



**Optional Protocol to the  
Convention against Torture  
and Other Cruel, Inhuman  
or Degrading Treatment  
or Punishment**

Distr.: General  
10 June 2010  
English  
Original: Spanish

---

**Subcommittee on Prevention of Torture**

**Replies of the Republic of Paraguay to the  
recommendations and requests for information  
made by the Subcommittee on Prevention of  
Torture and Other Cruel, Inhuman or Degrading  
Treatment or Punishment in its report on its first  
periodic visit to Paraguay (CAT/OP/PRY/R.1)\* \*\***

\*\*\*

- 
- \* The annexes to the present document may be consulted in the secretariat of the Subcommittee.
  - \*\* The present document was not edited before being sent to the United Nations translation services.
  - \*\*\* On 4 June 2010, the State party announced its decision to make the report and its comments public and to post them on the website of the Ministry of Foreign Affairs of Paraguay. The present document is being issued in accordance with article 16, paragraph 2, of the Optional Protocol.

1. The Government of Paraguay takes careful note of all the recommendations and observations made by the Subcommittee on the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which was established pursuant to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, following the visit carried out by the Subcommittee from 10 to 16 March 2009. The Government of Paraguay takes this opportunity to make the following comments.

## **I. Recommendations**

### **Paragraphs 238 and 239**

2. The Government of Paraguay is pleased to report that a draft amendment to the Military Criminal Code (Act No. 843/1980) is currently under consideration. This amendment is aimed at incorporating the legal definitions set out in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment — in view of the fact that the current Code dates from 1980 — in order to bring this legislation into conformity with international treaties on the subject.

### **Paragraphs 240 and 241**

3. The Office of the Ombudsman has described the progress made in implementing these recommendations, as follows.

4. The Office of the Ombudsman — through its Department for Persons Deprived of their Liberty, which, since the month of May, has been assigned to the First Rotation Office — has restructured that office and has appointed a permanent director and a secretary with a view to ensuring full respect for human rights. The type of service provided by the First Rotation Office for Persons Deprived of their Liberty consists of routine monitoring of the criminal justice (judicial and prison) system and of complaints and reports filed by persons deprived of their liberty. In order to obtain an overview of the situation with respect to torture in Paraguay's prisons, the Office of the Ombudsman, together with representatives of various State bodies and civil society organizations, established the Inter-Agency Commission to Conduct Visits and Monitoring in respect of Adolescents Deprived of their Liberty. This commission visited all juvenile detention centres in Paraguay in order to inspect the living conditions of their inmates and to detect any situations of torture or ill-treatment that might exist. All of these data were collected using a protocol according to which adolescents deprived of their liberty were interviewed personally and — with regard to inmates' complaints, particularly those relating to torture — in strict confidentiality.

5. An in-depth investigation into torture has not yet been carried out in adult detention centres; however, in 2009, a number of complaints of torture were lodged by inmates themselves. These allegations were taken up by the Office of the Ombudsman, which referred them to the Public Prosecutor's Office and subsequently performed due process checks in each case. Acts of torture in police stations have also been reported, and the Office of the Ombudsman followed the same procedure in dealing with these cases, which consisted of organizing an on-site meeting of representatives of the Office of the Ombudsman, conducting an interview with the detained person who showed signs of torture and subsequently transmitting the complaint to the competent body so that it could conduct an investigation into the matter.

6. The system is monitored by sending out requests for reports on the judicial status of inmates at the various prisons. These reports are submitted in a table format and indicate inmates' judicial status, whether they have defence counsel, whether they have been given a firm date to apply for a conditional release and the name of the court handling the case. On the basis of these data, the Office of the Ombudsman performs a due process check on prisoners' cases, especially those in which there is some irregularity, such as a failure to appoint a defence counsel or to provide official notification of the prisoner's sentence.
7. The Office of the Ombudsman also gathers information on the basic requirements of the various prisons. To that end, the directrice of the First Rotation Office held meetings with the directors of the Tacumbú and the Buen Pastor prisons, who described the various shortages in these prisons that made it difficult for them to meet inmates' needs.
8. The Office of the Ombudsman has requested the Ministry of Justice and Labour to provide adequate supplies in order to ensure that inmates' needs are met and their human rights fully respected.
9. The main actions taken by the Office of the Ombudsman in response to complaints or allegations of human rights violations include an immediate request for a report from the authorities of the detention centre where the events occurred, or the dispatch of the director or secretary of the First Rotation Office to the place of detention in question in order to take the person's statement, record the visible condition of his or her body and bring any detected violations of rights to the attention of the competent authority for investigation.
10. All proceedings are recorded in case files containing the complainant's first name and surname, together with information on the matter being reported and the proceedings undertaken. A backup electronic file containing the same information is also kept.
11. All complaints lodged with the Office of the Ombudsman are first registered and then transmitted to the competent body having the authority to investigate the alleged incidents. The Office of the Ombudsman then performs a monitoring role and ensures that due process is observed.

## **Paragraph 242**

12. With the aim of promoting policies on human rights, the current Administration, by means of resolution No. 542 of 16 September 2009, established the Human Rights Department. The operating regulations of the Department are being studied with a view to their approval, and its organization chart includes a planning, operations and evaluation section. One of the functions of the section is to inspect the infrastructure of police stations where persons are held in custody and evaluate it in terms of the conditions prescribed by international humanitarian standards. The purpose here is to improve prisoners' conditions in accordance with the provisions of article 3 of National Police Organization Act No. 222/93 and in conformity with the Constitution, the Criminal Code and the Code of Criminal Procedure.
13. The Office of the National Police Commander has been working with the International Committee of the Red Cross (ICRC) under a cooperation agreement aimed at incorporating international human rights standards and humanitarian principles, as applicable to police duties, in the education and training of its staff, as well as in police procedures and internal regulations.
14. In keeping with the Government's commitment to promote and respect human rights, the executive branch, by Decree No. 1811 of 15 April 2009, established the Human Rights Directorate, which is attached to the Office of the Deputy Minister for Political Affairs. Its objective is to promote and protect human rights within the Ministry of the

Interior and its divisions. In addition, it is also charged with promoting dialogue and cooperation among civil society organizations, academic institutions, State institutions and the media, as well as other stakeholders, on topics relating to public security and human rights.

15. Efforts have also been directed towards the formulation of State policies on law enforcement and the police force's role in society that incorporate various aspects of State policy on criminal matters. The latter provides for scientific research into the causes of criminal behaviour and the effectiveness of different penalties to serve as a basis for State efforts to combat crime through the use of penalties, preventive measures and other means.

16. Lastly, the police force has made significant progress from the humanitarian standpoint, despite the fact that many aspects of the new directives have not yet been fully implemented. Since the establishment of the National Police in 1992, the powers and duties of the police force have been changing in order to keep pace with the times, to ensure respect for the rights of all inhabitants of Paraguay and to make the transition from a repressive to a preventive police force with a greater social role and local presence.

### Paragraph 243

17. The Government of Paraguay would like to point out that visits to prison facilities, particularly those located in the capital, are not announced in advance. On a weekly basis, staff from the Prison Supervision Unit enter into direct contact with male and female prison inmates; these inmates are not pre-selected by prison staff. A request has been made through the appropriate channels for increased allocations of human and financial resources.

### Paragraph 245

18. With regard to this point, we wish to report the following.

19. A total of 3.2 per cent of the general central government budget is allocated to the judiciary, which is composed of the Supreme Court, the electoral courts, the Public Prosecutor's Office, the Council of Justice and the Tribunal for the Prosecution of Judges.

