



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

Distr.: General  
15 November 2012  
English  
Original: Spanish

---

**Committee against Torture**

**Consideration of reports submitted by States  
parties under article 19 of the Convention**

**Third periodic reports of States parties due in 1996,  
submitted in response to the list of issues (CAT/C/URY/Q/3)  
transmitted to the State party pursuant to the optional  
reporting procedure (A/62/44, paras. 23 and 24)**

**Uruguay\* , \*\* , \*\*\***

[14 September 2012]

- 
- \* The second periodic report submitted by Uruguay is contained in document CAT/C/17/Add.16; it was considered by the Committee at its 274th and 275th meetings, held on 19 November 1996 (CAT/C/SR.274 and 275). For the concluding observations, see A/52/44, paras. 81 to 94.
  - \*\* 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.
  - \*\*\* The annexes to this document may be consulted in the files of the Secretariat, in the language of submission only.

## Contents

	<i>Paragraphs</i>	<i>Page</i>
Abbreviations .....		3
I. Introduction.....	1–10	4
II. Legal framework in Uruguay for the prevention of torture and other cruel, inhuman or degrading treatment or punishment.....	11–16	4
III. Replies to the Committee’s specific questions .....	17–585	5
Articles 1 and 4 .....	17–49	5
Article 2.....	50–310	11
Article 3.....	311–332	38
Articles 5, 6, 7 and 8 .....	333–352	41
Article 10.....	353–391	44
Article 11.....	392–497	47
Articles 12 and 13 .....	498–563	56
Article 16.....	564–585	71

## Abbreviations

UNHCR	Office of the United Nations High Commissioner for Refugees
AECID	Spanish Agency for International Development Cooperation
ASSE	State Health Services Administration
CETI	National Committee for the Elimination of Child Labour
CORE	Refugee Commission of Uruguay
ENIA	National Strategy for Childhood and Adolescence
INAU	Institute for Children and Adolescents of Uruguay
INC	National Institute for Land Settlement
INDH	National Human Rights Institution/Office of the Ombudsman
INMUJERES	National Women's Institute, Ministry of Social Development
INR	National Rehabilitation Institute
IRPA	Adolescent Criminal Responsibility Institute
MIDES	Ministry of Social Development
MVOTMA	Ministry of Housing, Land Management and the Environment
OHCHR	Office of the United Nations High Commissioner for Human Rights
IOM	International Organization for Migration
ILO	International Labour Organization
NGO	non-governmental organization
PNEL	National Welfare Agency for Prisoners and Former Prisoners
UNDP	United Nations Development Programme
REM	Special Meeting on Women
SEDHU	Ecumenical Service for Human Dignity of Uruguay
SEMEJI	Implementation System for Measures for Juvenile Offenders
SIRPA	Adolescent Criminal Responsibility System
ITF	Forensic Medical Institute
UEVD	specialized domestic violence units

## I. Introduction

1. The third periodic report of Uruguay to the Committee against Torture, relating to the measures adopted by Uruguay in order to fulfil the obligations it has entered into under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, is submitted in accordance with article 19, paragraph 1, of the Convention.
2. This national report has been prepared and structured on the basis of the list of issues to be addressed prior to the submission of the third periodic report of Uruguay (CAT/C/URY/Q/3).
3. The preparation of the report was coordinated by the Human Rights and Humanitarian Law Department of the Ministry of Foreign Affairs of Uruguay.
4. A broad consultation process was carried out with various State bodies involved in this area, principally the Human Rights Department of the Ministry of Education and Culture, the Prison System Advisory Service of the Ministry of the Interior, the Ministry of Social Development (the National Women's Institute, INMUJERES), the Supreme Court of Justice, the Institute for Children and Adolescents (INAU), the Adolescent Criminal Responsibility System (SIRPA) and the Parliamentary Commissioner for the Prison System.
5. In addition, open consultations were held with non-governmental organizations (NGOs) and other members of civil society involved with the issue of human rights protection.
6. During the process of preparing the report, consultations were held with the recently established National Human Rights Institution/Office of the Ombudsman (INDH).
7. Uruguay acknowledges the significant delay in the submission of this national report.
8. A number of factors have prevented Uruguay from keeping the required deadlines for the submission of this information to the Committee.
9. However, Uruguay wishes to emphasize the determination of its Government in general and the Ministry of Foreign Affairs in particular to update all its national reports to the human rights treaty bodies in 2012.
10. This aim has been achieved with the recent submission of reports to the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Racial Discrimination and the Committee on Enforced Disappearances, the mid-term report on the universal periodic review and, in the case of the present report, the Committee against Torture.

## II. Legal framework in Uruguay for the prevention of torture and other cruel, inhuman or degrading treatment or punishment

11. Pursuant to Act No. 15798 of 27 December 1985, Uruguay ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
12. Uruguay thus incorporated into its national law a key international instrument for the adoption of legislative, administrative, judicial and other measures aimed at preventing acts of torture throughout the national territory.

13. In addition, on 27 July 1988, by means of a letter addressed to the Secretary-General of the United Nations and in accordance with article 21 of the Convention, Uruguay recognized the competence of the Committee against Torture to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the Convention.

14. In the same letter and pursuant to article 22 of the Convention, Uruguay recognized the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim to be victims of a violation by a State Party of the provisions of the Convention.

15. Pursuant to Act No. 17914 of 21 October 2004, Uruguay ratified the Optional Protocol to the Convention, thus incorporating into its domestic law an instrument that establishes a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment.

16. Within the inter-American system, Uruguay is also a party to the Inter-American Convention to Prevent and Punish Torture. The Convention was ratified pursuant to Act No. 16294 of 5 August 1992; thus the principal binding inter-American instrument for the prevention and punishment of torture as defined in that Convention was incorporated into the domestic legal order.

### **III. Replies to the Committee's specific questions**

#### **Articles 1 and 4**

##### **Reply to paragraph 1 of the list of issues**

17. Act No. 18026 on cooperation with the International Criminal Court in combating genocide, war crimes and crimes against humanity (see annex I) established the offence of torture in Uruguayan criminal law.

18. Article 22, paragraph 1, of the Act provides: "Any State agent or anyone acting with the authorization, support or acquiescence of one or more State agents who inflicts any form of torture on a person deprived of liberty or under his or her custody or control or on a person who appears as a witness, expert or similar before the authorities, in any manner and for any motive, shall be punished with imprisonment for a term of 20 months to 8 years".

19. Article 22, paragraph 2, states that "'torture' means (a) any act by which severe pain or suffering, whether physical, mental or moral, is inflicted; (b) subjection to cruel, inhuman or degrading punishment or treatment; or (c) any act aimed at dehumanizing or diminishing the physical or mental capacities of the victim, even if it does not cause pain or physical distress, or any act referred to in article 291 of the Criminal Code, where it is carried out for the purpose of investigation, punishment or intimidation".

20. Article 22, paragraph 3, states: "Torture does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions".

21. In addition, Act No. 18026 states that superior orders (due obedience) or exceptional circumstances, such as threat or state of war, political instability or any other public emergency, may not be invoked as justification for genocide, crimes against humanity or war crimes.

22. Since Uruguayan law does not allow due obedience as a defence, it is stricter than the Rome Statute of the International Criminal Court, which does allow it in certain circumstances.

23. Domestic law in this area is as robust as the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Inter-American Convention to Prevent and Punish Torture and the Inter-American Convention on Forced Disappearance of Persons.

24. Articles 10 and 11 of Act No. 18026 supplement these concepts with that of command responsibility, which prevents “commission by omission” on the part of civilian or military superiors, and establishes that the crimes and offences concerned may not be tried in a military court.

25. Although the Uruguayan Criminal Code does not include a definition of torture as an autonomous crime, in line with articles 1 and 4 of the Convention against Torture, this has not prevented prosecutions of the crime of torture.

26. In 2012, the Parliamentary Commissioner for the Prison System reported two law enforcement officers serving at Canelones prison to the Uruguayan judiciary for committing the crime of torture. In June 2012, the Canelones First Rota Criminal Court sentenced the two officers to imprisonment for the crime of torture, as set out in article 22 of Act No. 18026.

27. In addition, a number of former political prisoners, sponsored by Uruguayan human rights organizations and NGOs, have instituted proceedings in the Uruguayan courts for the investigation of acts carried out by oppressors and law enforcement officers during the period of dictatorship in Uruguay (1973-1985), arguing that, since the adoption of Act No. 18026, the crime of torture also constitutes a crime against humanity and, as such, is not subject to the statute of limitations or to amnesty.

#### **Reply to paragraph 2 of the list of issues**

28. Reform of the criminal justice system (the Criminal Code and the Code of Criminal Procedure) is one of the pending tasks for Uruguay in the process of bringing its domestic law into line with international standards and the inter-American system in this regard.

29. Act No. 17897 of 14 September 2005 established an honorary commission to draft basic documents for criminal procedure reform, the members of which were appointed by the Executive in September 2006.

30. Mandated by the Secretariat of the Office of the President and committee chairs, the aforementioned honorary commission undertook the preparation of a preliminary draft code incorporating the principles set out in the aforementioned basic documents. The adopted draft was referred by the Executive to Parliament in September 2009.

31. As the draft law was not adopted before the end of the last parliamentary session, the Executive referred it to Parliament again on 8 December 2010, and on 15 February 2011 it was forwarded to the Senate Committee on Constitutional and Legal Affairs for consideration.

32. On a number of occasions during 2011, various specialists, professors, experts and stakeholders involved in this field, such as the honorary commission itself and the Association of Investigating Judges of Uruguay, appeared before the Committee to give their opinions on the draft. The draft is under continued consideration by the Senate Committee on Constitutional and Legal Affairs.

33. A comprehensive reform process such as that which has been launched not only requires the adoption of legal standards but also implies a paradigm shift in the conception

of criminal procedure and a cultural change associated with the successful application of the aforementioned standards. Such an endeavour requires human and material input in terms of training and investment, which the State should provide on reasonable terms commensurate with the importance of these changes.

34. With regard to reform of the prison system (see annex II), Uruguay has begun a sustained process of action and institutional adjustments as part of a comprehensive response to the state of humanitarian emergency declared in Uruguay in 2005.

35. The purpose of this comprehensive reform of the prison system can be summarized as follows:

(a) To fulfil a precautionary role of holding detainees while respecting their human rights;

(b) To eliminate prison overcrowding by taking the technical and financial decisions necessary in order to improve the quality of life of persons deprived of their liberty;

(c) To classify all detainees and provide them with comprehensive personalized treatment, including access to general and mental health services, education, employment, sport, culture and recreation;

(d) To reduce levels of violence and conflict resulting from overcrowding and lack of classification and treatment;

(e) To provide support and guidance to former prisoners on their return to society;

(f) To pay particular attention to the needs of female detainees and any children who live with them, and to promote mainstreamed care for the secondary victims of crime;

(g) To combat corruption and trading in influence and to establish adequate monitoring for that purpose;

(h) To provide training and employment security for prison officers;

(i) To streamline the institutional model, bringing all detention facilities together under a single authority;

(j) To implement a new system of prison management based on human rights standards;

(k) To replace the police administration of the prison system with a highly specialized civilian administration;

(l) To strengthen the mechanisms for providing support and guidance to former prisoners on their return to society.

36. Uruguay remains committed to advocating permanent, far-reaching and comprehensive solutions for the prison system.

37. The Uruguayan Government has emphasized employment, education and sport as the key elements of the prison reform that is under way. In that regard, the Government is committed to ensuring decent conditions of detention without delay, in line with international human rights commitments.

38. In this process of restructuring of the prison system, significant changes and ongoing transformations can be seen in a number of areas.

39. Some specific achievements in this regard are set out below:

(a) In September 2005, Act No. 17897 on the humanization and modernization of the prison system (see annex III) was adopted following a consultation process involving all stakeholders in the prison system. Implementation of the Act involved a series of legislative measures such as the adoption of regulations for the system of remission of penalty by work or study (Decrees Nos. 225/06 and 102/09), the adoption of regulations under article 14 on labour market integration for former prisoners (Decree No. 226/06), and a special regime of provisional or early release. Under Act No. 17897, 827 individuals have been released, 151 of whom have reoffended. Those who were released had to remain subject to a regime of support and monitoring by the National Welfare Agency for Prisoners and Former Prisoners (PNEL). Those who failed to comply with the measures imposed or who committed another crime immediately lost the benefit granted under the Act and were sent back to prison. Article 9 of the Act provides for a house arrest regime; it authorizes the criminal courts to grant house arrest to detainees who are suffering from serious illnesses, such as cancer, HIV/AIDS or mental illness, women in their last trimester of pregnancy or their first three months of breastfeeding, and persons over 70, unless they have committed murder, rape or crimes against humanity;

(b) The early release regime has been modified to establish the principle of release after two thirds of the sentence has been served. The Supreme Court of Justice may only refuse early release by a reasoned decision in cases where there are no clear signs of rehabilitation of the convicted person;

(c) Regulations on representative boards for persons deprived of their liberty have been adopted, authorizing elections of delegates from sections or modules of different facilities (Resolution No. 13/2/08);

(d) A total of 2,000 jobs have been created, enabling the recruitment of executive, technical, administrative and service staff;

(e) With regard to prison staff training, efforts are being made to incorporate human rights training into the curriculum through various training courses;

(f) In the health system, the most significant development has been the adoption of the agreement with the Ministry of Public Health (the State Health Services Administration (ASSE)) on the care of persons held in the COMCAR detention facility. This is the first step towards the eventual goal of covering all the detention facilities in the country;

(g) The Pájaros Pintados day care centre for the children of female detainees and prison staff has been opened in conjunction with the Institute for Children and Adolescents and is now up and running;

(h) The first halfway house for women approaching release was opened in December 2008 and is now up and running, with home and workplace visits authorized by the justice system;

(i) An inter-institutional, open and multisectoral working group known as the female detainees' board has been set up to promote cross-cutting support for female detainees and their children and to drive the reforms required to meet the particular needs of these women;

(j) Prison infrastructure projects have been implemented, including expansion of the COMCAR detention facility, Libertad prison, Las Rosas prison in Maldonado, La Tablada, and detention facility No. 2, and the construction of a new prison complex in the Department of Rivera, on the border with Brazil, and a mother-and-child centre known as El Molino;



(k) The National Welfare Agency for Prisoners and Former Prisoners has been strengthened with the adoption of Act No. 18489, which authorizes the fixed-term recruitment under a special employment regime of persons registered with the Agency's labour exchange or the labour exchanges of departmental welfare agencies, ensuring the provision of work programmes; contract costs are covered through employers' contributions to the Social Security Bank, with funds transferred under Act No. 18362;

(l) Act No. 18667 of May 2010 on the national prison system (see annex IV) was adopted with a view to reducing prison overcrowding. This Act, known as the Prison Emergency Act, assigned substantial State financial resources to the improvement of living conditions in prisons, the completion of pending work and other aspects of the national prison system. Under the Act, 1,500 civilian prison officer posts were created and funds totalling 15 million dollars were allocated. In the distribution of these financial resources, priority is given to staff pay rises, prison construction, optimization of human resources through the implementation of long-term training programmes, improvement of the quality of life of law enforcement staff, with particular emphasis on, for example, housing, health and recreation, and upgrading of building and technological infrastructure and equipment;

(m) Also in keeping with the aforementioned new prison management system, under Act No. 18719 on the national budget for the period 2010-2014, adopted in December 2010 (see annex V), the National Directorate of Prisons was abolished and the prison system was streamlined through the establishment of the National Rehabilitation Institute (INR). The Institute was established as a specialized body accountable to the Minister of the Interior, on a provisional basis until the determination of its final legal form with the adoption of its organization act. Its principal responsibility is to oversee national prison policy in three specific areas: security, treatment and management. Its functions are: (i) organization and management of the various prison facilities already established or to be established under its jurisdiction; (ii) rehabilitation of pretrial and convicted detainees; and (iii) administration of alternatives to deprivation of liberty;

(n) The promotion of employment is considered a key element of habilitation and rehabilitation. The Ministry of the Interior, on its own initiative and through the National Welfare Agency for Prisoners and Former Prisoners, has taken specific steps to boost the establishment of productive enterprises in prison facilities.

