the Ministry of Foreign Affairs and the Liaison Officer of Interpol Argentina in the General Directorate of Legal Affairs.

314. The issue was also addressed at the international level at the Technical Meeting of Ministers of Justice of Mercosur. At that meeting, the General Directorate of Legal Affairs participated in the preparation of the *Guía de Buenas Prácticas en relación a la asistencia técnica jurídica mutua en materia de trata de personas entre los Estados Parte de Mercosur y Estados Asociados* and the statement by the Ministers of Justice of Mercosur and Associated States on the fight against trafficking in persons.

315. On the question of abduction of minors, on the initiative of the Argentine Republic, the Organization of American States adopted the Inter-American Program of Cooperation to Prevent and Remedy Cases of International Abduction of Children by one of their Parents. This Program will be carried out by the Inter-American Children's Institute (IIN).

316. By its Resolution AG/RES.2028(XXXIV-O/04 of June 2004, the General Assembly of the Organization of American States endorsed the Program drawn up by the Meeting of Government Experts on the matter at its meeting held in Montevideo, Eastern Republic of Uruguay, in August 2002.

317. In 2005, the General Assembly of the Organization of American States adopted Resolution AG/RES.2133 (XXXV-O/05) on the Inter-American Program of Cooperation to Prevent and Remedy Cases of International Abduction of Children by one of their Parents. In this resolution, the Inter-American Children's Institute (IIN) is requested to consider, through its Directing Council, convening as soon as possible the Meeting of Government Experts. The Program was also included in the IIN Strategic Plan for 2005-2008.

318. In addition, by Resolution CP/RES.890 (1503/05) and on the initiative of the Argentine Republic, the Permanent Council of the Organization of American States established the Specific Fund for the Inter-American Program of Cooperation to Prevent and Remedy Cases of Abduction of Children by One of their Parents.

## IX. Concluding comments

*“On matters of social policy, we must work to reinforce values, ensure education, food, community development by building trust, security, putting into practice relationships that will help today's children be men and women who are full members of society.”*

Dr. Alicia Kushner  
Minister of Social Development  
President of the National Council for the Coordination of Social Policies

319. We conclude this report by confirming that our Government is determined to pursue its goal and meet the challenge to constantly improve the country's efforts to develop a nation with social justice, an inclusive society and political sovereignty, reaffirming our identity as active members of the Latin American community.

320. From our position of leadership, we walk across our land, exploring the most remote regions, detecting needs and aspirations and building, side by side with our people, new outlooks, new and sustainable paths that will allow us to rethink and rebuild our destiny.

321. We realize that the issues and problems discussed in this report constitute a flagrant violation of all the rights of our children. The State has an obligation, which it can neither deny nor delegate, to prevent such crimes, assist the victims and prosecute the perpetrators who are criminally liable for such brutal offences. We are committed to accomplishing this task on a daily basis, for enshrining the rights of children is the challenge we face, and that has been established, in particular, in several sections of this report.

322. Accordingly, we understand and we reiterate that the best prevention comes through the growing presence of an ever-improving State at all levels, in all areas of the territory. We therefore redouble our effort day by day, as we move towards the Bicentennial of the homeland, with the same dream, namely, the dream of building an Argentina where children are the only privileged class.

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