20. The national general central government budget approved for the current financial year totals PYG 15,542,869,035,120 (fifteen trillion, five hundred forty-two billion, eight hundred sixty-nine million, thirty-five thousand one hundred twenty guaraníes).

<i>Description</i>	<i>Amount allocated</i>		
NGB (central government) 2009	PYG 15 542 869 035 120	46.54%	NOTE
Judiciary (Supreme Court)	PYG 497 840 015 356	3.20%	(*)

(\*) Share of 2009 national general budget (NGB 2009).

21. The share of the Supreme Court budget allocated to the criminal courts is approximately 6.38 per cent, or PYG 31,774,182,409 (thirty-one billion, seven hundred seventy-four million, one hundred eighty-two thousand four hundred nine guaraníes).

22. The percentage increase in the budget of the Supreme Court for the period 2007/08 may be seen in the following table.

<i>Financial year</i>	<i>Amount approved</i>	<i>Increase</i>	<i>%</i>
2007	373 397 047 032	-	-
2008	434 856 996 941	61 459 949 909	16
2009	497 840 015 356	62 983 018 415	14

*Note:* In each case, percentage increase calculated relative to previous year.

23. With regard to allocations for salaries of criminal judges, it may be noted that the budget for personal services was 22 per cent higher in 2007/08 than in 2006. No increases were approved for the current financial year.

24. In the 2010 draft budget submitted to the National Congress for the Supreme Court, a request was made for a 25 per cent increase in base allocations for the judiciary. The request is still under consideration.

### **Paragraph 251**

25. Resolution No. 176 of 10 February 2010 of the Office of the National Police Commander provides for:

26. Establishment of a system of compulsory registration in a paginated register, separate from and parallel to the duty register, which is to include the legal grounds for the deprivation of liberty, the exact time when the detention began, how long it lasted, who was responsible for its authorization and the names of the law enforcement officials concerned, together with precise information on the place of detention, the time at which the competent authorities were informed, the means of communication used to do so and the time at which the detainee first appeared before a judicial or other authority (Prosecutor's Office).

27. Maintenance of a clear record in the register of medical examinations of persons deprived of their liberty, including the type of care provided, the name of the doctor concerned and any findings or diagnoses made during the examination.

28. Maintenance of a record in the register of complaints received; visits, whether by family or others, by lawyers, or by members of supervisory bodies or of a competent judicial authority; and an inventory of the personal effects of persons who are detained.

29. Police station chiefs are responsible for training and supervising police personnel to ensure the proper completion of the registers and their lawful utilization.

### **Paragraph 252**

30. The Publications Department of the National Police has prepared posters and other publicity materials on the subject of persons deprived of their liberty. These have been printed in the two official languages and have been distributed to all police stations throughout the country.

31. In order to support the work of the police, the Chamber of Deputies has developed a police officer's guide to human rights. Copies of this pamphlet have been distributed to all commissioned and non-commissioned police officers.

32. The Office of the National Police Commander and the Ministry of the Interior have jointly organized one-day events, courses, workshops and seminars on the subject of human rights as they relate to the field of law enforcement.

33. An agreement has been concluded between the Office of the National Police Commander and the International Committee of the Red Cross for the training of instructors in human rights. (To date, 87 staff members have completed the training: 77 commissioned officers and 10 non-commissioned officers.) Human rights training will be mainstreamed within the curricula of all technical vocational courses offered by training institutes attached to the Higher Institute of Police Education.

### **Paragraph 263**

34. There are plans to draft a circular instructing all police stations to provide a “complaints book” in which the names of detainees are to be noted. These persons would then be able to file a complaint about and/or bring to the attention of the authorities the type of treatment they received in that particular police station, as well as any other type of complaint relating to human rights.

### **Paragraph 266**

35. Over the course of 2010, the police force plans to continue developing numerous human rights courses, to update them on the basis of provisions of domestic positive law related to human rights and to include segments on the custody of persons deprived of their liberty and on the proper use of registers.

### **Paragraph 267**

36. Articles 128–132 of National Police Organization Act No. 222/93 establish the duties and powers of senior officers with regard to the organization, oversight, inspection and penalization, when necessary, of subordinate police staff in cases of misconduct under police regulations or under domestic positive law that is considered to impair the proper functioning of the police force.

### **Paragraph 268**

37. The Department of Internal Affairs of the National Police is the division charged with investigating, overseeing and informing the Commander and the Directorate for Police Justice of all irregular conduct allegedly involving police officials so that they may apply the appropriate sanction in each particular case. In addition, the Human Rights Department was established by the Office of the National Police Commander in order to ensure full compliance with the human rights covenants and agreements signed and ratified by the State of Paraguay.

### **Paragraph 269**

38. An inter-agency commission composed of representatives of the Ministry of the Interior, the Office of the Ombudsman, the National Police (Human Rights Department) and the Secretariat for Women has been set up in order to monitor police stations. It will check on conditions in detention cells and on the provision of drinking water, regular access to toilets and proper mattresses and beds, in order to ensure that people’s basic needs are met.

**Paragraph 270**

39. The above-mentioned commission has established measures relating to all aspects of the treatment of persons who are detained or deprived of their liberty for a period greater than 24 hours, with particular emphasis on their placement in detention cells, lavatory facilities, food and rest.

**Paragraph 271**

40. The current procedure followed by police staff in order to check persons arrested or detained for any physical disorder that they might exhibit as from the time of their arrest or detention consists of a thorough examination of the prisoner by doctors from the Medical Emergency Centre or the Police Hospital (in the case of police procedures in the capital) or from a health centre (in the case of police procedures in the interior of the country).

**Paragraph 272**

41. The police procedures manual explicitly states that any woman who is arrested or detained should be protected and guarded by female police officials in order to avoid the commission of procedural irregularities or excesses by male police officials in the course of their arrest or detention. This rule's sole purpose is to safeguard their physical integrity and other human rights as provided for by law.

**Paragraph 273**

42. Concurrently with the establishment of the National Police in 1992, women were admitted into the ranks of the police force as both commissioned and non-commissioned officers. Likewise, ever since the Specialized Urban Police was established in 2006, female staff have performed custodial, monitoring and guard duties and have carried out checks on detainees or offenders within the established parameters.

**Paragraph 275**

43. Police personnel are given thorough instruction on the agreements, laws and other instruments ratified by the Government of Paraguay that concern acts of torture, ill-treatment, cruel punishment or the prevention and punishment of breaches of the law. With the support of other institutions, the National Police provides human rights courses, seminars and training to all police personnel.

**Paragraph 276**

44. A number of governmental bodies, such as the Human Rights Prosecution Unit, have been set up to conduct prompt and impartial follow-up and investigations into all allegations or reports that a member of the police force has breached a provision of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment or any related regulation. The legislative branch has a special commission for receiving, monitoring and following-up complaints relating to acts of torture, ill-treatment or cruel punishment. There are also various social groups that are dedicated to overseeing, reporting and following up cases involving cruel, inhuman or degrading treatment or punishment.

### **Paragraph 277**

45. The Publications Department of the National Police has prepared posters and other publicity materials on the subject of persons deprived of their liberty. These have been printed in the two official languages and have been distributed to all police stations throughout the country. Information has also been made available to the public on the prohibition of torture and ill-treatment, as well as on how and where to file complaints concerning such acts.

46. In order to support the work of the police, the Chamber of Deputies has developed a police officer's guide to human rights. Copies of this pamphlet have been distributed to all commissioned and non-commissioned police officers.

### **Paragraph 278**

47. All "plain clothes" (i.e., non-uniformed) commissioned and non-commissioned police officers and other police staff who conduct arrests, detain or apprehend suspects or perform other police duties must be duly accredited and carry badges. Police force regulations prescribe the type of uniform and insignia that officers should wear and the scope of their functional responsibilities. Any breach of the regulations contained in the Police Charter is to be punished by the institution through the Directorate for Police Justice on the basis of the corresponding report from the Department of Internal Affairs of the National Police.