40. The Agency is resuming its functions with regard to prisoner care by taking on projects and programmes relating to employment, education, culture and recreation. The Office for Registration and Computation of Remission of Penalty by Work or Study is therefore being reinstated under the Agency.

41. To date the Ministry of the Interior, mainly through the National Welfare Agency for Prisoners and Former Prisoners, has signed agreements with the National Emergency System, the State Railways Administration, the National Institute for Land Settlement (INC), the Montevideo Departmental Council, the Juntos Plan for Housing and Social Integration established by the Office of the President, the Ministry of Social Development (MIDES) and the University of Montevideo.

42. Some examples are set out below:

(a) The framework agreement between the Ministry of the Interior and the Ministry of Social Development of 3 February 2010, under which the two ministries agreed to implement joint strategies for the prison population. The agreement proposes the establishment of a working group to evaluate and propose improvements to the national prison system. The Ministry of Social Development has undertaken to carry out seven interventions in the Artigas, Maldonado, Paysandú, Rivera, Salto and Treinta y Tres detention facilities, with a view to helping prevent reoffending through social and educational measures and training for reintegration into society;

(b) The programme “En el País de Varela: Yo sí puedo” (In Varela’s country: sure I can), under which literacy groups have been set up at Las Rosas prison in Maldonado, the COMCAR detention facility and the Women’s Prison;

(c) Individual counselling to resolve family problems, information on civil rights, and basic training for 100 female detainees to facilitate their entry into the workforce on release from prison, provided by the National Women’s Centre using a comprehensive interdisciplinary and gender-sensitive approach;

(d) The agreement of 4 August 2011 with the National Institute for Land Settlement: various pilot projects are being used to promote stimulus policies, the transfer of technical assistance and any other form of cooperation aimed at employing inmates in rural activities;

(e) The agreement of 4 October 2011 on a pilot project for social integration and work experience between the State Sanitary Works and the Ministry of the Interior, the purpose of which is to provide detainees with work under the programmes implemented by the National Welfare Agency for Prisoners and Former Prisoners;

(f) The agreement of 5 October 2011 between the Ministry of the Interior/National Welfare Agency for Prisoners and Former Prisoners and the Foundation for Health, Education and Human Development aimed at extending the existing market garden at detention facility No. 2 with a view to improving the inmates’ quality of life and supporting the strategy of rehabilitation and reintegration into society, health improvement and food self-sufficiency;

(g) The agreement of September 2011 between the National Welfare Agency for Prisoners and Former Prisoners and the Laura Elizabeth González company, under which, in coordination with the Agency, the company has assigned the inmates of the COMCAR and Punta de Rieles facilities the task of producing, respectively, 1,000 wooden double folding chairs and 2,500 painted ones;

(h) Agreements with public and private institutions that have promoted extramural employment of detainees who have demonstrated good behaviour, in jobs that are highly symbolic and of significant collective interest. One of the first programmes has been the employment of inmates pursuant to an agreement with departmental councils and the National Emergency System for the clearance of brush that may create a risk of forest fires.

43. Employed inmates receive remuneration similar to that which a worker in the private sector would receive for the same activity. The recent experiment is being carried out in the Departments of Rocha, Canelones and Maldonado with mixed teams; the programme is highly effective and popular among the individuals selected.

44. Through the financial and technical assistance provided by the United Nations under project L, the State has mandated a high-level consultation with a view to adopting a law on the employment of prisoners, a key area in which efforts are needed. The consultation was supported by the International Labour Organization (ILO) in the implementation of action aimed at promoting decent work. In the consultation, three of the country’s departments were selected as examples of good practice: Montevideo (National Rehabilitation Centre), Colonia (Piedra de los Indios) and Lavalleja (Campanero prison).

45. As a follow-up, the Ministry of the Interior initiated contact with the Ministry of Labour and Social Security, the Social Security Bank and other relevant entities with a view to establishing specific regulations for prison employment. From this perspective, prison employment relationships are of a special nature in that they are intended to constitute a phase of treatment that lasts until the detainee is fully reintegrated into society,

with the generation or development of skills and abilities that will help him or her obtain skilled employment on release from prison.

46. Lastly, the Art and Prisons project is worthy of note. This is an initiative of the Citizens' Cultural Area, through the Support Programme for Vulnerable Population Groups, aimed at helping guarantee the exercise of cultural rights by detainees and agencies that are working in prisons to create a forum for the exchange of cultural experience and learning.

47. In addition, one of the objectives of INMUJERES, as the body overseeing public policy relating to women, is to ensure continuity and depth in gender-equality policy and to promote processes of empowerment and social inclusion of especially vulnerable women, including those deprived of their liberty.

48. INMUJERES is involved in various activities and cooperation relating to female detainees within State bodies and intersectoral working groups. In that regard, a working group of the Ministry of the Interior and the Ministry of Social Development has been set up to coordinate the design and implementation of programmes of the Ministry of Social Development aimed at the prison population in general, and inmates who are about to be released in particular.

49. In addition, in 2011 a technical assistant was appointed to the Multiple and Aggravated Discrimination Department of INMUJERES to bolster the work already begun by the team and to contribute a social perspective while also mainstreaming gender. The Training Department of INMUJERES also provided support for the training of 350 prison officers.

## **Article 2**

### **Reply to paragraph 3 of the list of issues**

50. Act No. 18771 of 23 June 2012 (see annex VI) establishes the Adolescent Criminal Responsibility System as a decentralized body of the Institute for Children and Adolescents; it will act as a transitional body until the Adolescent Criminal Responsibility Institute (IRPA) is established as a decentralized unit.

51. The Act establishes the administrative structure of the new System and allocates resources to cover its infrastructure needs, including construction, upgrading and refurbishment of property, communications, external and internal electronic monitoring and vehicles.

52. Another important piece of legislation is Act No. 18777 of 6 July 2011, under which attempted theft and complicity in theft by adolescents are among the acts that may be tried as criminal offences. The Act extends the duration of detention as a precautionary measure for the most serious criminal offences (robbery, murder or rape) from 60 days to 90 days. Under the Act, the absence of a report from the technical team at the place of detention does not prevent the courts from handing down a final judgement.

53. Act No. 18778 of 6 July 2011 establishes a national register of criminal records of adolescents in conflict with the law. Under the Act, where an adolescent in conflict with the criminal law has been convicted of rape, robbery, illegal occupation, kidnap or murder, the courts may, when handing down a judgement, order the retention of such records as an accessory penalty, so that, if the adolescent commits another intentional offence or an offence with unintended consequences after reaching the age of majority, that offence may not be regarded as his or her first offence for two years after the age of majority is reached or the sentence is served.

54. The State has also taken various steps to deal with the alarming situation of juvenile detainees.
55. The implementation in 2011 of a workplan aimed at reducing the number of escapes from detention led to a dramatic increase in the prison population of around 60 per cent, which in turn exacerbated all the problems associated with overcrowding, such as space problems and an increase in the level of conflict.
56. Since then, intensive efforts have been made to provide additional places. Existing facilities have been altered and refurbished and new ones have been fitted out. The Centre for Precautionary Measures (CMC) has been equipped with capacity for 34 inmates and level 2 of the SER facility has been adapted to provide 26 new places.
57. Investment is also being made in the La Casona and Cepriili facilities with a view to expanding their capacity and improving conditions there. The desired removal of the metal modules that were being used as a temporary solution to relieve the overcrowding at its peak has now been completed.
58. With regard to measures taken to abandon the punitive approach, it should be made clear that this approach was never adopted in respect of juvenile offenders either in theory or in practice.
59. The Government recognizes that some practices that were in use appeared to be punitive in nature because of gaps and loopholes pending the development of a comprehensive protection model, but the punitive approach was never deliberately chosen.
60. The social and educational approach to the care of juvenile delinquents, which is established by law, is based on the United Nations comprehensive protection model, with an approach centred on responsibility and implementation of rights.
61. This model is the most appropriate for establishing criminal law based on the act rather than on the perpetrator (i.e. a juvenile's act is criminalized rather than the juvenile himself or herself). The newly established institution is known as the Adolescent Criminal Responsibility System.
62. The Code on Childhood and Adolescence (Act No. 17823, annex VII) establishes the principle of subsidiarity of deprivation of liberty as a measure of last resort and for the shortest appropriate period of time.
63. Article 74, paragraph C, of the Code specifies the principle that a person may be detained only in the event of flagrant offences or where there is sufficient evidence of the commission of an offence — in the latter case, detention is subject to a written order from a competent court communicated by reliable means. Detention is an exceptional measure.
64. Article 76, paragraph 12, of the Code provides that deprivation of liberty shall be used only as a measure of last resort and for the shortest appropriate period. Where deprivation of liberty is deemed the only possible penalty, the grounds must be stated.
65. Lastly, article 87 of the Code provides: "The courts are not obliged to impose custodial measures. Such measures shall be imposed where, in view of the legal requirements, there are no other appropriate measures that are non-custodial. The courts shall state the reasons for not imposing other measures".
66. Judges in such cases have participated in many training events, exchanges and joint work on developing the comprehensive protection model for juvenile justice. Staff of the Public Prosecutor's Office have also participated in these events, including exchange visits to other countries in order to learn about best practice.
67. Despite these efforts, the number of juvenile detainees has increased, even though the number receiving non-custodial sentences has also increased significantly.

68. In 2010, 1,745 juveniles passed through the System, of whom 1,213 were placed in detention and 532 received non-custodial sentences.

69. In 2011, the number of juveniles who passed through the System rose to 2,345, of whom 1,360 were placed in detention and 985 received non-custodial sentences.

70. The Act establishing the System provides for five programmes: (a) assessment and referral at the time of entry; (b) non-custodial socioeducational measures and mediation; (c) custodial and semi-custodial socioeducational measures; (d) curative measures; and (e) integration into society and the community on release.

71. In addition, adolescents who reach the age of 18 while in custody, as ordered by the competent court, remain there until they have completed their term of custody, irrespective of their age. They are not transferred either to adult facilities or to special programmes.

72. In other words, an adolescent who reaches the age of majority and has not yet completed the term of custody ordered by the court remains in custody until the term is completed or until the competent court substitutes a socioeducational measure for the custodial measure. Article 91 of the Code on Childhood and Adolescence expressly provides that an adolescent who is in custody on reaching the age of 18 shall under no circumstances serve the remainder of his or her term in facilities intended for adults.

73. In addition, agreements have recently been concluded with various private and public enterprises, under which a number of juveniles have been offered employment opportunities. Although the number of people benefiting from these agreements has fallen, employment opportunities have been increasing. With regard to academic and vocational training, the number of agreements with State agencies providing vocational training has increased.

74. Agreements have also been signed to provide sporting activities in detention facilities, and inmates participate in various cultural programmes as part of non-formal education. Therapeutic intervention workshops are also conducted with juveniles who have committed offences involving sexual abuse or extreme violence, under agreements with civil society organizations.

75. Juvenile inmates take part in formal education activities, courses at the Vocational University of Uruguay in construction and health, football workshops, and non-formal education, such as Theatre in the Classroom, sexuality and gender workshops, workshops on psychoactive substance abuse, Theatre of the Oppressed, educational visits to Flores island in conjunction with the Navy, participation in radio programmes, yoga, the library and cultural activities run by the Institute for Children and Adolescents, such as music, bands, theatre, plastic arts and photography.

#### **Reply to paragraph 4 of the list of issues**

76. The possibility of establishing a Ministry of Justice is not currently on the Government's agenda.

77. However, the establishment of the Adolescent Criminal Responsibility System and the projected management and operational regulations are intended to be a first step in the transition from police authority over prisons to the recruitment of civilian staff.

78. The National Rehabilitation Institute will be responsible for the organization and management of the various prison facilities already established or to be established under its jurisdiction, the rehabilitation of pretrial and convicted detainees, and the administration of alternatives to deprivation of liberty.

79. The Institute will also take on the functions and responsibilities of the National Directorate of Prisons, Penitentiaries and Rehabilitation Centres, and the human and

material resources allocated to the Directorate's activities and units will be transferred to the Institute.

**Reply to paragraph 5 of the list of issues**

80. On 24 December 2008, the Executive promulgated Act No. 18446 (see annex VIII), article 1 of which establishes the National Human Rights Institution.

81. Articles 1, 36, 75 and 76 of the Act were subsequently amended pursuant to Act No. 18806 of 14 September 2011 (see annex IX). The Act provides that the National Human Rights Institution/Office of the Ombudsman shall be chaired by a five-member collegial body, the Board of Directors, which shall be responsible for managing and representing the Institution (art. 36).