### **Paragraph 279**

48. The Emboscada Prison, which has a capacity for 132 persons housed in three-person cells, will soon become operational. At that time, sentenced convicts currently held at the Tacumbú National Prison will be transferred to Emboscada.

49. In 2009, all the country's prisons were refurbished. Improvements were made to the *ex sótano* wing, the D wing and the *cuadrilátero* sector of Tacumbú National Prison. These improvements are described in the present report.

50. The new Pedro Juan Caballero Regional Prison has been outfitted as discussed in paragraph 187 of the Subcommittee's report. The new prison is located on an 11-hectare plot and comprises a central facility and three wings with 103 cells having a capacity for approximately 300 inmates (see annex 1: CD Video showing transfer of inmates to Pedro Juan Caballero).

### **Paragraph 281**

51. Prisoners are separated into sectors and wings. Female inmates are housed in the front part of the facility and are separated from male inmates by a physical structure. Adolescents deprived of their liberty in Pedro Juan Caballero are housed in a separate wing from adult inmates. Attention is drawn to the fact that the two adolescents currently being held in this prison will be transferred to a nearby educational facility in Concepción. The new prison centre offers improved conditions in terms of space and infrastructure.

52. As an annex to the present report, a DVD is being submitted with footage of the new prison before and after its inauguration, along with photographs depicting other improvements.



## **Paragraphs 282 and 283**

53. The Deputy Minister of Justice and Human Rights, by means of resolution No. 2 of 11 January 2010, has required that all new event registers and logs and all registers of visits to prisons and women's correctional facilities under the authority of the Ministry of Justice and Labour should be numbered and signed by the secretariat of the Directorate-General of Prison Establishments.

54. Between Monday, 17 August 2009 and the end of that month, a general census was taken of inmates at all prisons in Paraguay.

55. The objective of this census was to collect data on the country's prisons that could then be used as a source of information for plans and projects aimed at a comprehensive reform of the prison system. The Ministry of Justice and Labour now has a clear picture of the characteristics of the persons being held in custody, including their socio-cultural situation, personal data and judicial status. The following data are provided in the annexes to this document: total number of prisoners by age bracket, broken down by prison facility and gender; total number of prisoners by marital status, broken down by prison facility and gender; total number of prisoners by nationality; total number of prisoners by educational level; grade or course completed, by gender and five-year age group; educational level by the highest stage, grade or course successfully completed; percentage of prisoners who would like to receive job training upon release, by gender and five-year age group; number of persons suffering from some type of contagious disease; number of persons receiving medical treatment, by gender and five-year age group; percentage of persons with identification documents; number of persons who are working within the prison; number of inmates who receive assistance from relatives and/or third parties, by gender and five-year age group; number of inmates who receive visits, by gender and five-year age group; number of inmates with minor children; number of inmates according to legal status of housing previously occupied by them or currently occupied by their family, by five-year age group; number of inmates who own their home and have or do not have minor children, broken down by highest grade/course successfully completed; and number of repeat offenders, by five-year age group.

56. This project is being carried out with funds provided by the Spanish International Agency for Development (AECID); technical assistance from the Directorate-General of Statistics and Censuses; the help of more than 200 students from the Faculty of Law and Social Sciences of the National University at Asunción and its affiliates, who gathered data from every prison in Paraguay; cooperation from the Identification Department of the National Police, which, concurrently with the census, collected data on inmates using the same procedure as that used for issuing an identification document to any citizen in the country; and assistance from the judicial branch, which has pledged to provide all procedural data relating to the criminal cases in which these persons are implicated. The Government is currently in the process of making percentage calculations on the basis of the data collected.

## **Paragraph 284**

57. By means of resolution No. 218/09 of 23 March 2009, the Ministry of Justice and Labour established a special commission for following up and implementing the observations and recommendations of the Subcommittee on the Prevention of Torture. The commission is composed of senior officials from the Ministry of Justice and Labour. It has verified, in situ, the comments made by the Subcommittee and has submitted its report to the Minister of Justice and Labour.

58. The report submitted by this special commission focuses on three main areas: corruption, infrastructure and human rights. The commission carried out its field work in the Tacumbú National Prison and the Pedro Juan Caballero Regional Prison. It then formulated conclusions and proposals for action, which were incorporated into the final report of the Subcommittee on the Prevention of Torture.

59. In the area of corruption, the proposed measures include: establishing a policy for re-engineering the prison administration system and a new organizational structure (organization chart and handbook of responsibilities); formulating job description profiles in the prison system; designing, proposing and implementing a selection process for the prison service; designing, proposing and implementing a promotion process for the prison service; designing and implementing a plan for re-engineering these processes; prohibiting staff from carrying money within prison premises and overseeing enforcement of the ban; making the most senior authority responsible for monitoring the assignment of cells and beds in order to ensure that each prisoner has a decent place to sleep without having to pay for it.

60. The report also calls for improvements in minimum material conditions and health-care systems, medicines and food.

61. With the support of experts from AECID, the Deputy Minister of Justice and Human Rights has developed five guideline papers as part of the prison reform process. The reform proposal is currently being studied with a view to its approval and implementation. These papers address the following: (1) advisory services concerning new prison construction and the renovation of existing prisons; (2) recruitment of human resources; (3) training of human resources; (4) technical assistance in designing a prison health system; and (5) technical assistance in designing a system of intervention or treatment. The above-mentioned guideline papers may be found in the annex to the present document.

### **Paragraph 286**

62. In terms of the human resources assigned to the various prisons, it may be noted that, as of 15 August 2008, the total number of persons deprived of their liberty was 5,893, while the total number of staff members was 989 (805 permanent and 184 contractual staff). This works out to a ratio of 1 staff member for every 6 inmates.

63. As of November 2009, the number of persons deprived of their liberty was 6,252, and the number of staff members totalled 1,160 (937 permanent and 223 contractual staff) for a ratio of 1 staff member for every 5 inmates.

### **Paragraphs 287 to 295**

64. Resolution No. 9 of July 2009 of the Ministry of Justice and Labour (DGRRHH No. 157/2009) establishes provisions concerning services to be provided by medical professionals, other specialists and nurses with various specializations who are assigned to prison units, women's correctional facilities, educational facilities for adolescent offenders and children's homes that are under the purview of the Ministry of Justice and Labour. The resolution provides for an increase in working hours up to a maximum of 40 hours a week, depending on need, and the submission of monthly reports on the provision of health-care services by the units under its responsibility.

65. The 2009–2010 budget of the Ministry of Justice and Labour provides for the purchase of medicines on the basis of diagnoses made of 65 per cent of inmates. The budget estimates for purchases of medical supplies for the current year were based on the data

compiled earlier. The bidding process is currently under way, in accordance with the provisions of Act No. 2051 on public tenders.

66. When the World Health Organization declared the H1N1 flu pandemic, in view of the danger of contagion within prisons, the medicines needed to treat that disease were purchased, and a preventive and treatment protocol for suspected cases was developed and implemented. Ultimately, however, there were no diagnosed cases of H1N1 and, consequently, no related deaths (see annex 2: Ministry of Justice and Labour).

67. A health promotion system, managed by inmates trained for the purpose, has been set up in the Tacumbú National Prison. Training was imparted to 83 inmates enrolled in a personal development course covering basic first aid and basic psychology. The first phase of the course began in April and ended on 29 July 2009, and the attending inmates were issued course completion cards.