82. With regard to the election of the members of the Board of Directors, the Act provides that the General Assembly shall appoint a special commission with members from all the political parties represented in Parliament, which shall receive candidates' applications and draw up a list of qualified candidates; this list shall be communicated to the Presidency of the General Assembly for the purposes of the election process (art. 40).

83. On 8 May 2012, Mariana González Guyer (Chair), Juan Faroppa, Ariela Peralta, Juan Raúl Ferreira and Mirtha Guianze were elected as members; they took office on 22 June 2012.

84. With regard to the financial and human resources assigned to the Institution, its budget was prepared by the Board of Directors, in full compliance with article 75 of Act No. 18446, as amended by article 3 of Act No. 18806, which was adopted without amendment.

85. The budget is sufficient to ensure the Institution's independent operation and covers the necessary infrastructure and staffing. The approved budget applies to the period 1 June to 31 December 2012, since in Uruguay budget appropriations are renewed and approved twice a year.

86. With regard to article 77 of the Act, which refers to other resources and provides that the Institution may obtain funds under assistance and cooperation agreements with international or foreign organizations, in accordance with their fields of competence, the Institution has held meetings with the Spanish Agency for International Development Cooperation (AECID), the United Nations Development Programme (UNDP) and the regional office of the United Nations High Commissioner for Human Rights (OHCHR) with a view to concluding cooperation agreements in the near future, which will have to comply with the Act and be approved by the Court of Audit.

87. The Act also provides for the possibility of receiving donations, bequests or legacies.

88. In addition, under article 83 of Act No. 18446, the National Human Rights Institution/Office of the Ombudsman performs the functions of a national preventive mechanism under the Optional Protocol to the Convention against Torture.

89. The article states: "The National Human Rights Institution/Office of the Ombudsman shall, in coordination with the Ministry of Foreign Affairs, perform the functions of the national preventive mechanism referred to in the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, an international treaty to which the Republic is a party. To that end, the National Human Rights Institution/Office of the Ombudsman shall meet the requirements for the national mechanism set out in the aforementioned Protocol, in accordance with its competencies and responsibilities".

90. The Uruguayan Ministry of Foreign Affairs and the National Human Rights Institution have already begun analysing possible ways of implementing the national preventive mechanism.

91. The Uruguayan Government has also approached OHCHR with a view to ensuring the institutional consolidation and functional effectiveness of the National Human Rights Institution.

92. The exchange of information and good practice, technical expertise and possibly financial support will be crucial to ensuring that the Institution is able to meet fully the responsibilities assigned to it, including coordination with other governmental and non-governmental institutions.

93. Lastly, the Uruguayan Government is keen to ensure that, with the inauguration of the Board of Directors of the National Human Rights Institution, accreditation of the Institution with the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights proceeds swiftly.

#### **Reply to paragraph 6 of the list of issues**

94. The principal functions of the Parliamentary Commissioner for the Prison System, an office established in 2003 pursuant to Act No. 17684 (see annex X), are to advise the legislature on monitoring compliance with domestic legislation and international agreements ratified by Uruguay concerning the situation of persons deprived of their liberty by the courts and to supervise the work of the bodies responsible for prison administration and the reintegration of prisoners and former prisoners into society.

95. In order to perform his or her functions, the Commissioner may request information, pay unannounced visits to places of detention, receive complaints from persons deprived of their liberty and make recommendations to the prison authorities.

96. The Parliamentary Commissioner is not subject to a binding mandate, receives no instructions from any authority and performs his or her tasks completely independently, in accordance with his or her own good judgement and under his or her own responsibility.

97. The Commissioner conducts around 500 visits per year and submits a report on each one to Parliament. He or she also receives reports and complaints of ill-treatment and, where there is sufficient merit, files criminal complaints with the courts.

98. Since the establishment of the office of Parliamentary Commissioner for the Prison System, the Ministry of the Interior has received around 1,100 official letters with recommendations and requests for reports. In the period 2010-2011, the number fell significantly: 57 official letters were received. To date, 45 of these have been answered and the remainder are being processed.

99. In those facilities where health services are provided by the State Health Services Administration, examinations of inmates are guaranteed at the time of arrest and transfer and before release. In this regard, particular attention has been paid to preventing ill-treatment of inmates when they are transferred between detention centres.

100. The Observer Committee for Adolescents Deprived of their Liberty was established by Resolution No. 2923 of the Institute for Children and Adolescents of 23 November 2007 for the purpose of monitoring observance of the rights of adolescents in the system, keeping the Institute's Board of Directors informed and giving opinions where necessary.

101. The Committee consists of a representative each from the Ministry of Education and Culture, the judiciary and the Dr. Luis Morquío Paediatrics Institute of the Faculty of Medicine, a delegate of the United Nations Children's Fund (UNICEF) and representatives of four NGOs.

102. In practical terms, the Committee makes regular visits to juvenile detention facilities and issues recommendations.

103. One of the major shortcomings of this mechanism is that it lacks the resources necessary to perform its functions.

104. In its 2012 report to the Institute for Children and Adolescents, the Committee provided input which was logged and is being analysed by the Institute, in particular with regard to the situation at the SER and Piedras facilities.

105. The longest-standing preventive mechanism in the Uruguayan legal system is the office of Inspector General for Psychopaths established by Act No. 9581 of 1936 (see annex XI).

106. Article 38 of the Act provides that the Inspector General's functions are, *inter alia*, to inspect and monitor State and private assistance to psychopaths throughout the country and all mental health provision; to establish a general register of psychopaths for the whole country; to visit and conduct thorough inspections of State and private facilities for psychopaths once every three months; and, where deemed appropriate, check the situation of patients who live in their own or someone else's home.

107. The Inspector General for Psychopaths may also issue warnings and propose penalties against doctors and directors of facilities who infringe the provisions of the Act; act on requests concerning the opening of new facilities; receive and process all reports of substandard treatment and refer cases of dispossession and arbitrary or improper detention of psychopaths to the ordinary courts; and submit detailed annual reports to the Ministry of Public Health on progress in facilities and assistance to psychopaths throughout the country, with observations resulting from his or her inspections.

108. He or she is also authorized to intervene in cases where the attending doctor refuses a request by a patient's guardians or legal representatives to discharge the patient, and to promote the establishment of welfare agencies for the protection of patients discharged from psychiatric institutions.

109. Uruguay acknowledges that there is no coordination between the work of the Parliamentary Commissioner for the Prison System, the Observer Committee for Adolescents Deprived of their Liberty, the Inspector General for Psychopaths and the recently established National Human Rights Institution/Office of the Ombudsman.

110. There may be a number of reasons for this: for example, all the institutions are independent of each other; their mandates are essentially different; their composition is different (two of them consist of a single person while the other two are collegial); and their institutional nature is very different (the National Human Rights Institution and the Parliamentary Commissioner are ombudsman-type bodies, whereas the Inspector General for Psychopaths reports to the Executive).

111. Moreover, the National Human Rights Institution was launched only recently, while the Parliamentary Commissioner has been active since 2005, the Observer Committee for Adolescents Deprived of their Liberty came into operation in 2007 and the office of Inspector General for Psychopaths has existed since 1936.

112. Nonetheless, it is recognized that this lack of coordination can be addressed through the effective implementation of the national preventive mechanism under the Optional Protocol to the Convention against Torture, to which Uruguay is a party.

113. For the moment, no provision has been made to broaden the mandate of the Parliamentary Commissioner for the Prison System to include all places of detention and not only visits to adult detainees.



114. The Parliamentary Commissioner currently has to address the needs of an adult prison population of more than 9,400; an expansion of his mandate to cover all detention centres could therefore have a detrimental impact on his work.

115. Lastly, in addition to these mechanisms for the prevention of torture, detention facilities in Uruguay are subject to regular monitoring by the special procedures of the United Nations Human Rights Council (rapporteurs and independent experts) and by the rapporteurs of the inter-American human rights system.

116. NGOs and other civil society organizations have also made regular visits to Uruguayan prisons over the years.

#### **Reply to paragraph 7 of the list of issues**

117. Uruguay has stepped up its efforts to adopt and implement measures aimed at establishing clear rules for police operations, in keeping with respect for the rule of law and the promotion of human rights and freedoms.

118. To that end, pursuant to Decree No. 109/005 of 14 March 2005, the Executive repealed an old decree of the dictatorship that authorized the police to use coercive measures to bring possible suspects and witnesses to police stations for questioning, a law on which the Rapporteur commented at the time of Uruguay's initial report.

119. Subsequently, Decree No. 145/005 of 2 May 2005 repealed Decrees Nos. 512/966 and 286/000, under which the Ministry of the Interior had the power to authorize the police to enter commercial, industrial or similar premises, public or private education institutions, public or private health-care centres, and public bodies occupied by employees, workers, students or any other persons, at the express request of the owner of the business concerned or the competent authorities of the institution in question.

120. However, many sectors of society and police organizations argued that there were no clear, firm rules for police operations. The Executive therefore submitted to Parliament a draft set of police procedures that would create adequate guarantees for officers, who are required to carry out preventive and repressive measures, and many of whom, it was claimed, lacked training; for judges, who, because of a number of gaps in the law, are able to interpret it in many different ways; and, crucially, for members of the public who may feel that their rights have been violated.

121. Thus, in July 2008, Act No. 18315 establishing rules for police conduct in line with the Constitution, international treaties, the Police Organization Act in force and other domestic laws, was adopted (see annex XII). The Act regulates, *inter alia*, the use of force and means of coercion, the protection of victims, witnesses and persons who provide information, arrests and crime detection procedures.

122. Article 16 of the Act provides that law enforcement staff must ensure full protection of the health and physical integrity of such persons as may be in their custody. In particular, they must take immediate steps to provide medical care and/or counselling where necessary.

123. Title II, chapter I, of Act No. 18315, on the use of physical force, weapons and other means of coercion, refers expressly to torture and cruel, inhuman or degrading treatment. Article 15 provides that law enforcement staff are, in particular, prohibited from inflicting, inciting or tolerating torture or cruel, inhuman or degrading treatment in respect of any person. In no event may they invoke an order from a superior or special circumstances, such as threats to domestic security or political or social instability, as a justification of such acts, whether carried out by themselves or by third parties.

124. Act No. 18315 is consistent with article 1 of Decree-Law No. 14470 of 11 December 1975, which states: “Together with the enforcement of custodial sentences, steps shall be taken to develop detainees’ aptitude for work, ensure their social rehabilitation and prevent crime. Under no circumstances may detainees be tortured, ill-treated, tormented or subjected to degrading or humiliating acts or procedures (article 26 of the Constitution)”.

**Reply to paragraph 8 of the list of issues**

125. Detainees are informed of their rights and obligations on entry to the prison system through the basic information guide for detainees.

126. In addition, the Code of Criminal Procedure (Decree-Law No. 15032) provides that the defence counsel must intervene before the hearing that precedes any indictment or sentencing.

127. When a detainee is brought before a criminal court, he or she is informed of the reasons for his or her detention and called on to appoint a defence counsel. For those in need, the State provides a public defence counsel. The Public Defence Service operates throughout the country and has more than 100 lawyers dealing with criminal matters. More than 90 per cent of cases are processed by this Service.

128. Public defence counsel are obliged to keep their clients informed and to visit facilities at intervals of no more than 60 days.

129. With regard to health matters, article 16 of Act No. 18315 provides that law enforcement staff must ensure full protection of the health and physical integrity of such persons as may be in their custody. In particular, they must take immediate steps to provide medical care and/or counselling where necessary.

130. Doctors and nurses from the Ministry of the Interior have been gradually replaced by staff of the State Health Services Administration pursuant to a 2008 agreement between the Ministry of the Interior and the Ministry of Public Health. From the time of writing until 2012, the State Health Services Administration will gradually be taking over responsibility for the care of the country’s entire prison population.

131. The most striking example is the establishment of the State Health Services Administration hospital in the COMCAR facility. Former punishment cells are being remodelled by six inmates who are carrying out bricklaying, electrical and sanitation work in order to create new areas for the hospital.

132. The hospital has 12 beds available for admissions. Under the project, primary care is provided in hospitals within prison units. One innovation is the use and maintenance of medical records that allow the information relating to each patient to be updated and systematized. All this information is included in the inmate’s file, of which the inmate may request a copy when he or she wishes.

133. The State Health Services Administration hospital provides care to an average of 60 inmates per week, including check-ups of those entering the facility. The staff consists of a psychiatrist, an orthopaedic surgeon, an infectious disease specialist, a dermatologist, a radiologist, a nurse and an administrator, and monthly consultations are given by an ear, nose and throat specialist. Consultations with specialists are coordinated with the Maciel and Pasteur hospitals of the Ministry of Public Health.

134. Dental care, including root canal treatment, is also provided. Consultations are given by four dentists who provide routine and emergency treatment. Mental health staff will also be provided by the State Health Services Administration, which will advertise for four psychiatrists and two psychologists.

135. Advertisements have also been placed for drug abuse therapists. Each therapist will work with a group of 20 inmates using the group therapy method. In facilities attached to police headquarters, primary health care is provided by duty doctors and nurses who are based in the facilities or go out on visits. These staff are attached to the police health services. Emergency cases or referrals to specialists are handled by departmental hospitals; such referrals are usually lengthy processes and are often unsuccessful.

136. The measures taken to ensure that these rights are respected in practice form part of the training curriculum for officers in the prison system and have also been disseminated nationally in daily orders bulletin No. 35 of 2011, service serial No. 14/2011.

#### **Reply to paragraph 9 of the list of issues**

137. As stated in the reply to the Committee's second question set out in this report, one of the most important and challenging initiatives in the comprehensive reform of the criminal justice system (the Criminal Code and the Code of Criminal Procedure) is to bring domestic law into line with international standards and the inter-American system with regard to pretrial detention. Since February 2011 the Senate Committee on Constitutional and Legal Affairs has been considering a draft law on the subject. During 2011, the Committee held hearings with various specialists, professors, experts and stakeholders involved in this field. The draft is currently still under consideration by the Committee. Uruguay also wishes to reiterate in the context of this reply that a comprehensive reform process such as that which has been launched not only requires the adoption of legal standards but also implies a paradigm shift in the conception of criminal procedure and a cultural change associated with the successful application of the aforementioned standards. Such a change in the penal system requires human and material input in terms of training and investment, which the State should provide on reasonable terms commensurate with the importance of these changes.

138. The Uruguayan judiciary has launched a programme to strengthen its management, with a view to improving the quality and productivity of its administrative departments (the Directorate General of Administrative Services, the Planning and Budget Division and the Legal Secretariat of the Supreme Court of Justice); enhancing the management of the Supreme Court of Justice and clearing non-substantive administrative tasks; and reducing the processing time for case files in pilot offices by adhering to the time frames specified in procedural rules.

139. Until 2006, pretrial and convicted detainees were not separated in any detention facility in Uruguay, except in a few blocks in facilities outside the capital. Detainees were held separately only if they had committed sexual offences or for reasons of personal safety. After the visit of Manfred Nowak, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Punta Rieles facility, which is only for convicted persons, was built; thus the desired classification of detainees is gradually being implemented. Detainees at the Rocha and Maldonado facilities have already been classified. Currently, in addition to emergency classification measures, a permanent working group has been set up in conjunction with the Faculty of Psychology of the University of the Republic to investigate and establish definitive diagnostic classification tools and to set up treatment programmes in the field of mental health.

140. The special regime of provisional or early release has benefited pretrial and convicted detainees who were in detention as at 1 March 2005 and who were not guilty of serious crimes such as murder, grievous bodily harm, aggravated robbery, illegal occupation, extortion, corruption, procuring, drug offences or economic crimes. In addition, they were required to have spent a minimum time in pretrial detention or serving their sentence: (a) if the sentence was more than three years, the detainee was required to have served two thirds of it; if it was less than three years, he or she was required to have served

half of it; (b) in the case of pretrial detainees who had not been indicted, the maximum possible sentence for the offence in question was taken into account; and (c) where there was an indictment, the requested sentence was considered. The courts had a period of 60 days in which to grant releases. A total of 827 individuals were released, 151 of whom reoffended. Those who were released had to remain subject to a regime of support and monitoring by the National Welfare Agency for Prisoners and Former Prisoners. Those who failed to comply with the measures imposed or who committed another offence immediately lost the benefit granted under the Act and were sent back to prison. Article 9 of Act No. 17987 on humanization provides for a house arrest regime; it authorizes the criminal courts to grant house arrest to detainees who are suffering from serious illnesses, such as cancer, HIV/AIDS or mental illness, women in their last trimester of pregnancy or their first three months of breastfeeding, and persons over 70, unless they have committed murder, rape or crimes against humanity. The early release regime (art. 328 of the Code of Criminal Procedure) has been modified to establish the principle of release after two thirds of the sentence has been served. The Supreme Court of Justice may only refuse early release by a reasoned decision in cases where there are no clear signs of rehabilitation of the convicted person.

141. There has been a sustained expansion of the production and scope of statistical data on the situation of persons deprived of their liberty. The judiciary has increased its production and publication of statistics in recent years. Since 2007, information relating to the judicial activities of courts throughout the country, the volume and nature of cases brought, the final judgements handed down and the hearings held during the proceedings has been published on the judiciary's web portal. In addition, disaggregated data on justice with regard to adolescents, criminal, customs and civil cases, administrative disputes, organized crime, family, employment cases, minor offences and domestic violence cases are produced. Statistics are also published annually on the work of public defenders' offices throughout the country, which are responsible for defending in court persons of limited means who cannot afford the private services of a professional. Since 2007, the judiciary has also been publishing on its web portal information about the work of its mediation centres, success rates in mediation, the subjects addressed, the activities and income of consultants, and other matters of interest. With regard to statistical data on criminal cases, in 2011 9,027 cases were brought before the ordinary criminal courts in the country's capital, Montevideo, and 3,677 indictments were issued. Of the total number of cases brought, two involved minor offences, which became the responsibility of the criminal courts in 2010. Since then, there have been practically no such cases before the criminal courts. The number of final judgements handed down has fallen by barely 1 per cent to a total of 4,350. The number of cases in progress as at 31 December 2011 had increased by 29 per cent in comparison with 31 December 2010. The number of detainees standing trial in the criminal courts in the capital fell from 4,907 as at 31 December 2010 to 4,623 as at 31 December 2011. In addition, the percentage of detainees with a final and enforceable judgement rose from 40.7 per cent at the end of 2010 to 46.7 per cent as at the same date in 2011. The number of cases brought before the Montevideo criminal courts specializing in organized crime increased by 13 per cent, but the number of prosecutions fell by more than half. The number of final judgements handed down more than doubled, from 26 in 2010 to 58 in 2011. With regard to judgements of detainees, there were 252 detainees standing trial before these courts as at 31 December 2011. In comparison with 31 December 2010, the proportion of detainees with a final and enforceable judgement, while still rather low, increased because 2010 was the first year of operation of these courts. The number of detainees standing trial before courts outside the capital as at 31 December 2011 was 3,894, of whom 40 per cent have received a judgement and 60 per cent have not. Of the 1,565 judgements handed down, 1,151 are enforceable and 414 are not. In all, 8,769 detainees had cases pending before the courts throughout the country as at 31 December 2011. Of this total, 52 per cent had not yet received a judgement, while the remaining 48 per cent had

received judgements, most of them enforceable. In comparison with 2010, the number of detainees fell by 3.5 per cent. On the other hand, while the total proportion of detainees with or without a judgement has remained the same in comparison to 31 December 2010, in Montevideo the proportion of detainees that have received a judgement has risen slightly from 52 to 54 per cent, whereas in the rest of the country it has remained the same.

142. On 15 July 2010, the national Parliament adopted Act No. 18667, which authorized the Executive to spend a one-off extra sum of Ur\$ 292,192,931 (approximately US\$ 13,913,949) by 31 December 2010 on opening new prisons, adapting and equipping others and covering the costs associated with transferring inmates to the new facilities.

143. The Act also authorized the creation of 1,500 prison staff posts for the National Directorate of Prisons and for prisons attached to departmental police headquarters.

144. Another measure taken by the State is the establishment of the National Rehabilitation Institute to manage prison facilities already established or to be established under its jurisdiction, to rehabilitate pretrial and convicted detainees, and to administer alternatives to deprivation of liberty.

145. The National Rehabilitation Institute will be managed by a director appointed by the Executive, who will be responsible for:

- (a) Implementing prison policy;
- (b) Monitoring management;
- (c) Carrying out planning, evaluation and monitoring in the prison system.

146. The National Welfare Agency for Prisoners and Former Prisoners and the National Rehabilitation Centre will report to the National Rehabilitation Institute.

147. For implementation purposes, 100 administrative posts are being created and a budget is being set aside for seasonal employment contracts for the detention management programme. In accordance with the new structure of prison staff posts, the following are being created: 1,100 prison officer posts and 20 prison supervisor posts; 70 psychologist posts; 70 social worker posts; 20 lawyer posts; 10 psychiatrist posts; 15 accountant posts; 4 sociology graduate posts; 2 statistics graduate posts; 3 education graduate posts; 6 computer science graduate posts; 3 communication science graduate posts; 35 social educator posts; 15 teacher posts; 5 secondary school teacher posts; 12 physical education teacher posts; and 20 social psychologist posts.

148. Article 227 provides that prisons attached to departmental police headquarters will be transferred to the authority of the National Rehabilitation Institute.

149. Another measure adopted is the extension of temporary leave periods.

150. On 24 September 2010, the Uruguayan Parliament, pursuant to Act No. 18690 on the temporary leave regime, amended article 61 of Decree-Law No. 14470 of 2 December 1975 to extend the duration of prison leave from 48 to 72 hours with a view to strengthening social and family ties; managing work, accommodation, paperwork, etc., as the inmate's release date approaches; and working or taking part in cultural and/or educational visits supervised by the facility's teaching staff.

151. The security level for temporary leave is as follows: the detainee may be accompanied by a plain-clothes police officer, a relative or a responsible person, or may be released under affidavit.

152. Another measure adopted in this area derives from Act No. 17897, chapter IV, article 13, which establishes a system of remission of penalty by work or study.

153. The article establishes that the courts will grant detainees remission of penalty by work. For pretrial and convicted detainees, the term of detention will be reduced by one day for every two days of work. For these purposes, no more than eight hours of work per day may be counted. The prison authorities will determine what work may be organized in each detention facility; only such work, together with work carried out during temporary leave authorized by the competent court, will be valid for the purpose of remission of penalty.

154. The article also states that the prison authorities will obtain the necessary funds to create sources of industrial, agricultural or artisanal work, depending on circumstances and budget resources. For the purposes of evaluating the work, each detention facility will have an advisory board made up of staff appointed by the prison authorities. The courts will grant remission of penalty by study to convicted persons serving custodial sentences. For pretrial and convicted detainees, the term of detention will be reduced by one day for every two days of study.

155. In addition, the article states that six hours spent studying within one week, even on different days, will be counted as one day of study. No more than six hours of study per day may be counted for these purposes. The provisions of this article will also apply to persons under the temporary leave regime.

156. Article 14 of the Act refers to labour market integration for former prisoners. It provides that all information issued to those bidding for public works and services must mention that the contracting company or companies are obliged to ensure that a minimum number of recruits, equivalent to 5 per cent of labourers or similar staff, are former prisoners registered with the labour exchange of the National Welfare Agency for Prisoners and Former Prisoners.

157. There is also a provision that the Executive may establish a system of bonuses for companies that fill more than the required 5 per cent of jobs with former prisoners registered with the labour exchange. The Executive, through the National Welfare Agency for Prisoners and Former Prisoners, will promote agreements with departmental governments to establish similar regimes with regard to departmental public works and services.

158. According to the Directorate of Prison Development of the Ministry of the Interior, 45 per cent of detainees work and/or study. Some 2,000 persons study and another 2,400 work under the penalty remission mechanism.

159. The picture is similar with regard to employment and/or productive activities. While the facilities belonging to the National Directorate of Prisons pay working inmates from their own budgets, these resources are far from sufficient, and in the vast majority of prisons attached to departmental police headquarters, there is simply no remuneration mechanism for work done.

160. Other tasks carried out in detention facilities are cleaning of common areas, cooking, food distribution, gardening, painting, repairs, building work, carpentry, health-related work, market gardening, livestock farming, dairy farming, cleaning of vehicles, repair of machinery, work in sawmills, etc.

161. There is no doubt that detainees are responsible for the delivery of many services and the daily maintenance of the infrastructure of these facilities.

162. In addition, chapter I, article 72, of the Criminal Code, provides that convicts in both penitentiaries and prisons shall receive remuneration for their work.

163. Act No. 14470 of 14 December 1975 (see annex XIII), which establishes a system of rules for detention that is still in force, regulates work in prisons (arts. 40 to 47).

164. In this regard, article 45 states: “Detainees shall be remunerated for their work. Such remuneration shall take into account the nature, quality and output of the work. Regulations shall determine the extent to which the detainee’s pay is commensurate with the standard wage. Under no circumstances shall the detainee’s remuneration be less than one third of the standard wage”.

165. Article 46 states: “The prison authorities may allocate up to 30 per cent of a detainee’s pay to cover his or her personal expenses and up to another 30 per cent to assist with his or her family’s expenditure, if the family so requests and where necessary. The net balance shall be deposited in savings accounts in an official body or spent, subject to the prison’s authorization, on the purchase of goods. Accounts and goods shall be in the detainee’s name and may not be transferred or seized”.

166. However, work arrangements in detention facilities are very different from normal work arrangements.

167. The reason for this is that access to work is completely inadequate. Only about 2,400 detainees work, of whom approximately 1,000 do so in National Directorate prisons.

168. Detainees who work in prisons in the metropolitan area receive payment of 1,440 pesos (approximately US\$ 68.50), which is one third of their wages. Another third is allocated to the family on request. The remainder is deposited in an official savings bank, to be available on the detainee’s release from prison.

169. Very few prisons outside the capital pay detainees for work performed, and in others the pay is derisory. For example, in Canelones, the pay is 300 pesos a month (approximately US\$ 14.20) and in Florida 60 pesos a week (approximately US\$ 2.85).

170. The average work day is eight hours long, but on farms belonging to the prison system outside the capital, detainees carry out field work (livestock farming, market gardening, work in greenhouses, etc., or in carpentry workshops, brick-making, machine shops, sawmills, etc.) from sunrise until nightfall, for periods of between 12 and 16 hours.

171. Detainees are not paid for this work, except in a few cases, such as at the farm in Florida, where they receive payment of 60 pesos a week. Nor do they receive other benefits associated with formal work, such as social services, overtime, end-of-year bonuses, etc.

172. According to the Directorate of Prison Development, the more than 2,000 detainees who work in detention facilities have been provided with insurance cover since January 2010, pursuant to agreements with the State Insurance Bank, which granted an adjustment of the prices of insurance policies.

173. There are three other models for productive activities: (a) individual enterprises, generally managed by a single person, such as brick-making and plastic recycling at Las Rosas, a machine shop at Durazno, etc.; (b) enterprises run by private companies on the premises of detention facilities; and (c) agreements between the State and organizations such as the Post Office, UTE (the State electricity company), ANCAP (the State oil company), or programmes run by local councils, such as the agreement between the police headquarters, the National Welfare Agency for Prisoners and Former Prisoners and the Colonia city council, under which detainees are employed temporarily in a street-sweeping programme.

**Reply to paragraph 10 of the list of issues****Measures taken by the State party to enhance precautionary measures and enforcement procedures and prevent the re-victimization of women filing complaints**

174. The measures taken by the Government include Act No. 18437, the General Education Act, of December 2008 (see annex XIV), which refers to the subject of violence against women in terms of awareness-raising and prevention, and also specific steps for prevention and protection and for dealing with cases of domestic violence in public security policy.

175. In 2006, the Executive promulgated Decree No. 494/2006 of the Ministry of Public Health (see annex XV) on dealing with domestic violence, under which both public and private health-care institutions and services undertake to provide care and assistance to women victims of domestic violence.

176. The National Consultative Council for the Prevention of Domestic Violence, which has members from government and civil society and is chaired by INMUJERES, determines the major strategic areas of action in this regard and coordinates activities with other institutions so as to provide more appropriate and comprehensive solutions to the problem.

177. Pursuant to article 28 of Act No. 17514, the Domestic Violence Act, of 2002 (annex XVI), 19 departmental consultative committees for the prevention of domestic violence have been set up.