68. The second phase of the personal development course, which included other inmates who had been selected on the basis of their profile, went into greater depth concerning basic first aid and basic psychology. The second phase ended in December 2009. The objective of the health promotion system is to promote early diagnosis of illnesses, encourage inmates to seek medical treatment and impart basic medical knowledge. Following inmates' completion of their sentences, the fact that they have acquired this knowledge will boost their self-esteem and thus facilitate their social reintegration.

69. Paraguay's Country Coordinating Mechanism (CCM) initiative for dealing with cases of tuberculosis among the prison population was classified as a Category 2 proposal and awarded a US\$ 3,900,000 grant by the Global Fund in its ninth round of funding. The project provides for the strict monitoring of patients with HIV/AIDS, since their depressed immune systems heighten their susceptibility to tuberculosis (see annex 2: Ministry of Labour and Justice).

## Paragraph 296

70. After one year under the direction of the new Minister of Justice and Labour and the senior officials who assist him, the first phase of the new Pedro Juan Caballero Regional Prison, which had remained unfinished for 12 years, has been successfully completed and outfitted. The shutting down of the unfortunately named *gallinero* (chicken coop), which for so long was the seat of the Amambay Prison, brings to a close a chapter of human rights failures.

71. The Government of Paraguay plans to invest PYG 2,366,710,950 in the construction of the second stage of the prison facilities, work having commenced on 7 December 2009. These works include the construction of the infirmary, kitchen, visiting area, intake area, workshops and second floor of the B wing, which has a holding capacity of 100 persons and increases the total capacity of the prison to 380 inmates.

72. The new prison is located on an 11-hectare plot and consists of a central block, 3 wings and 103 cells having a holding capacity of approximately 300 inmates (see annex 1: CD video showing transfer of inmates to Pedro Juan Caballero).

73. Prisoners are separated into sectors and wings. Female inmates are housed in the front part of the facility and are separated from male inmates by a physical structure. Adolescents deprived of their liberty in Pedro Juan Caballero are housed in a wing separate from adult inmates. Attention is drawn to the fact that the two adolescents currently being held in this prison will be transferred to a nearby educational facility in Concepción. The new prison centre offers improved conditions in terms of space and infrastructure.

### Paragraph 297

74. The Ministry of Justice and Labour reports that a total of PYG 22,176,443,859 has been invested in educational facilities and prisons, as follows:

Concepción Regional Prison	585,346,000
San Pedro Regional Prison	250,588,860
Emboscada Antigua Regional Prison	461,745,716
Villarrica Regional Prison	223,491,150
Colonel Oviedo Regional Prison	406,060,350
Misiones Regional Prison	7,483,325,639
Encarnación Regional Prison	649,635,821
Ciudad del Este Regional Prison	99,991,426
Ciudad del Este Educational Centre	510,855,570
Casa del Buen Pastor Women's Correctional Facility	953,738,440
Virgen of Fátima Educational Centre	411,025,841
Itaugúa Educational Centre	267,508,363
Esperanza Educational Centre	134,722,899

75. Total investments in 2009 in the Tacumbú National Prison amounted to PYG 2,471,696,834. The improvements were begun on 1 September 2009. The specific works involved renovating the façade, polishing floors, repairing the infirmary's roof, painting the bathrooms, installing sanitary fixtures, installing a sewerage system, installing a water tank, installing electrical wiring in walls, repairing prison wings and installing a telephone switchboard. To date, the improvements are about 35 per cent complete, and work will continue until they are finished. A deadline of 120 working days has been set for their completion (see annex 2: Ministry of Justice and Labour).

76. Improvements to public infrastructure coming under the responsibility of the Ministry of Justice and Labour have included enlarging, maintaining, remodelling and improving prisons, correctional institutions and other facilities, as specified in the document submitted as annex 2: Ministry of Justice and Labour.

### Paragraph 299

77. For financial year 2010, budget allocations to provide meals to persons deprived of their liberty in the various prisons of the country total PYG 19,598,948,084. This amount is broken down by correctional facility. The respective draft budget may be found in annex 2: Ministry of Justice and Labour. Also attached to the present report is a description of the food products (beef, dried foods, canned foods and perishables) purchased by the Ministry of Justice and Labour in 2009 for the various prisons in the country.

### Paragraph 301

78. As of 15 August 2008, the total number of staff members was 989 (805 permanent and 184 contractual staff). This works out to six a ratio of 1 staff member for every 6 inmates. As of 15 November 2009, the total number of staff members was 1,160 (937

permanent and 223 contractual staff), which meant that there was 1 staff member for every 5 inmates (see annex 2: Ministry of Justice and Labour).

79. All staff working in the prison system currently receive, as basic pay, the current minimum current wage, although some officials receive other remunerations in addition to the legal minimum (see the annex).

### **Paragraph 303**

80. The application of disciplinary penalties is provided for in article 28 of the Prisons Act (No. 210/70) and in resolution No. 99/2001, which establishes regulations governing inmates of the nation's prisons and correctional facilities. Disciplinary measures are taken only when evidence has been duly provided in the course of proceedings held to determine whether disciplinary action should or should not be taken against the person in question.

81. Chapter IV of the Prisons Act (No. 210/70) stipulates, with regard to disciplinary measures:

“Art. 28. Disciplinary actions consist of: (a) a warning; (b) total or partial loss of acquired statutory benefits; (c) confinement in one's own cell and reduction of additional amenities; (d) solitary confinement for up to 30 days; (e) placement in groups subject to more rigorous treatment; and (f) transfer to another type of establishment.

“Art. 29. Persons subject to the disciplinary measures specified in subparagraphs (c), (d) or (e) shall be visited periodically by a senior official of the prison establishment, by the chaplain, when requested, and by the physician.

“Art. 30. In the case of a first offence at the prison establishment, if justified on the basis of the inmate's previous conduct, at the time that the prison director orders the application of the measures prescribed by article 28, subparagraphs (b), (c) or (d), the director may also suspend their enforcement. If the inmate commits another infraction within the period of time specified in each case by the prison director, the inmate shall be subject both to the punishment whose enforcement had been suspended conditionally and to the penalty corresponding to the new infraction.

“Art. 31. In each prison establishment, a bound, paginated and signed register of disciplinary actions shall be kept in which the penalties imposed, their grounds and their application or conditional suspension shall be noted in chronological order.

“In addition, a record of the penalties imposed, their grounds and their application shall be included in the personal files of the inmates. In the cases specified in article 28, subparagraphs (c), (d) and (f), the judge in charge of the case shall be informed.

“Art. 32. Physical force or restraint shall be employed only after having exhausted other means of subduing the inmate or inmates and when threatened or actual conduct, whether individual or of a group, poses imminent danger of grave harm to persons or things. It shall be employed exclusively at the order of the person currently acting as director of the prison establishment, when the need for it arises.

“Art. 33. The use of service weapons shall be limited to exceptional circumstances in which they are considered necessary for purposes of prevention or when imminent danger is posed to the life, health or safety of officials, inmates or third parties.”

82. Prisons Act No. 210/70, resolution No. 99/2001, which establishes regulations governing inmates of the nation's prisons and correctional facilities, and the regulations themselves are attached to this document.

### **Paragraph 305**

83. An inter-agency cooperation agreement has been signed by AECID, the Ministry for Foreign Affairs and the Ministry of Justice and Labour for the implementation of the Cultural Development in Prison Centres Project.

84. The project will be carried out over a six-month period (from July to December 2010) and will focus on four areas, details of which are to be found in the annex: (1) cultural education; (2) audio-visual resources; (3) library; (4) live cultural performances.

85. The new Pedro Juan Caballero Regional Prison has a wing for women with a capacity for 25 persons. To date, the prison houses two women inmates. This wing has a large laundry area that is divided from the facilities housing the male prison population by a double wall, allowing inmates to spend time outdoors every day.

### **Paragraph 306**

86. The designated visiting days in all prisons and women's correctional facilities are Tuesdays, Thursdays, Saturdays and Sundays.

87. The Tacumbú National Prison has made telephone booths, with a total of three telephone lines, available to the prison population.

### **Paragraphs 307 to 309**

88. Investigations have been made into allegations of torture and ill-treatment. In the first eight months of 2009, complaints were received of ill-treatment in education centres attached to the Directorate-General for Adolescent Offenders and Prison Centres.

89. The staff members who were on duty on the date and at the time that persons claim to have been ill-treated were identified in the complaints which they lodged. These complaints were submitted to the authorities for criminal investigation. The list of staff members was submitted to senior authorities for investigation and punishment. To date, the preliminary investigations have not yet been completed.

90. A number of administrative inquiries have been opened in prisons. One of these has been completed, and its findings have been reported to the Inter-American Commission on Human Rights. Others are being pursued before the Secretariat of the Civil Service.

91. The Human Rights Directorate-General of the Ministry of Justice and Labour plans to provide training courses to public servants assigned to prisons throughout the country. These courses will specifically cover the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Standard Minimum Rules for the Treatment of Prisoners.

### **Paragraph 310**

91. Patients are currently offered the following rehabilitation activities:

- Recreational therapy
- Occupational therapy
- Indoor recreational activities

- Supported formal employment, with the opportunity to be hired to work under supervision
- Participation in informal work activities in the hospital

93. Although the percentage of patients who participate in such activities has already doubled with respect to the 10–15 per cent cited in the report of the Subcommittee, this area continues to pose a challenge and is one in which progressive improvements continue to be made. An expansion, particularly of indoor recreational activities, is planned for the current year.

94. The 2010 budget provides for the purchase of storage racks with individual compartments for each patient that will be purchased and installed in February and March 2010.

### **Paragraph 311**

95. The 2010 budget provides for the purchase of individual lockers for the patients that will be purchased and installed in February and March 2010.

## **II. Requests for information**

### **Paragraph 312 (a)**

96. By means of resolution No. 542 of 16 September 2009, the National Police established the Human Rights Department. The Department's operating regulations are being studied with a view to their approval, and its organization chart provides for the establishment of a planning, operations and evaluation section. The functions of this section will include inspecting and evaluating the infrastructure of cells in police stations and carrying out inspections in cases of court-ordered eviction.

97. The National Police, through the Department of Internal Affairs, is investigating incidents involving unlawful misconduct on the part of police personnel, including any incidents related to acts of torture or cruel treatment or punishments inflicted on civilians.

98. Once the Department of Internal Affairs has completed all of its investigations, it will submit a detailed report on its findings to the Office of the Commander. On the basis of its analysis of that report, the Office will then decide whether cases warrant referral to the Directorate of Police Justice for disciplinary action against any police staff implicated in acts of torture or cruel treatment in accordance with the regulations and the National Police Organization Act. Disciplinary measures taken against police personnel by the Directorate of Police Justice are subsumed under any punishment handed down by the ordinary courts in the event that a criminal and/or judicial investigation is opened.

### **Paragraph 312 (b)**

99. In relation to this point, the Office of the Public Defender reports that, for the 2010 budget, it has requested an increase in the number of defence counsel, higher wages, a larger allocation for legal representation costs, vehicles, structural improvements and furniture, an increased allotment of fuel vouchers to defray public defenders' travel expenses and an increase in staff. To date, it has not been possible to obtain these increases.

100. In the Republic of Paraguay, the right to legal assistance has been established in the following instruments:

(a) Article 12 (*on detention and arrest*) and article 17 (*on procedural guarantees*)<sup>1</sup> of the Constitution;

(b) Article 6 of the Code of Criminal Procedure (Act No. 1286/98).<sup>2</sup>

101. Thus, the right to counsel is guaranteed from the moment of arrest, and failure to respect this right may invalidate the proceedings.

102. The Office of the Public Defender has informed this Directorate that, according to records of trials conducted throughout the country, in 2007, the offices of public defence counsel that deal with criminal matters processed 26,615 cases. In 2008, they processed 26,556 cases.

103. From 1 January to 20 November 2009, 27,654 cases were processed. The number of defence counsel assigned to criminal matters, including both confirmed and appointed counsel, was 51.

- In 2008, there were 18 defence counsel assigned to criminal proceedings, including both confirmed and appointed counsel.
- In 2009, two defence counsel were appointed. A total of 192 public defenders were appointed throughout the territory; of these, 94 were attached to the Office of Public Defender for Criminal Proceedings and 10 were serving as public defence counsel in criminal proceedings involving adolescents. There are currently 41 vacancies.
- For 2010, 56 new public defender posts were requested.<sup>3</sup>

104. The Office of the Public Defender has submitted a bill to Congress containing 99 articles setting out the nature, location and mission of the Office. The bill also establishes the Office's autonomy, self-sufficiency and scope of responsibility. It also sets out the specific principles governing public defence, such as prioritization, unity of operation, priority consideration for the interests of the person being assisted, confidentiality, supplementary intervention, residual jurisdiction and the provision of services free of cost. Article 11 stipulates that: "Staff attached to the Office of the Public Defender, without hierarchical distinction, shall, in the discharge of their functions, adhere to the principles of flexibility, specialization, teamwork and personal responsibility in respect of proceedings and shared responsibility in respect of the results of the management of the office to which

---

<sup>1</sup> Constitution of the Republic of Paraguay: article 12 (*on detention and arrest*) stipulates that: "Any person who is arrested has the right: (1) To be informed, at the time of the arrest, of the reason for it and of his or her right to remain silent and to be assisted by a lawyer of his or her choice. At the time of the arrest, the official must produce an arrest warrant; ... (3) To communicate freely, save when, in exceptional circumstances, an order is issued by a competent judicial authority to hold the person incommunicado. A person's incommunicado status, which in no case may exceed the duration prescribed by law, shall not prevent the person from contacting defence counsel; (4) To have access to the services of an interpreter, if necessary, and (5) To be brought before a competent judge within 24 hours in order to allow the judge to take appropriate legal measures."

Article 17 (*on procedural guarantees*), paragraph 6, stipulates that: "[...] the State shall provide any such person with a defence counsel free of charge if he or she cannot afford one; ...".

<sup>2</sup> Code of Criminal Procedure (Act No. 1286/98), article 6 (*on inviolability of the right to a defence*) stipulates that: "The right of the accused to a defence and the exercise of his or her rights shall be inviolable ... The right to a defence is unwaivable, and any violation of that right shall entail the absolute nullity of the proceedings from the moment it occurs."

<sup>3</sup> Report submitted by the Office of the Ombudsman on 20 November 2009 to the Human Rights Directorate of the Supreme Court.



they are attached, all with a view to improving its efficiency”.<sup>4</sup> The bill was submitted to the Chamber of Senators three years ago and was subsequently withdrawn and submitted to the Chamber of Deputies. Recommendations regarding the bill have already been received from the legislation, human rights, constitutional and justice and labour committees. (A copy of the bill is attached as annex 4: Office of the Public Defender.)

105. In 2007, by means of Act No. 3140, the sum of PYG 27,973,717,088 from the general budget of the Supreme Court was allocated to the Office of the Public Defender. In financial year 2008, by means of Act No. 3409, the Supreme Court allocated PYG 32,352,785,948 to the Office of the Public Defender. In 2009, the Office was allocated PYG 42,561,853,204.<sup>5</sup>

106. The report of the Paraguayan Human Rights Coordinator (CODEHUPY) highlighted the work of the Office of the Public Defender: “It is worth noting that the Office of the Public Defender, as a division of the judiciary, represents the hope of the justice system. There are many individuals who are committed to its success ...”<sup>6</sup> Particular attention is drawn to the work of the Chief Public Defender and the Deputy Public Defender for Criminal Matters.