178. The following ongoing training plans relating to violence against women and women's rights are under way as part of the effort to prevent violence against women:

(a) INMUJERES, in cooperation with the legislature, has held a series of seminars and activities on reporting and analysis of violence against women, in particular domestic violence. In addition, a gender and generations training plan has been devised under an agreement with UNDP;

(b) The subject has been incorporated in specialized human rights courses in the context of ongoing training, teacher training and courses for secondary school teachers held in departmental capitals;

(c) INMUJERES provides ongoing training for interdisciplinary technical teams at specialized support centres dealing with violence;

(d) With regard to the dissemination of information on women's rights, awareness-raising and training campaigns have been conducted in recent years for journalists and broadcasters so as to ensure that gender issues are included in the media's agenda. Similarly, steps are being taken by the National Consultative Council for the Prevention of Domestic Violence to ensure that cases of domestic violence, ill-treatment and sexual abuse in respect of children and adolescents are dealt with appropriately in the news media;

(e) The subject has been incorporated into ongoing training at the National Police Academy, departmental academies and the Promotion Academy. In particular, specific modules have been devised, which have been or are about to be implemented, and work is under way to devise a technical course on domestic violence with a view to establishing a specialization in police training.

179. In recent years, the number of entities responsible for receiving complaints of violence against women has increased. Specialized courts for organized crime, which also receive complaints of trafficking in persons, have been established, and specialized



domestic violence units (UEVD) have been set up in all departments outside the capital to receive complaints, provide psychosocial support, etc. These units — women's and family police stations — were extended throughout the country in 2011, and there are currently 30 specialized domestic violence units, which seek to provide specialized support with regard to the problem of domestic violence. The following protocols of support for women, girls and adolescents affected by violence have been adopted:

- The national police: a guide to police procedure in legal proceedings relating to domestic violence against women, which is being developed further;
- The health sector: a guide to procedures in primary health care for dealing with domestic violence against women;
- The education sector: a road map for schools to help them deal with cases of ill-treatment and sexual abuse of children and adolescents, a protocol for secondary schools concerning domestic violence against adolescents and a protocol for the specialized units of INMUJERES providing support to women victims of domestic violence.

180. The State has encouraged civil society to participate in the formulation of plans, activities and strategies relating to the prevention and elimination of violence against women. While organizations have numerous forums at the national level, they are also involved in the departmental committees for the prevention of domestic violence, which thus become special forums for cooperation and coordination between society and State.

181. Within the police force, the Gender Policy Division established in April 2009 is currently responsible for helping to formulate, monitor and evaluate policies, programmes and activities aimed at ensuring the implementation of the police force's strategic priorities under the National Plan against Domestic Violence 2004-2010 and the National Plan for Equal Opportunities and Rights 2007-2011.

182. This is the framework within which a comprehensive policy is being developed, based on five key programme areas:

- (a) More effective and professional police action with regard to domestic and gender-based violence;
- (b) Integration of the subjects of gender, domestic violence and sexual and reproductive health at all levels of police training;
- (c) Improved procedures for the receipt and registration of complaints and more in-depth statistical analysis of domestic violence cases;
- (d) A comprehensive approach to domestic violence suffered or perpetrated by police officers;
- (e) Promotion and creation of mechanisms to strengthen cooperation and coordination between institutions and with civil society.

183. With regard to police action, two of the most important tools in dealing with victims of domestic violence are:

- (a) The protocol for dealing with domestic violence against women at police stations, known as the guide to police procedure in legal proceedings relating to domestic violence against women (2008);
- (b) Executive Decree No. 317/010 of 26 October 2010 regulating the police procedure to be followed with regard to domestic violence (see annex XVII).

184. Although the aforementioned document is a manual or guide for law enforcement officers, it establishes a protocol for assisting and dealing with victims of domestic violence

and was originally intended to be used in cases of attacks on female victims by persons close to them.

185. The guide aims to help law enforcement staff deal with domestic violence from the point of view of ethical integrity and professional competence (p. 13). The principles of police action against domestic violence are prevention, protection of persons, prevention of the commission of offences and assistance to victims; the police thus act as a bridge between society and the law (p. 25).

186. The main characteristics of domestic violence against women and of its victims are summarized (pp. 11-18); this is very important because it enables police officers to identify or recognize profiles of victims and perpetrators, the facts about them, and the different phases or stages of the cycle of violence.

187. The guide focuses particularly on the victim and her rights, describing her vulnerabilities and fears at the time of making her complaint, such as fear of reprisals, her particular situation, the complexity of the problem of domestic violence, the victim's need for understanding and protection, and situations in which she may have been thrown out of the home or coerced to withdraw her complaint (pp. 18-24).

188. At the stage of receiving complaints, particular emphasis is placed on the need for the police to support and listen to the victim and make sure she is fully equipped to weigh up her problems and make decisions. The victim must feel that she will be listened to by the police and must know that she will be protected (p. 44).

189. The police must, *inter alia*, abide by all decisions of the courts (p. 31). They must be familiar with the law in force, conduct appropriate telephone and verbal communication with the judge (pp. 35 and 36) without prejudice to the appropriate written report (p. 36), and maintain their knowledge of court orders (p. 37).

190. In addition, the police must monitor the precautionary measures imposed by the courts, establishing a database (p. 39) and sending regular monitoring reports to the judge (p. 40); in this regard, contact must be maintained (pp. 40 and 41).

191. In November 2010, the second edition of the guide to police procedure in legal proceedings relating to domestic violence was introduced. It was prepared on the basis of evaluation and contributions from a working group set up for that purpose and from the heads of specialized domestic violence units throughout the country. To date, 1,800 copies of the guide have been distributed throughout the country.

192. Executive Decree No. 317/010 of 26 October 2010 regulates the police procedure to be followed with regard to domestic violence.

193. The Decree is intended to regulate the main aspects of police (administrative) procedure relating to domestic violence under Act No. 18315, the Code of Police Procedure, in terms of the protection of victims, witnesses and persons in general.

194. Decree No. 317 presents the guidelines in the 2008 guide to procedure as rules for all categories of domestic violence victims.

195. Articles 3, 4 and 13 of Decree No. 317/010 remind law enforcement staff that, when dealing with those involved in a domestic violence incident, they must be "diligent, polite and respectful, without any kind of discrimination". Police action should not only focus on repressive measures; it also fulfils an important role in terms of assistance, protection and social welfare. This is for the purpose not only of prevention and support but also of protection. Those involved are not passive subjects and objects but subjects of law.

196. These articles take into account the special situation of indirect victims (children) and witnesses, in particular relatives by marriage or those who live as a *de facto* family

unit, for whom speaking out or making a complaint causes stress and carries with it fear of reprisals.

197. The victim should be advised to attend a health centre (art. 9) especially for physical and psychological injuries, without prejudice to the court's decision. Physical and visual contact between the victim and the suspected perpetrator should be avoided (art. 10), which is also stated in article 18 of the Domestic Violence Act.

198. Article 13 of the aforementioned Decree refers to the possibility of the victim's withdrawing the complaint. The police must interview the parties separately in order to determine objectively whether the decision has been made freely or was instigated by the suspected perpetrator, and in order to inform the victim of the community resources available, her rights, and the fact that she can always come back to the police. The complainant must feel that the authorities will be attentive and available to give appropriate assistance whenever necessary.

199. The victim may also be given a telephone number for contacting the police authorities for this purpose (art. 16 of Decree No. 317/010).

200. It is recommended that the police carry out a risk assessment (art. 11 of the aforementioned Decree), bearing in mind not only the particular incident that gave rise to the complaint but also the background, for example, separation attempts, previous complaints, the chronicity of the problem, suicide attempts, use of alcohol, drugs or psychoactive substances by the victim or the perpetrator, the presence of firearms, and past or current precautionary measures, if any. This is very important because it will alert both the police and the officiating judge to the nature and actual or potential gravity of the situation and will enable the judge to impose measures under articles 8 to 15 of the Domestic Violence Act.

201. Articles 17 to 20 of Decree No. 317/010 recommend follow-up of precautionary measures imposed by the courts in each case. It is not sufficient for the courts to impose such measures; their effectiveness depends on subsequent regular follow-up. The courts need not expressly order such follow-up, nor do the police require the courts or the law to order it. It is part of their prevention and monitoring function, and even strengthens the court order. In fact, it may, where warranted, serve to modify or reinforce certain precautionary measures (Domestic Violence Act, arts. 13 and 14, and General Procedural Code, arts. 313 and 314).

202. As already mentioned, Decree No. 317/010 provides for specialized domestic violence units within police headquarters in all departments, not only in Montevideo, and requires their staff to have a particular profile and special training (arts. 21 to 28). However, articles 28 to 31 of the Decree refer to proper up-to-date training on domestic violence for all law enforcement staff, not only those in the specialized domestic violence units. These units, the predecessors of which were the women's and family police stations, are responsible for handling and responding to complaints filed; this is their specific task and they are expected to provide an efficient and effective response.

203. The consensus document adopted by the Interparty Committee on Public Security, signed in 2010 by all the political parties, was a very important step towards fulfilment of the commitments entered into by Uruguay, since it is intended to improve institutional responses to domestic and gender-based violence and child abuse. Paragraph 3.21.1 of the document refers to the need to raise the status of the specialized units dealing with domestic and gender-based violence, ill-treatment and child abuse in each police headquarters by providing them with appropriate equipment and staff with specific training and skills in this area.

204. The technical capacity-building of the specialized domestic violence units is part of the ongoing process of specialization. One of the current objectives is to ensure that the units achieve a proper level of specialization; to that end they need to be accorded a distinct status in the organizational structure of departmental police headquarters, and salaries or working hours that reflect their value and status.

205. Owing to the variety of existing organizational arrangements, the scarce logistical and material resources allocated to the specialized domestic violence units and the lack of training of the staff concerned, Act No. 17819 (2010), the National Budget Act, includes programme standards (art. 235) which will be in force throughout the current Administration's term.

206. An important step has been taken with regard to budget information systems: Resolution No. 10280/10 of 31 August 2010 establishes that the funds allocated to the specialized domestic violence units, both for human resources and for operating and infrastructure costs, must be tagged by departmental police headquarters in the information systems. However, precise and comprehensive information has not been available to date.

207. In 2010 expenditure on domestic violence was tagged, and departmental police headquarters set up operational expenditure units to assess the share of the police budget allocated to dealing with domestic violence; that task has not yet been completed. According to a nationwide survey carried out in early 2011, expenditure under section 0 (staff costs) was Ur\$ 68,600,852 (approximately US\$ 3,266,707). This figure does not include infrastructure or operating costs or an estimate of the work carried out in these areas by police station staff.

208. It is necessary to incorporate into this figure the budget allocated to the domestic violence unit attached to the National Police Health Directorate, which currently has six professional staff (psychologists and social workers). It has not been possible to estimate other costs associated, for example, with the organization of national events: International Women's Day on 8 March, the International Day for the Elimination of Violence against Women on 25 November, and meetings of the heads of the specialized domestic violence units, which entail expenditure on transport, food and travelling expenses for the officials involved.

209. Articles 14 and 15 of the aforementioned Executive Decree refer to communication with the judicial authorities, which the articles recommend should be exhaustive and detailed.

210. With regard to administrative or other measures that facilitate women's access to justice and guarantee them due process, free legal services are provided through the Public Defence Service, which offers legal representation and general advice to victims.

211. In addition, regulations establishing protection measures for women have been adopted under the Domestic Violence Act and legislation relating to trafficking in persons. The measures adopted under the Domestic Violence Act are aimed at protecting the life, physical and emotional integrity, freedom and personal safety of the victim, providing financial assistance and ensuring the integrity of the family's property. Although the measures adopted are aimed at victims rather than their relatives or witnesses, in practice the courts extend them to relatives who may be at risk.

212. The Uruguayan judiciary rightly considers that "the judiciary is responsible for protecting the rights of victims in accordance with due process of law and also with respect for the rights of persons against whom complaints are made (arts. 2, 3, 9, 18 and 19 of Act No. 17514)" (for example, judgement No. 114/2007 of the Second Rota Family Court of Appeal; "The Uruguayan Judiciary", c. 15754).

213. The judiciary has no protocol for dealing with victims of domestic violence, but the courts are obliged to treat those involved in legal proceedings, including victims, with humanity and dignity, taking account of articles 18 and 19 of Act No. 17514, the Domestic Violence Act, which relate to prevention of secondary victimization and comprehensive protection of human dignity.

214. The Brasilia Regulations Regarding Access to Justice for Vulnerable People, disseminated in Uruguay under Order No. 7647 of the Supreme Court of Justice, aim to guarantee the conditions of effective access to justice for vulnerable people without discrimination; vulnerable people are defined as those who, for reasons of age, gender or physical or mental state, or owing to social, economic, ethnic and/or cultural circumstances, find it especially difficult to fully exercise their rights before the justice system (section 2, 1.3). In the case of violence within a couple, and particularly against women, the necessary measures to eradicate discrimination against women in access to justice for the protection of their legitimate rights and interests are to be promoted, and special attention is to be paid to cases of violence against women, through efficient mechanisms aimed at protecting women and their property, their access to trials and speedy and timely proceedings (section 2, 8.20).

215. With regard to cooperation, the exchange of information is important, whether between courts — chiefly the criminal and civil courts dealing with the same issue from different angles — or with courts that have previously dealt with the issue, if any, or with the magistrate's courts that have dealt with a case from the beginning, (arts. 4, 11, para. 3, and 21 of the Domestic Violence Act; see below). At the national level, the National Consultative Council for the Prevention of Domestic Violence (arts. 22 to 29 of the same Act) is responsible for providing relevant assistance and support to the work of the courts.

216. Prosecutors play a major role (art. 7) in domestic violence issues. It is therefore inevitable that they will act on their own initiative and interact with judges.

217. The Act encourages the training of experts and specialists in domestic violence in a spirit of interdisciplinary cooperation (arts. 15, para. 1, 16, 17 and 18, para. 3, of the Domestic Violence Act; art. 66, paras. 3-5, of the Code on Childhood and Adolescence, Act No. 17823), which will make an extremely valuable contribution to trials in domestic violence cases.

218. Although the Act does not refer explicitly to the need for cooperation between judges and technical assistants, it is also very important for judges and prosecutors to allow technical assistants to be present at and take part in hearings, and for judges to be able to act quickly and easily when reports or assessments are required.

219. The relations that judges and prosecutors have with other government sectors and officials dealing with domestic violence (such as the Institute for Children and Adolescents, the teaching staff of the National Public Education Administration and social workers dealing with public health issues or working in the national health system) and with the private sector (such as non-governmental or religious organizations and private clinics) make it possible to coordinate efforts and maximize their efficiency in preventing domestic violence.

220. Although aimed at the police authorities, Executive Decree No. 317/010 may in practice be adapted and used, *mutatis mutandis*, by the judicial authorities as a protocol and guide for dealing with victims and perpetrators of domestic violence.