### **Paragraph 312 (c)**

107. The chief role of the Public Prosecutor’s Office, conferred upon it by the Constitution, is to exercise the public right of action in criminal matters. This institution represents society before the judicial organs of the State,<sup>7</sup> and its duties are to:

- Ensure respect for constitutional rights and safeguards
- Exercise the public right of action to defend the public and social heritage, the environment and other broad-ranging interests, as well as the rights of indigenous peoples
- Initiate criminal proceedings in cases where an application by the interested party is not required in order to bring or continue such proceedings, without prejudice to cases in which the judge or court proceeds ex officio, as determined by law
- Gather information from public officials for the proper discharge of its duties, and
- Any other duties and powers established by law<sup>8</sup>

108. In keeping with its institutional policy to respect and protect human rights, the Public Prosecutor’s Office established the Human Rights Directorate as one of its divisions. The overall objective of the Directorate is to deal with human rights issues in cases or situations that fall under the authority of the Public Prosecutor’s Office, whether they concern a risk to or an actual violation of such rights by public officials or other persons working in concert with them, and to carry out preventive efforts.<sup>9</sup> Its duties include representing the institution in the area of human rights at the national and international levels when so empowered by the Attorney-General, or, if applicable, by the designated

<sup>4</sup> Draft Ministry of Public Defence Organization Act, arts. 1, 2, 3 and 11.

<sup>5</sup> Ministry of Finance, Office of the Under-Secretary of State for Financial Administration. Directorate-General of the Budget and Supreme Court Budget Directorate.

<sup>6</sup> *Derechos Humanos en Paraguay 2008*, p. 173.

<sup>7</sup> Constitution of the Republic of Paraguay, art. 266.

<sup>8</sup> Constitution of the Republic of Paraguay, art. 268.

<sup>9</sup> Operations manual for the Human Rights Directorate of the Public Prosecutor’s Office.

deputy prosecutor, and processing inquiries by officials that relate to cases involving human rights.

109. The foregoing notwithstanding, the Subcommittee on the Prevention of Torture has requested information on how the Public Prosecutor's Office discharges its supervisory functions with regard to police stations and prisons. It should be noted that the Public Prosecutor's Office does not carry out periodic visits to police stations and prisons as a measure of prevention. Rather, it initiates criminal proceedings, whether at the instance of the victim or of its own motion, in cases involving punishable offences for which it has *notitia criminis*. That is to say, it intervenes once it has taken cognizance of the alleged commission or imminence of a punishable act, including punishable acts involving human rights violations. It possesses specialized prosecution units that are responsible for investigating acts that have been brought to their attention.

110. With regard to inspections and the supervision of prisons and police stations, as part of its policy to prevent the commission of punishable acts that violate human rights, the State of Paraguay, by means of its Constitution, established the position of Ombudsman, which is defined as "a parliamentary commissioner whose functions consist in safeguarding human rights, channelling claims or reports from members of the public and protecting community interests. In no circumstances shall the Ombudsman perform judicial or executive functions".<sup>10</sup> The duties of the Ombudsman are to:<sup>11</sup>

(1) Receive and investigate reports, complaints and claims concerning human rights violations and other such acts as may be determined by the Constitution and the law;

(2) Request information for the effective performance of his or her duties from authorities at various levels, including the police and security forces. The provision of the requested information is mandatory. He or she is entitled to have access to the places where any such acts are reported to have been perpetrated. The Ombudsman may also act on his or her own initiative;

(3) Publicly censure acts or conduct contrary to human rights principles;

(4) Report annually to the Chambers of Congress on his or her activities;

(5) Draw up and issue reports on those aspects of human rights that, in his or her view, require prompt public attention; and

(6) Carry out such other functions and powers as established by law.

111. The State of Paraguay also established the position of the enforcement judge. In accordance with the Code of Criminal Procedure promulgated in 1998, enforcement judges have, inter alia, the following duties:

(1) They monitor compliance with the prison regime and respect for the constitutional aims of the penalty; they arrange for inspections of prison institutions and may summon prisoners or prison administration officials to appear before them for purposes of oversight and monitoring;

(2) Prior to a prisoner's discharge, the appropriate authority seeks, insofar as possible, to resolve any problems that the prisoner will face immediately after release;

---

<sup>10</sup> Constitution of the Republic of Paraguay, art. 276.

<sup>11</sup> *Idem.*, art. 279.

(3) They work with the bodies responsible for providing pre- and post-release assistance in order to ensure that they are able to provide prisoners with the proper help and support.<sup>12</sup>

112. In short, the Public Prosecutor's Office has the legal and constitutional power to pursue and investigate acts punishable under criminal law of which it takes cognizance.

113. In order to carry out its duties, the Office has prosecution units that specialize in specific areas and work in coordination with other judicial auxiliaries.

114. However, the particular objectives regarding which the Subcommittee has requested information are protective in nature and fall within the legal powers conferred upon the Ombudsman and the enforcement judges; the latter are attached to the judiciary.

### **Paragraph 312 (d)**

115. With regard to paragraph 149, we wish to report that in 2009, all prisons were refurbished. In that connection, it should be noted that improvements were made to the *ex sótano* wing, the D wing and the *cuadrulátero* sector of the Tacumbú National Prison. These improvements are described in the present report.

### **Paragraph 312 (e)**

116. A health promotion system, managed by inmates trained for that purpose, has been set up in the Tacumbú National Prison. Training was imparted to 83 inmates enrolled in a personal development course covering basic first aid and basic psychology. The first phase of the course began in April and ended on 29 July 2009, and the attending inmates were issued course completion cards.

117. The second phase of the personal development course, which included other inmates who had been selected on the basis of their profile, went into greater depth concerning basic first aid and basic psychology. The second phase ended in December 2009. The objective of the health promotion system is to promote early diagnosis of illnesses, encourage inmates to seek medical treatment and impart basic medical knowledge. Following inmates' completion of their sentences, the fact that they have acquired this knowledge will boost their self-esteem and thus facilitate their social reintegration.

118. Paraguay's Country Coordinating Mechanism (CCM) initiative for dealing with cases of tuberculosis among the prison population was classified as a Category 2 proposal and awarded a US\$ 3,900,000 grant by the Global Fund in its ninth round of funding. The project provides for the strict monitoring of patients with HIV/AIDS, since their depressed immune systems heighten their susceptibility to tuberculosis (see annex 2: Ministry of Labour and Justice).

### **Paragraph 312 (f)**

119. The solitary confinement wing at Tacumbú National Prison, known as "Alcatraz", was closed for complete renovation. Over several weeks' time it was outfitted and structural improvements to it were made, including: improved bathrooms, larger windows, proper ventilation and the provision of mattresses, pillows and sheets. As a result, the cells

---

<sup>12</sup> Code of Criminal Procedure, art. 492.

are now properly equipped for solitary confinement (see annex 2: Ministry of Justice and Labour).

### **Paragraph 312 (h)**

120. For financial year 2010, budget allocations to provide meals to persons deprived of their liberty in the various prisons of the country total PYG 19,598,948,084. This amount is broken down by correctional facility. The respective draft budget may be found in annex 2: Ministry of Justice and Labour.

121. Also attached to the present report is a description of the food products (beef, dried foods, canned foods and perishables) purchased by the Ministry of Justice and Labour in 2009 for the various prisons in the country.

## **III. Copies transmitted to the Subcommittee**

### **Paragraph 313 (a)**

122. The following summary of the activities carried out by the Prison Supervision Unit that was submitted to the Supreme Court of Justice:

(a) The main problems identified as a result of the visits made to various prisons and correctional facilities in the country are:

- The large number of prosecutions poses a problem. The Unit considers cases at the request of inmates and monitors trials, supporting the efforts of the public defender to ensure that judicial proceedings are conducted as speedily as possible in accordance with the Code of Criminal Procedure. Inmates who can demonstrate that they do not have access to counsel need to be provided with assistance by the Office of the Public Defender.

Few work opportunities exist within prisons and there is insufficient vocational training. These shortcomings stem from the lack of prison policies designed to ensure that prisoners are reintegrated into the workforce and from the private sector's limited interest in investing in prison labour.

The Supervision Unit therefore considered it appropriate to work in partnership with Parliament, through the Legislative Office of Deputy Dionisio Ortega, on two highly important initiatives. The first concerns the submission of a bill to promote the employment of individuals who have broken the law and served their sentences. The bill proposes tax incentives for companies that hire former prisoners.

The other activity which was successfully undertaken over the last year was the Freedom Expo, an exhibition of handicrafts produced by the inmates of the Tacumbú, Esperanza and Buen Pastor prisons. This exhibition was launched directly by a number of inmates, thanks to the cooperation of the Criminal Enforcement Court of Asunción, presided over by Isacio Cuevas.

(b) On the initiative of the Office of the Deputy Minister of Justice and Human Rights, an inter-agency commission was set up to inspect, supervise, oversee and study the preliminary list of candidates for pardons. The Prison Supervision Unit is represented on this commission. The objective of this screening process, which entails a comprehensive and thorough study of the behavioural evaluations and records of the prisoner prior to the list's submission to the Supreme Court, is to ensure strict compliance with the conditions

and requirements of the Constitution and legislation in force. Every prison in Paraguay was visited in order to confirm the details in the file of each prisoner who had served at least half of his or her sentence and to check the files for the person's criminal record and any reports of good or bad behaviour. A team of volunteer psychologists, all professors from a private university, also interviewed each prisoner and submitted a written report to the commission on the prisoner's psychological profile and the family support available in the event of his or her reintegration into society. It took three weeks to compile the data and reports.

Once all the visits in Asunción and the rest of the country had been completed, a final evaluation was made of the profile and legal status of each prisoner and a final list was drawn up of prisoners eligible for a Presidential pardon. The final list, prepared and checked by the commission, was submitted to the Ministry of Justice and Labour, which in turn transmitted it to the Chief Justice of the Supreme Court for evaluation.

(c) The Prison Supervision Unit is a member of the Inter-Agency Commission to Conduct Visits and Monitoring in respect of Adolescents Deprived of their Liberty. Members of the Commission carried out visits in August and September 2009 to the education centres overseen by the Adolescent Offenders Welfare Service and to the sections for juveniles in regional prisons in order to observe and inspect the situation in those centres and the living conditions of young persons deprived of their liberty nationwide.

The Commission had produced a report based on those visits which contains information on the following issues: rights and due process (police procedures, access to justice, contacts with judges, defence counsel and prosecutors), material concerns (food, lighting and ventilation, personal hygiene, sanitation, clothing and bedding, overcrowding and the general standard of accommodation), treatment (torture and ill-treatment at the time of arrest, torture and ill-treatment during detention, use of solitary confinement, control and security measures, use of force), medical services (access to medical care, health care for inmates suffering from mental disorders, treatment of communicable diseases, medical staff), education, training and recreational services (formal education programmes within the centre, vocational and occupational training and/or apprenticeship programmes), activities and links with the outside world (education programmes or work placements, outdoor exercise and recreational activities, religion, creative activities within the community).

### **Paragraph 313 (b)**

123. When considering this point, in the light of the guidelines adopted by the Supreme Court to provide guarantees of due process, the following should be borne in mind: firstly, specific provisions exist in the relevant legislation on the matters referred to in the report, and the correct application of such directives is the sole responsibility of the Court; secondly, the Supreme Court, sitting in plenary, lays down guidelines and establishes rules through the issuance of Agreements, such as the following:

(a) Agreement No. 154 of 21 February 2000 established a system for dealing with urgent cases under which a criminal court judge is on call at all times in order to ensure that constitutional rights and the procedural rules adopted to protect the accused are upheld.<sup>13</sup>

<sup>13</sup> See [http://www.csj.gov.py/par97017/reglamentaciones/modulos/detalle.asp?codigo\\_acord=502&tipo=Acordada](http://www.csj.gov.py/par97017/reglamentaciones/modulos/detalle.asp?codigo_acord=502&tipo=Acordada).

(b) Under Agreement No. 222 of 5 July 2001, the Supreme Court approved procedural guidelines for the criminal justice enforcement system concerning oversight of the rights and safeguards established with respect to the prison system by the Constitution, international law and ordinary law for the benefit of those convicted or accused of committing an offence. Those guidelines provide that the right to human dignity and the principles of equal treatment and procedural expeditiousness must be borne in mind at all times.<sup>14</sup>

124. With regard to the constitutional right of habeas corpus, the Criminal Chamber of the Supreme Court currently finds itself in an unusual political position, since it is missing one member, as Dr. Wildo Rienzi has not been replaced. The decision to replace him must be taken by other branches of government. This situation could slow down the processing of habeas corpus applications, although the Criminal Chamber is doing its utmost to avoid this. So far this year, the Criminal Chamber of the Supreme Court has received 71 habeas corpus petitions, and it has ruled on them as speedily as possible.

125. With regard to the directives of the Supreme Court on that matter, it should be noted that the Court regularly carries out training workshops for judges and magistrates in order to standardize the criteria used for the proper application of procedural rules to protect the accused.

126. The Supreme Court has issued Decision No. 298/05, article 2 of which states that all court and administrative officials must attend courses for which they are convoked.

127. In addition to activities aimed at improving the level of training, articles 28 to 34 of chapter IV of Paraguay's Code of Judicial Ethics cover knowledge and training.

128. Article 28 of that chapter states: "The need for knowledge and continuous training of judges is based on the right of the accused and society in general to be provided with a high quality of service in the administration of justice."

129. The Supreme Court has carried out the following actions in this area through its various departments:

(a) The Human Rights Directorate of the Court has conducted various training sessions both for judges and for court officials from the various judicial districts in the country. Training was provided between 2006<sup>15</sup> and 2009 on the following topics: indigenous rights and human rights, criminalization of the use of children and adolescents in pornography, domestic violence and gender, mental health and human rights, prevention of trafficking in persons and forced labour with a focus on human rights, access to justice, and gender and domestic violence. Paraguay has also hosted international seminars such as the International Seminar on the Justice System and the Human Rights of Women and the Third Latin American Meeting of Local Governments in Indigenous Territories. Materials on indigenous rights and human rights in Paraguay were written and published by the Human Rights Directorate in cooperation with representatives of the Coordinating Body for the Self-Determination of Indigenous Peoples (CAPI) and independent experts under the coordination of the Supreme Court;

(b) The International Centre for Judicial Studies (CIEJ) is in charge of training judges in all courts and judicial districts throughout the country. In 2007 it held workshops on personal preventive measures and a workshop-course on pretrial detention in Asunción and elsewhere in the country. In 2008 the International Centre for Judicial Studies

---

<sup>14</sup> See [http://www.csj.gov.py/par97017/reglamentaciones/modulos/detalle.asp?codigo\\_acord=560&tipo=Acordada](http://www.csj.gov.py/par97017/reglamentaciones/modulos/detalle.asp?codigo_acord=560&tipo=Acordada).