**Complaints, investigations, prosecutions, convictions and sentencing relating to domestic violence**

221. In 2005, with the establishment of the National Observatory on Violence and Crime of the Ministry of the Interior, Uruguay started measuring the number of complaints of domestic violence filed per month at the national, departmental and sectoral levels.

222. In this way, the first national statistical data was obtained, which helped increase the visibility of the problem and contributed to the formulation of public policies in the various public bodies competent in this area.

223. Efforts are currently being made to identify mechanisms for better understanding of the problem and for improving the quality of information. In addition, the police management system is to be provided with new, more comprehensive indicators of the characteristics of the problem and the profiles of the persons involved.

224. On 25 November 2011, as in every year since 2006, the Statistics and Strategic Analysis Division provided annual data on domestic violence, incorporating national data on complaints of domestic violence, sexual offences and murders, which are set out in annex XVIII to this report.

225. The Information Systems Division is currently working on phase 2 of the police management system, which will provide a national platform for the management, systematization and interoperability of public security information services. As part of this process, a module on the characteristics of domestic violence has been designed and an approach to improving understanding of the problem has been established. This module will make available more accurate and detailed information on the characteristics of the problem (type, frequency and background), the social and family situation of victims and assessment of the risk of an incident.

226. The police force is not immune: some officers are themselves victims or perpetrators of domestic violence. Although there are no comprehensive statistics, the data obtained to date suggest that there is a significant institutional problem with its own particular characteristics.

227. During 2007, the National Police Health Directorate introduced the domestic violence and gender subprogramme under the top-level health-care programme. Within this framework, a team was launched to provide guidance and assess the situation of police officers who are perpetrators or victims of domestic violence. During 2010, the team was strengthened and now consists of three psychologists and three social workers.

228. Work is currently under way to establish a road map which will act as a protocol of institutional procedures for cases of domestic violence involving police officers.

**Implementation of the National Plan against Domestic Violence, establishment of shelters for victims of domestic violence, their location and capacity, and the services they provide**

229. The first National Plan against Domestic Violence covered the period from 2004 to 2010. In 2011 a public call was issued to civil society organizations to evaluate the Plan. The evaluation process was completed in June 2012.

230. In April 2012, civil society organizations were also invited to bid to provide technical assistance, support and advice to the National Consultative Council for the Prevention of Domestic Violence in the preparation of the second Plan; a selection process is under way to choose one of the proposals submitted.

231. In addition, in July 2011 a comprehensive programme to combat gender-based violence was established in Uruguay. The programme is currently being implemented by

the judiciary in conjunction with the Ministry of the Interior, the Ministry of Public Health and the Ministry of Social Development, funded by AECID and monitored by the Uruguayan Agency for International Cooperation.

232. With regard to the establishment of shelters, since 2007 the State, in conjunction with civil society organizations, has launched five permanent 24-hour centres for children and adolescents and the adults responsible for them, usually mothers, who are victims of domestic violence.

233. Also, the Punto de Partida (Starting Point) shelter, which has a specialized technical team helping clients to escape domestic violence and reintegrate into society and the workforce, has been in operation for 10 years. It has capacity for 10 women and their children.

234. Similarly, there are night shelters and day centres housing single mothers and mothers with children living on the streets, and centres for older women living on the streets; some of these women are victims of violence.

235. INMUJERES recently opened the first short-stay home for women victims of domestic violence from all over the country as part of the National Plan against Domestic Violence, under the component relating to crisis support and the provision of care, treatment and rehabilitation; it is proposing to establish alternative approaches to the care of victims of domestic violence. The home is located in the capital and is managed by a civil society organization with experience in this field and supervised by the technical team of the Department for Gender-Based Violence within INMUJERES.

236. The main purpose of the home is to provide, on request, accommodation, protection and guidance to women victims of domestic violence and their dependents for periods of 30 days. The home offers a safe and welcoming place where they can discover their potential, obtain information and advice and receive psychosocial and legal assistance which helps them become proactive in escaping their situation. It operates 365 days a year and has capacity for 30 people (up to 12 women with or without dependent children).

237. The home's specific objectives are to provide the women and their dependent children with accommodation, to ensure an adequate level of safety so that the women can exercise their rights as citizens, to provide support and guidance to enable them to deal with the crisis they are facing, to provide information and guidance on emergency procedures for obtaining better protection and defence (medical and legal assistance, escorts to police stations, etc.), to make arrangements with different public, private and civil society institutions for referrals, and to ensure flexible and effective coordination with other social resources so as to ensure continuous and comprehensive support.

238. The short-stay home is complemented by other resources offered by INMUJERES, such as support services for victims of domestic violence and a project for temporary housing alternatives for women escaping domestic violence.

239. This project is being implemented under an agreement signed by the Ministry of Housing, Land Management and the Environment (MVOTMA) and the Ministry of Social Development/INMUJERES.

240. Under this initiative, women escaping domestic violence are given rental guarantees and subsidies for two years. This is a nationwide project. The programme was launched in 2009 as a pilot in the capital and two other departments and was then extended throughout the country. When it was launched, the programme catered for 100 women; it has now been expanded to 200.

241. With regard to the rehabilitation of male perpetrators of violence, in 2008 INMUJERES issued an open call for the establishment of a specialized support service

aimed at male perpetrators in Montevideo, which was not taken up. For that reason, in 2009 and 2010 two courses were held with two international technicians, with a view to supporting the establishment of a rehabilitation programme for male perpetrators.

242. Notwithstanding the measures taken, the Government recognizes the importance of the issue and the challenges that remain, such as the persistent murders of women and the re-victimization of women when they make a complaint, and reiterates its commitment to combating the scourge of domestic violence.

243. Despite the efforts described above, there remains a need for more detailed data on discrimination and different types of violence, and analysis of the impact of the Domestic Violence Act.

244. In addition, it is essential to generate data that can be used to improve measures and policies and to guarantee the effective exercise of the human rights of women and children. Similarly, the specialized courts need to be provided with additional human and financial resources and to continue working to raise awareness of gender-based violence, especially among members of the police force and the judiciary.

#### **Reply to paragraph 11 of the list of issues**

245. In response to this problem, INMUJERES has been coordinating an inter-institutional committee on trafficking in women for commercial sexual exploitation. The committee's members come from public bodies, civil society organizations and the International Organization for Migration (IOM), and its main task is to devise an intervention and response strategy with regard to trafficking in women.

246. The bodies represented on the inter-institutional committee are the Ministry of Foreign Affairs, the Ministry of Education and Culture (Human Rights Department), the Public Prosecutor's Office, the Ministry of the Interior, the Ministry of Public Health, the judiciary and NGOs specializing in this issue.

247. INMUJERES has carried out activities at the local and national levels and also the regional level (Southern Common Market – MERCOSUR) with a view to helping devise an intervention and response strategy with regard to trafficking in women for commercial sexual exploitation.

248. During 2009, a survey of the institutional resources available for addressing the issue within the competent State bodies represented on the committee was conducted. A number of awareness-raising and training workshops on trafficking in women for commercial sexual exploitation from a gender and rights perspective were held in the Departments of Río Negro, Colonia, Soriano and Paysandú. Representatives of various government ministries, such as the Ministry of Education and Culture, the Ministry of Public Health, the Ministry of Labour and Social Security and the Ministry of Housing, Land Management and the Environment, took part in these events.

249. Members of civil society with expertise in detecting situations of trafficking in women for commercial sexual exploitation were also invited to attend these workshops.

250. During 2012, awareness-raising courses were held for diplomatic staff entering the Artigas Foreign Service Institute of the Ministry of Foreign Affairs. These officials will serve in Uruguay's consulates and embassies and are often approached by victims of trafficking. Work was also carried out with officials of the Office for Assistance to Compatriots within the same Ministry, with a view to approving a road map for the work of consulates and embassies in these cases, and a protocol for dealing with the problem in embassies and consular offices was established.



251. Two binational seminars on the institutional approach to assistance for victims of trafficking in persons were also held for the purpose of exchanging experience with State social and institutional stakeholders from Argentina and Uruguay, one in the city of Colonia and the other in the city of Montevideo.

252. A workshop was held with judges who sit in organized crime courts and public prosecution and defence staff. These specialized courts and public prosecution and defence services were established under Acts Nos. 18362 and 18390 (annex XIX to this report), both adopted in 2008.

253. In 2010, the Special Rapporteur on trafficking in persons, especially women and children, was invited to visit Uruguay and did so in September of that year, when she met with a broad spectrum of national stakeholders involved in the issue.

254. Also in 2010, at the local level, priority was given to work with the gender focal points of INMUJERES (the representatives of INMUJERES in different departments) and with government officials and members of civil society in departments adjacent to land borders or in which tourists congregate, since it is there that women are in the greatest danger of being “recruited”. Awareness-raising activities were carried out and a work process was launched with a view to considering and agreeing on a series of measures at the local level. Work was carried out in the Departments of Montevideo, Rivera, Rocha and Maldonado. Since 2009 a total of 150 public officials have been trained each year.

255. INMUJERES is also managing a national project on measures for developing public policy on the smuggling and trafficking of women, children and adolescents for commercial sexual exploitation. The partner institutions in the project are the Ministry of Foreign Affairs and the NGO Foro Juvenil (Youth Forum), while the NGOs Casa Abierta (Open House) and Enjambra are collaborating institutions. Funding is provided by the European Union.

256. The project’s specific objectives are: to draw attention to the situation of women, children and adolescents who are victims of trafficking for commercial sexual exploitation in Uruguay and the rest of the region; to strengthen institutional capacity for dealing with the problem of trafficking in Uruguay; and to provide comprehensive and qualified assistance to victims.

257. Various activities are being carried out as part of this project. In general terms, these are: training of stakeholders in Montevideo and throughout the country in the prevention and early detection of situations of trafficking in persons for commercial sexual exploitation and ways of dealing with them; the drafting of a protocol for inter-institutional cooperation on prevention, support and the restoration of rights; and the launch of two pilot support services for victims of international and domestic trafficking for commercial sexual exploitation, both with interdisciplinary teams, one aimed at adult women and the other at children and adolescents.

258. The situations dealt with by the pilot support service for women victims of trafficking for commercial sexual exploitation between August 2010 and April 2012 have the characteristics set out below.

259. The average age of the women involved was between 18 and 30, which means that trafficking in Uruguay shares the general characteristics of the phenomenon at the international and regional levels. The total number of women receiving support during the aforementioned period was 23; of these, 13 were aged between 18 and 30.

260. Four of the above cases were referred to the support service for children and adolescents because of their particular characteristics; in three cases, this was the age of the persons involved.

261. Each situation was evaluated through the analysis of indicators, and meetings were held to assess the relevance of the support provided by the service; where appropriate, relevant guidance was given or a referral was made. This happened in a total of five cases.
262. Of the total number of cases, 14 persons are currently receiving assistance, 10 of whom are victims of international trafficking and four of domestic trafficking. In general, the traditional destinations of victims of international trafficking are Spain, Italy and Argentina. The majority of women who are victims of domestic trafficking are taken to departments on the border.
263. Only two of these women are foreign, one a Colombian national and the other Brazilian. Of the Uruguayan women, nine originate from outside the capital, namely the Departments of Paysandú, Canelones, Treinta y Tres, Artigas and Maldonado, and four are from Montevideo.
264. With regard to the women's level of education, in general they have completed their primary education but not their secondary education.
265. Most of the women have dependent children, who are left in the care of a relative during the period of exploitation.
266. In addition, during 2010 a book entitled "Trafficking in women for commercial sexual exploitation in Uruguay: towards the development of public policy", a product of joint work by INMUJERES and IOM with the support of AECID, was published and distributed. A print run of 2,000 copies was made and distributed throughout the country. A leaflet entitled "If you're going travelling, make sure you can get back" was produced and distributed, with a print run of 5,000 copies. As part of the International Day Against Human Trafficking on 23 September, a press release was issued with a view to raising the public profile of the issue.
267. Each year, coordination meetings are held with the high-level authorities of the Ministry of the Interior and with judges and prosecutors from the specialized courts for organized crime.
268. During 2011, the inter-institutional committee on trafficking in women for commercial sexual exploitation held workshops for the purpose of drawing up a protocol for inter-institutional action.
269. Presentations, training and masterclasses were carried out with the pilot support services, with the participation in some cases of international experts on the provision of support to women, children and adolescents who are victims of trafficking for commercial sexual exploitation.
270. Awareness-raising and training events were held outside the capital for members of civil society and the focal points of inter-institutional committees in the Departments of Paysandú, Artigas, Rivera and Rocha, as set out below.
271. As part of the International Day Against Human Trafficking on 23 September, the documentary *Nina* was shown and a discussion on it was held. Posters specially made for the Day were distributed as part of the campaign entitled "You can be tricked into slavery".
272. An awareness-raising and training workshop was held for officials from the Ministry of Transport and Public Works on 8 March, International Women's Day, in accordance with the commitments entered into by the Ministry.
273. With regard to childhood, the National Committee for the Eradication of Commercial and Non-Commercial Sexual Exploitation of Children and Adolescents (CONAPESE), chaired by the Institute for Children and Adolescents, meets regularly.

274. The support service for children and adolescents dealt with a total of 14 cases involving victims aged between 12 and 19, of whom 12 were women and 2 were men. These cases occurred in the Departments of Colonia, Soriano, Paysandú, San José, Canelones and Montevideo; there were two cases of international trafficking to Brazil and Ecuador.

275. At the regional level, INMUJERES co-manages component 4 (prevention, awareness-raising and eradication of smuggling and trafficking in women for commercial sexual exploitation in the MERCOSUR countries) of the MERCOSUR institutional strengthening and gender mainstreaming project of the Special Meeting on Women (REM) funded by AECID. A workshop entitled “Trafficking in women within MERCOSUR: toward a regional agreement on support for women victims of trafficking” took place from 14 to 17 November 2011.

276. At the first MERCOSUR Meeting of Women Ministers and High-level Authorities on Women (formerly the Special Meeting on Women) held in Buenos Aires from 28 May to 1 June 2012, it was decided to expand the protocol on trafficking in women for sexual exploitation currently in progress to the phenomenon of trafficking in women in general. It was also decided to continue working towards the swift adoption of a guide on supporting women victims of trafficking.