<sup>15</sup> *Informe de Gestión/2006*, pp. 36–37.

organized more than 45 one-day training and refresher courses that dealt with issues involving children and adolescents, judicial reasoning and the amendments to the Criminal Code;<sup>16</sup>

The International Centre for Judicial Studies, with the support of the Human Rights Directorate, will provide training on the subject of mental health and human rights as part of the implementation of the recommendations made by the Inter-American Commission on Human Rights (IACHR) concerning preventive measures within the Neuropsychiatry Hospital. The Centre also plans to provide training on topics involving the rights of children and adolescents within the framework of the recommendations made by the Inter-American Commission on Human Rights regarding the case of *Cristina Aguayo et al.*;

(c) The Museum of Justice and the new location of the Documentation Centre and Archive for the Defence of Human Rights — known as the Archive of Terror — was created in 2007 as part of the CONMEMORIA project, which called for the relocation and strengthening of the Documentation Centre and Archive for the Defence of Human Rights, created in 1993. The purpose of the museum is to promote and recover the historical memory of the nation during the period of dictatorship, with a focus on human rights and the struggle of generations of Paraguayans to ensure the exercise of and respect for those rights. It also serves as an educational and cultural space;<sup>17</sup>

The Museum of Justice receives many habeas data requests regarding cases of torture, illegal detention, violation of correspondence or inquests during the dictatorship; in 2009 it received a total of 6,153 requests. It has also been visited by 69 groups of secondary students, 12 groups of university students, 5 from foreign institutions, 1 from the police department and 6 other groups, with an average of 30 people per national group and 12 people per international group. With regard to cultural activities carried out in 2009, books such as “Tortura, Represión y Constitución” and “Relatos de Torturas” were published, documentaries were shown, and conferences, seminars, panel debates and talks aimed at students were held. The management of the Museum of Justice has also developed activities and given various presentations to raise awareness about, disseminate and recover historical memory on issues involving human rights;<sup>18</sup>

(d) The Office of International Affairs is promoting training abroad for judges and court officials through scholarships offered by the Spanish International Agency for Development (AECID). This office is responsible for choosing the thematic focuses of the training or applying for training programmes on behalf of the potential candidates and for providing the institutional backing needed to make the necessary arrangements;

(e) The Human Resources Directorate is responsible for training officials from all departments of the judicial branch. A number of training sessions have been provided for officials in various areas, such as a workshop that was part of a programme to enhance the performance of courts, transparency and access to information and the first and second round tables for dialogue and consensus-building on the new legislative framework of the civil service.<sup>19</sup>

#### **Other actions carried out by the judicial branch to monitor and supervise prisons within the country**

130. In light of the judicial branch’s authority over the prison system, the judges of the Supreme Court make visits to the prisons in their respective judicial districts in their role as

<sup>16</sup> *Informe de Gestión/2008, Informe de Gestión/2007*, p. 25.

<sup>17</sup> *Informe de Gestión/2008*, p. 34.

<sup>18</sup> *Informe de Gestión del Museo de la Justicia*, January–October 2009.

<sup>19</sup> *Informe de Gestión/2008*; p. 53; *Informe de Gestión/2007*, p. 56.

supervisors of those prisons. The Supreme Court has held special events to help respond to and channel prisoners' questions and concerns and to inform them about the status of their cases. In 2007, a total of 13 visits were made to various prisons in the country, and 8 special events were held in 2008.<sup>20</sup>

131. In conformity with Agreement No. 222, the criminal enforcement courts are authorized by law to monitor the prison system through inspection tours, and they have the ability to summon prison officials and to render general and individual decisions to protect the rights and guarantees established under that system. Persons who have been convicted or are under pretrial detention can request the protection of the courts by filing a petition.

132. Cases in which prisoners adopt extreme measures, such as hunger strikes, are monitored on a continual basis. Specialized judges and forensic physicians are commissioned to respond swiftly and to determine the current status of the cases involving accused persons.

133. Enforcement judges visit the prisons once a month, unless a high-risk situation merits a special visit. The inspections are conducted without prior notice (see annex 5: Supreme Court report on prison visits by the Encarnación Criminal Enforcement Court for the general monitoring of the Special Rehabilitation Centre (CERESO)).

134. There are two other types of visits, the first of which is conducted in the company of the members of the Criminal Chamber of the Supreme Court, while the second is of an official nature and is conducted in order to plan, together with prison authorities, artistic, cultural and sporting activities and the dissemination of information on criminal law. These efforts have resulted in the following:

- “Cultural Thursdays” in Tacumbú and the first music festival for prisoners in the country, where prisoners participate in the initial selection process for the final competition to be held in the capital. Trips have been made to every district to inform prisoners about the event, while at the same time taking advantage of the opportunity to observe the situation in the prisons.
- Authorization for prisoners to leave the prison under custody in order to sell handicrafts that they have made themselves. The purpose of this is to encourage their rehabilitation and to provide a substantial income that will allow them to help their families. The products are sold in pre-established locations.
- The creation of two vegetable gardens, one in Emboscada and the other in the Granja Coe Puaju in Asunción, a tilapia farm and a poultry and rabbit farm. All of these initiatives have been arranged for by the criminal enforcement courts.
- The construction of a wing in Tacumbú Prison for mentally-ill prisoners, with bathrooms, ceiling fans, and capacity for 250 people, through the “Obligation to Provide” initiative (see photos in annex 3).

135. The Public Defender's Offices for the criminal enforcement courts enjoy the competencies provided to them by law. Their functions are regulated by articles 490 to 501 of the Title on Enforcement of the Code of Criminal Procedure, and most specifically article 491 on the role of the defence during the sentence enforcement stage. In general terms, they are also regulated by articles 19 (conditional suspension of proceedings), 44 (deferment of sentence under supervision) and 51 (parole) of the Criminal Code, as well as articles 6 and 98 to 111 of the Code of Criminal Procedure and Agreement No. 222 of 5 July 2001.

---

<sup>20</sup> *Informe de Gestión/2008*, p. 41; *Informe de Gestión/2007*, p. 21.



136. Generally speaking, visits by representatives of the Public Defenders' Offices of the criminal enforcement courts to detention centres, whether for adults, minors or women, are conducted once a month, apart from those made in exceptional cases, such as when an urgent need arises to talk to a particular prisoner, to request family contact, to request documents, etc. During each visit, the public defender signs a visitor registry and must present a form indicating the date of the visit, name and signature of the prisoner visited. That form is handed over to the head of the prison's judicial department.

137. The manner in which complaints of ill-treatment are handled depends on the degree of seriousness of the allegation (interview with the head of the institution or note or verbal communication sent to the enforcement judge for the case). The most common complaints concern lack of treatment for health problems, lack of suitable medicine, and requests by prisoners to be transferred to prisons elsewhere in the country so they can be closer to their families.

138. The number of cases before the Public Defender's Office for the criminal enforcement courts is constantly changing, depending on the number entering or the number of prisoners serving sentences, but there are generally about 300 case files, on average, for each public defender's office. Since there are four such offices in the capital, the total is approximately 1,200 case files.

### **Paragraph 313 (c)**

139. The draft law is annexed to this document, as requested. The Office of the Public Defender reports that certain advances have been made, as the draft law has now been approved by three subcommittees. The Speaker of the Chamber of Deputies, Mr. Enrique Salim Buzarquis, has assured Minister Alicia Pucheta and the Chief Public Defender, Dr. Yore, that it will be considered in a plenary session within the first few days after the start of the 2010 session.

### **Paragraph 313 (d)**

140. The Ministry of Justice and Labour has provided the requested regulations in an annex to this document.

---