277. In May 2012 the Centre for Judicial Studies organized a course on trafficking in persons for all the country’s judges. The Supreme Court of Justice also has two representatives on the National Committee for the Eradication of Commercial and Non-Commercial Sexual Exploitation of Children and Adolescents.

#### **Reply to paragraph 12 of the list of issues**

278. Under the National Strategy for Childhood and Adolescence (ENIA), commercial sexual exploitation was identified as a particular problem area to be addressed. The objective established is to draw up an action plan consisting of specific steps for the eradication of commercial sexual exploitation on the basis of a strengthened inter-institutional system.

279. One of the key measures identified in order to achieve this objective is a review of the results achieved under the first National Plan for the Eradication of Commercial Sexual Exploitation of Children and Adolescents, which was adopted and launched in 2007.

280. In that regard, a series of measures have been put in place in the areas of prevention, protection, support, restitution, monitoring and evaluation.

281. In the area of prevention of commercial sexual exploitation, measures are in place to generate expertise on the issue, to train human resources to deal with the problem and to strengthen coordination between the National Committee for the Eradication of Commercial and Non-Commercial Sexual Exploitation of Children and Adolescents, the System for the Protection of Children and Adolescents against Violence (SIPIAV), the National Committee for the Elimination of Child Labour (CETI) and bodies dealing with domestic violence.

282. In the area of protection, further adjustments are to be made to regulations, and mechanisms and measures for the effective suppression of networks operating in this area are to be strengthened.

283. Support measures are focused, *inter alia*, on the approval of a code of ethics for the media involving a rights-based approach to childhood and adolescence.

284. Lastly, in the area of restitution, the question of a support service for victims will be addressed; it will provide physical and mental health care and support for integration into education, society and the labour market.

285. In terms of inter-institutional coordination for dealing with cases of sexual exploitation, the Institute for Children and Adolescents is taking joint measures with the Complex Offences Department of the Ministry of the Interior and with the specialized courts for organized crime that have competence in cases of sexual exploitation and trafficking in persons. This has led to more swift and comprehensive responses and progressive development of the approach to these situations.

286. With regard to the implementation of regulations, there are two important milestones to point out. First, as a result of the implementation of Act No. 17815 (annex XX to this report), which deals with issues relating to sexual exploitation, the number of individuals prosecuted for this type of offence has increased. Second, the adoption of the new Migration Act, No. 18250 (see annex XXI), which deals with trafficking offences, represents a very important step towards control of these situations. The Act specifically addresses smuggling and trafficking in persons (arts. 77 to 79) and especially aggravating circumstances in cases involving those under 18 years old (art. 81).

287. These measures are complemented by the activities of SIPIAV pursuant to recommendations in respect of physical ill-treatment and sexual abuse and/or exploitation.

288. In Uruguay, the Code on Childhood and Adolescence (Act No. 17823) and the Domestic Violence Act (Act No. 17514) define the situations in which a child and/or an adolescent is considered to be ill-treated or sexually abused and also establishes that those who receive complaints of such cases must report them immediately to the competent judge.

289. As these problems involve public health, education, security and systems for the protection of children and adolescents in general, it is vital to coordinate the strategies of the stakeholders and institutions involved, adopting a systemic approach in order to ensure that children and adolescents enjoy the full exercise of their rights.

290. In this way, SIPIAV seeks to coordinate existing policies and programmes addressing violence against children and adolescents and the measures carried out by the Institute for Children and Adolescents itself, and also the National Public Education Administration, the Ministry of Public Health, the Ministry of the Interior and the Ministry of Social Development. Civil society organizations specializing in providing support for child and adolescent victims of violence, abuse or sexual exploitation, in conjunction with the Institute, also participate actively in this work.

291. The measures taken by SIPIAV are based on: (a) a comprehensive and interdisciplinary approach coordinating the different sectors and organizations involved in the issue: health, education, local government, the police and the judiciary. The work is coordinated by the Institute for Children and Adolescents, in its capacity as the body overseeing national policies on childhood and adolescence; (b) intervention aimed at the child and at least one responsible adult who can fulfil a protective role throughout the process; (c) work at the local and community levels. Families in situations of domestic violence, or abuse or exploitation in general, do not make use of the services available, and community-level work is required to make them aware of those services and how to access them; and (d) the establishment by each sector of its particular approach and responsibilities in dealing with the issue (support and prevention). This requires work and cooperation within each sector, with ongoing review of the specific services provided to deal with the problem and appropriate coordination of those services.

292. With regard to the protection of school-age children, a road map for identifying possible cases of violence against children in the school environment has been drawn up at the request of the Council for Primary Education under the auspices of SIPIAV. At the same time, a protocol for intervention in cases of violence has been adopted, and agreement has been reached on a road map for prevention and support in cases of ill-treatment and sexual abuse of children in the health sector. Lastly, in the field of education, a protocol for secondary education on domestic violence involving adolescents has been adopted.

293. The judiciary and the various units of the Institute for Children and Adolescents were the main referring organizations, accounting for 19.9 per cent and 18.4 per cent of cases respectively.

294. They are followed by educational institutions, at around 14 per cent. On the other hand, 12.2 per cent of cases are identified through “direct reporting” or through a relative or neighbour, a figure which has been increasing steadily.

295. In the cases dealt with by SIPIAV, 81.3 per cent involved emotional violence, 42.5 per cent physical violence and 37 per cent sexual violence. As a result of the action taken, all the situations involving commercial sexual exploitation, 89.5 per cent of those involving sexual violence, 63.3 per cent of those involving physical violence and 15.7 per cent of those involving emotional violence were suspended or stopped.

296. In addition to the support model, the implementation of the system covers two other main areas of action:

- (a) Education and awareness-raising, including training for institutional stakeholders and strengthening of local networking between institutions;
- (b) Review of relevant regulations at the national and international levels.

297. With regard to judicial officials, the Supreme Court of Justice in late 2007 requested the Centre for Judicial Studies to organize a course on the subject of sexual abuse of children and adolescents. To that end, during February 2008 a strategy for approaching the issue was devised and the course contents were determined. Work was done to implement an intensive training initiative aimed at those involved in all aspects of the prevention and support system relating to the sexual abuse of children and adolescents.

298. While the teaching team was carrying out the training, interdisciplinary workshops on sexual abuse of children and adolescents were held.

299. In that regard, and in the context of an increase in complaints of child sexual abuse during the first half of 2008, the Bicameral Women’s Caucus, the Supreme Court of Justice and the Public Prosecutor’s Office agreed on the need to discuss and exchange views both on theoretical approaches and on procedures and tools for dealing with what they consider to be one of the most serious violations of the rights of children and adolescents.

300. To that end, and with the support of UNICEF, a decision was made to organize interdisciplinary workshops on sexual abuse of children and adolescents in the second half of 2008, with a view to promoting academic exchanges between those working in the justice system (judges, prosecutors, defence counsel and experts) and officials from the support services (the Institute for Children and Adolescents, the Ministry of the Interior, the Ministry of Health and specialized social organizations).

301. As a result of the workshops, the Committee on Child and Adolescent Sexual Abuse was set up to provide a forum for academic discussion and exchange of experience between judges and members of civil society. The Committee has been meeting once a month since 2008 to discuss the problem with a view to proposing specific solutions both in the area of criminal procedure and in other relevant areas. The Committee worked on a protocol for

dealing with victims of abuse with a view to avoiding duplication of expertise and statements that could lead to re-victimization.

302. A research group has also been set up within the Committee, made up of criminal and family court judges, technical staff of NGOs and representatives of UNICEF. The first topic considered by the research group was how victims' cases are processed by the relevant institutions.

303. In this inter-institutional context, a working agreement was signed on 30 March 2009 between Uruguay's Centre for Judicial Studies and UNICEF. The project began on 1 April and lasted six months, with a survey on the subject of child and adolescent sexual abuse in the criminal courts, the family and specialized family courts and the juvenile courts in Montevideo.

304. Once the UNICEF research was completed, the results were submitted to the Centre for Judicial Studies on 15 September 2010.

305. With a view to launching measures to prevent the re-victimization of victims of abuse, bearing in mind the data resulting from the research and the Committee's discussions, a meeting was held with psychologists from the judiciary in Montevideo and the rest of the country, in the form of a workshop.

306. The Institute for Children and Adolescents is implementing specific support programmes for street children and adolescents, including those in extreme circumstances. These programmes are aimed at reducing the harm to which street children and adolescents in extreme circumstances are exposed by restoring and/or enabling the exercise of their rights.

307. The Street Programme reached 516 children and adolescents, while the Extreme Street Programme supported 60 highly vulnerable children and adolescents. The network of services also involves 20 direct support projects and a mobile immediate intervention unit. The coverage of the Extreme Street Programme is being expanded with two projects co-managed with civil society organizations that form the support network for street children and adolescents in extreme circumstances, providing support to more than 820 children and adolescents.

308. In addition, various agreements have been put in place to provide comprehensive assistance to street children and adolescents, under which support has been provided in the areas of health, housing, literacy and food.

309. Furthermore, in conjunction with a number of organizations and the Ministry of Tourism and Sport, various recreational and sporting activities aimed at the social integration of street children have been established.

310. The number of people living on the streets is steadily falling, which is probably also correlated with the improvement in the country's economic indicators.

### **Article 3**

#### **Reply to paragraph 13 of the list of issues**

311. As a State party to all the United Nations conventions relating to the rights of refugees, Uruguay has implemented policies and laws that offer refugees full respect and protection.

312. When Acts Nos. 18076 and 18832 were adopted, full account was taken of the standards and principles of those conventions that prohibit the expulsion and return

(*refoulement*) of refugees where their life or freedom would be threatened on account of their race, religion, nationality, membership of a particular social group or political opinion.

313. Under article 10 of Act No. 18076, Uruguay is obliged, when dealing with asylum requests, to respect certain principles: non-discrimination, a prohibition on turning people back at the border and on direct or indirect *refoulement* to a country where the person's life, physical, moral or intellectual integrity, freedom or safety are threatened, non-penalization of illegal entry into the country, the most favourable interpretation and treatment, and confidentiality.

314. Article 13 of Act No. 18076 in particular states that all public authorities shall refrain from returning, expelling or extraditing asylum seekers or refugees or imposing on them any other measure that involves returning them to the frontiers of a country where their life, physical, moral or intellectual integrity, freedom or safety are threatened.

315. Although there are currently no regulations under the Asylum Act, the principle of *non-refoulement* is respected and, to date, no refugee or asylum seeker has been expelled from the country or returned to his or her country of origin or prior residence.

#### **Reply to paragraph 14 of the list of issues**

316. Uruguay considers that ongoing training of its officials is extremely valuable for strengthening the technical capacities of the national mechanisms for determining refugee and stateless person status, as it enhances expertise and the implementation of international law in this area.

317. Some examples of training courses held in 2012 are set out below.

318. In July 2012, a training course was held at the regional office of the United Nations High Commissioner for Refugees (UNHCR) in Buenos Aires for national officials with technical responsibility for the implementation of procedures for determining refugee status.

319. As part of this training, the treatment to be afforded asylum seekers at the country's borders was discussed in detail, with analysis of principles such as non-discrimination, *non-refoulement* and the prohibition on turning people back at the border.

320. Representatives of Uruguay's Refugee Commission (CORE) also took part in a regional workshop on statelessness held in Quito, Ecuador, in August 2012.

321. In addition, State officials attended the tenth Latin American Regional Course on International Refugee Law, which took place in Peru in September 2012.

322. In 2004 — that is, before the adoption of Act No. 18076 on the right of refugees to asylum, which established the Refugee Commission — training courses were held in the border Departments of Salto, Artigas and Paysandú for State officials serving in border areas.

#### **Reply to paragraph 15 of the list of issues**

323. With regard to the number of asylum requests registered and approved (subpara. (a)), a table is set out below containing the required information from 2003 — the year in which Uruguay first recognized refugee status — to the present, disaggregated by nationality, age and outcome.

## Asylum requests from 2003 to 27 August 2012\*

Nationality	Number			Age range			Accepted	Rejected	Closed for other reasons**	Pending
	Total	Men	Women	0-17	18-59	Over 60				
Argentina	9	8	1		8	1		5	2	2
Bolivia	1	1			1		1			
Brazil	4	3	1		3	1		3		1
Burundi	1	1			1			1		
Cameroon	7	6	1		7		4	2	1	
Chile	1	1			1				1	
China	7	7			7					7
Colombia	109	64	45	18	86	5	41	15	22	31
Dem. Rep. Congo	4	4			4		3			1
Côte d'Ivoire	2	2			2		2			
Cuba	11	9	2	1	10			3	1	7
El Salvador	4	4			4					4
Ghana	1	1			1		1			
Iraq	1	1			1		1			
Jamaica	1	1			1				1	
Liberia	1	1			1		1			
Mexico	1	1			1			1		
Nigeria	20	20		1	19		10	9		1
Peru	5	3	2		5		3		2	
Central African Republic	1	1			1					1
Russian Federation	2	2			2		1	1		
Sri Lanka	1	1			1				1	
Uganda	1	1			1				1	
Venezuela	2	2			2				2	
Zimbabwe	1	1			1		1			
Kazakhstan	2	1	1		2					2
<b>Total</b>	<b>200</b>	<b>147</b>	<b>53</b>	<b>20</b>	<b>173</b>	<b>7</b>	<b>69</b>	<b>40</b>	<b>34</b>	<b>57</b>

\* 2003 is taken as the start date because that is the year in which Uruguay began granting asylum.

\*\* Cases closed for other reasons include those in which the person withdraws or abandons the request and/or leaves the country.

324. With regard to the number of asylum requests granted on the grounds that the applicant had been tortured or might be tortured if returned to his or her country of origin (para. 15 (b)), those grounds for requesting asylum are not checked or recorded, according to data provided by the Ecumenical Service for Human Dignity of Uruguay (SEDHU), an NGO that acts as an implementing agency in Uruguay for the Office of the United Nations High Commissioner for Refugees.



325. However, there are two refugees, one from Ghana and the other from Nigeria, whose asylum requests were based on their fear of tribal court judgements, which in both cases entailed sentences of death by public lynching and stoning.

326. With regard to the number of forced deportations (para. 15 (c)), data from the Ecumenical Service for Human Dignity show that no asylum seekers have been deported.

327. Uruguay does not carry out administrative deportations.

328. Between 2009 and 2012, 18 individuals were deported in accordance with a court ruling. In a further seven cases, a final judgement on deportation is pending.

329. In all these cases, the individuals were deported to their countries of origin: Brazil, Argentina, Chile, Peru, Spain, Romania, the Dominican Republic, Colombia, the Netherlands, Portugal, Switzerland and Ecuador.

#### **Reply to paragraph 16 of the list of issues**

330. Uruguay attaches particular importance to the principle of non-return (*non-refoulement*), which has been incorporated into domestic law through international and regional instruments that place an obligation on the State not to expel, return, hand over or extradite any person to another State where there are substantial grounds for believing that he or she would be in danger of being tortured.

331. Uruguay has incorporated into its law the provisions of the American Convention on Human Rights, to which it acceded pursuant to Act No. 15737, and whose article 22, paragraph 8, provides that in no case may an alien be deported or returned to a country, regardless of whether or not it is his or her country of origin, if in that country his or her right to life or personal freedom is in danger of being violated because of his or her race, nationality, religion, social status, or political opinions.

332. Uruguay is also a party to the International Covenant on Civil and Political Rights, article 13 of which states that an alien lawfully in the territory of a State Party may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his or her case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority.

#### **Articles 5, 6, 7 and 8**

##### **Reply to paragraph 17 of the list of issues**

333. Article 2 of Act No. 18026 provides that Uruguay has the right and the duty to try acts classified as offences under international law, especially crimes recognized in the Rome Statute of the International Criminal Court, which was ratified by Uruguay pursuant to Act No. 17510 of 27 June 2002. It is precisely under Act No. 18026 that Uruguay has incorporated the crime of torture into its domestic legal order.

334. Chapter 2 of the Act establishes the offence of torture and classifies it as a crime against humanity, despite the fact that it is an isolated act like political murder and enforced disappearance of persons.

335. In accordance with the commitments entered into under the Convention against Torture, Uruguay's territorial jurisdiction is established where crimes are committed in any territory under its jurisdiction or on board an aircraft or ship registered in Uruguay,

including areas or countries where Uruguayan military contingents are carrying out peacekeeping operations and ships and aircraft flying the national flag.

336. Article 4, paragraph 1, of Act No. 18026 criminalizes the following acts: (a) crimes and offences that are committed or whose result occurs in the territory of Uruguay or in areas under its jurisdiction; (b) crimes and offences committed in a foreign country by Uruguayan nationals, whether or not they are public, civilian or military officials, provided that the accused person has not been acquitted or convicted in the foreign country and, in the latter case, has not served his or her sentence.

337. Article 4, paragraph 2, also states that, where a person suspected of having committed a crime under Act No. 18026 is present in the territory of Uruguay or in a place subject to its jurisdiction, the State is obliged to take the necessary steps to exercise its jurisdiction in respect of the crime or offence if it has not received a request for surrender to the International Criminal Court or an extradition request, and must prosecute the crime or offence as if it had been committed in Uruguayan territory, irrespective of where it was committed and the nationality of the suspect or the victims. The suspicion referred to in the first part of this paragraph must be based on reasonable grounds.

338. With regard to the general principles applied to this type of offence, article 3 of Act No. 18026, which relates to principles of criminal law, provides that the crimes and offences referred to in the Act are subject to the general principles of criminal law set out in domestic law and in the treaties and conventions to which Uruguay is a party, in particular, where appropriate, the provisions of the Rome Statute of the International Criminal Court and the special provisions of the Act.

339. Furthermore, beyond the provisions of that particular Act, chapter II of the national Criminal Code sets out general principles for the application of criminal law in Uruguay (arts. 9 and 10).

340. Article 9 of the Criminal Code provides that offences committed in Uruguayan territory shall be punished under Uruguayan law, whether the perpetrators are Uruguayan nationals or foreigners, without prejudice to the exceptions provided for under domestic public law or international law. Where a person is convicted in a foreign country of an offence committed in Uruguayan territory, any penalty served in whole or in part shall be taken into account when the new penalty is imposed.

341. Article 10 of the Uruguayan Criminal Code states that Uruguayan law does not apply to offences committed by Uruguayan nationals or foreigners in foreign territory, with the following exceptions:

- (a) Offences against State security;
- (b) The offences of forgery of the State seal or use of a forged State seal;
- (c) The offences of forgery of the currency that is legal tender in Uruguay or of national public debt instruments;
- (d) Offences committed by officials while serving the country that involve abuse of power or breach of their official duties;
- (e) Offences committed by a Uruguayan national that are punishable both under the law of the relevant foreign country and under domestic law, where the perpetrator has been in Uruguayan territory and has not been sought by the authorities of the country in which the offence was committed; in this case, the most favourable law applies;
- (f) Offences committed by a foreign national against a Uruguayan national or against the State, subject to the provisions of the foregoing subparagraph and provided that the circumstances set out in it apply;

(g) All other offences subject to Uruguayan law in accordance with special provisions of domestic law or of international agreements.

**Reply to paragraph 18 of the list of issues**

342. The Uruguayan legal system establishes that, where a person who is alleged to have committed a crime of torture is present in the territory of Uruguay, the State may take that person into custody or take other legal measures to ensure his or her presence.

343. Custody and other measures are implemented in accordance with articles 5 and 11 of Act No. 18026. Article 5 of the Act provides that, where there are reasonable grounds to believe that a person has committed a crime under the Act, and that person is present in the territory of Uruguay or in a place subject to its jurisdiction, the case shall be referred to the competent court, which shall, if the circumstances so warrant and duly informing the Public Prosecutor's Office, remand the person in custody.

344. Immediate notification shall also be sent to the State in whose territory the person is suspected of having committed the crimes or offences, the nearest State of which he or she is a national or, if the person is stateless, the State in which he or she usually resides. Communications shall be effected by the Executive through diplomatic channels and shall contain information concerning the procedure established under the Act.

345. Within 24 hours of arrest, the court shall hear the person in custody in the presence of the Public Prosecutor's Office, at which hearing:

(a) The person shall be called upon to appoint a defence counsel of his or her choice and shall be informed that the duty defence counsel will otherwise be appointed;

(b) An interpreter shall be appointed and shall provide any translations required for the defence;

(c) The person shall be informed that there are grounds to believe that he or she has committed a crime or offence under the Act and that he or she will be presumed innocent until proven guilty;

(d) A statement shall be taken from the person in the presence of the defence counsel.

346. The Act also provides that the person in custody shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he or she is a national, or, if he or she is a stateless person, with the representative of the State in which he or she usually resides.

347. If, within 20 days of the date of notification of the States, no extradition request has been received, the accused shall be released within the following 10 calendar days or, where warranted, criminal proceedings shall be instituted.

348. Lastly, article 11 of Act No. 18026 expressly excludes special jurisdictions, stating that the crimes and offences set out in the Act may not be considered to have been committed in the exercise of military duties, shall not be considered military offences and may not be tried in a military court.

**Reply to paragraph 19 of the list of issues**

349. Article 3 of Act No. 18026 provides that the crimes and offences referred to in the Act are subject to the general principles of criminal law set out in domestic law and in the treaties and conventions to which Uruguay is a party, in particular, where appropriate, the provisions of the Rome Statute of the International Criminal Court.

350. With regard to extradition, article 4 of the Act criminalizes the following acts: (a) crimes and offences that are committed or whose result occurs in the territory of Uruguay or in areas under its jurisdiction; (b) crimes and offences committed in a foreign country by Uruguayan nationals, whether or not they are public, civilian or military officials, provided that the accused person has not been acquitted or convicted in the foreign country and, in the latter case, has not served his or her sentence.

351. In addition, article 4, paragraph 2, of the Act states that, where a person suspected of having committed a crime under the Act is present in the territory of Uruguay or in a place subject to its jurisdiction, the State is obliged to take the necessary steps to exercise its jurisdiction in respect of the crime or offence if it has not received a request for surrender to the International Criminal Court or an extradition request, and must prosecute the crime or offence as if it had been committed in Uruguayan territory, irrespective of where it was committed and the nationality of the suspect or the victims.

352. Article 4, paragraph 3, also states that, when the situation set out in the foregoing paragraph occurs, if the crime or offence is not subject to the jurisdiction of the International Criminal Court, article 5 of Act No. 18026 applies (that is, the case shall be referred to the competent court, which shall, if the circumstances so warrant and duly informing the Public Prosecutor's Office, remand the person in custody; immediate notification shall be sent to the State in whose territory the person is suspected of having committed the crimes or offences, the nearest State of which he or she is a national or, if the person is stateless, the State in which he or she usually resides. Communications shall be effected by the Executive through diplomatic channels and shall contain information concerning the procedure established under the Act).

## **Article 10**

### **Reply to paragraph 20 of the list of issues**

353. A multisectoral committee for the study and redesign of the basic information manual for detainees and a committee for the design of a prison management manual have been set up to review and update documents, practices and manuals from a human rights perspective.

354. In addition, the Centre for Judicial Studies provides regular training courses for candidates for judge positions.

355. The staff who teach the modules on an introduction to the judiciary, judicial psychology and human rights provide a clear gender perspective in the various subjects they address; the same approach is taken by the teachers who coordinate the subject of family rights, both in initial training and in ongoing training for serving judges.

### **Reply to paragraph 21 of the list of issues**

356. In December 2009, two NGOs raised concerns about the fact that adolescents deprived of their liberty pursuant to judgements that order their detention as a precautionary measure remain in detention after the maximum time envisaged for such measures has expired, where the term of detention expires during the judicial recess or a holiday period.

357. Given these circumstances, the Supreme Court of Justice issued Resolution No. 120/2009 on 21 December 2009, which urged the Third Rota Adolescents' Court of First Instance to take appropriate measures to ensure that those adolescents on whom a precautionary measure involving house arrest or provisional detention has been imposed do not remain in detention after expiry of the maximum period of 60 days set out in article 76,

paragraph 5 (5), of the Code on Childhood and Adolescence, unless a final judgement has been handed down.

358. The Supreme Court stated in the Resolution that, without prejudice to the independence of the national judiciary, the Code on Childhood and Adolescence should be interpreted in a manner consistent with the Convention on the Rights of the Child since, as stated on many occasions by the Court, article 72 of the Constitution provides for recognition of all the rights and guarantees set out in international conventions and covenants (including, of course, the guarantee set out at the end of article 37 (b) of the Convention on the Rights of the Child), which constitute essential core values to be borne in mind by the courts when they interpret the law and apply it to the circumstances of the case (see Bidart Campos, *Casos de Derechos Humanos* (Human Rights Cases), p. 87).

359. The operative part of the aforementioned Resolution also orders that the Resolution be made known to all judges competent to hear first-instance proceedings concerning criminal offences committed by adolescents.

#### **Reply to paragraph 22 of the list of issues**

360. Uruguay is now giving priority to the provision of training courses for new prison officers that incorporate a human rights perspective.

361. Police officers serving in prisons throughout the country are provided with courses on basic human rights standards and the international and inter-American systems of promotion and protection of human rights, in conjunction with the Faculty of Law of the University of the Republic.

362. With regard to policies on childhood and adolescence, in 2007 the Institute for Children and Adolescents published a protocol for intervention in cases of violence against children and adolescents.

363. In April 2008, the guide to police procedure in legal proceedings relating to domestic violence against women was produced jointly by the Ministry of the Interior and INMUJERES.

364. The key aspects of the guide have been explained in previous replies.

#### **Reply to paragraph 23 of the list of issues**

365. The curriculum of the General José Artigas National Police Academy of the Ministry of the Interior covers the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment.

366. The inter-American and international human rights systems are included in the subject of human rights.

367. The teachers assigned to give instruction on the Police Procedures Act and criminal law instruct and train their students on the proper treatment of persons arrested and/or deprived of their liberty, the use of force, and cessation of the use of force once the offender has been subdued.

368. Under the subject of police practice and procedure, with regard to arrests, particular emphasis is placed on the non-use of excessive force, the non-use of lethal weapons where not strictly necessary, and the prohibition of humiliating treatment, which may harm the offender's dignity.

369. Within the National Rehabilitation Institute, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment is included in training

courses for prison officers, supervisors, directors of detention facilities, L grade staff, level III officers, trainers and other prison staff.

370. Training has focused on strengthening non-custodial measures.

371. In 2011, a total of 275 training courses were conducted under the auspices of the Ibero-American Child Development Fund on accreditation for probation, juvenile criminal mediation and community service.

372. More recently, a course was organized by Diego Portales University in Chile, with UNICEF support, on non-custodial models and socioeducational practices for adolescents who have violated criminal law. The course was attended by officers from all over the country involved in projects with juveniles in the community, both under the official programme and under agreements with civil society organizations.

#### **Reply to paragraph 24 of the list of issues**

373. Uruguay recognizes the importance of training medical staff to deal more effectively with possible cases of torture that may arise in the prison system or other detention facilities and to provide appropriate medical care in such cases.

374. Uruguay also considers it particularly important for medical personnel working in the prison system, like all other prison system staff, to be obliged to observe the 1955 Standard Minimum Rules for the Treatment of Prisoners, which require that all prisoners, without discrimination, should have access to medical services, including psychiatric services, and that a medical officer should daily see all sick prisoners or those who request treatment.

375. For that reason, the Department of Forensic Medicine of the Faculty of Medicine of the University of the Republic is planning to implement the first course on medical care in prisons in 2013, with special emphasis on the human rights dimension. This new programme will cover the medical and legal aspects of acts of torture and cruel, inhuman or degrading treatment or punishment, and study of the diseases present in prisons.

376. In addition, under the 2009 study plan for careers in medicine, a course in forensic pathology will be offered as an option from 2013, which will place particular emphasis on the *Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, which is valued as the primary set of rules for documenting torture and its impact.

377. Furthermore, regular medical career courses equip future professionals with general knowledge for the initial identification of possible acts of torture.

#### **Reply to paragraph 25 of the list of issues**

378. Under the National Plan against Domestic Violence 2004-2010, INMUJERES carried out training activities, which were attended by judicial officials.

379. Between September 2006 and June 2007, a training programme was held pursuant to the Domestic Violence Act for judicial officials, who accounted for 50 per cent of the participants, and officials dealing with domestic violence, mostly from the public sector but also, to a lesser extent, from the private sector, who accounted for the other 50 per cent.

380. For the purpose of national implementation of the Plan, the country was divided into five regions, with a view to streamlining resources and at the same time respecting as far as possible the local situation in different areas.

381. A total of 505 people took part in the training programme. It was supported by the International Bank for Reconstruction and Development (IBRD) of the World Bank, through a project to strengthen the judiciary for equitable development.

382. In addition, in November and December 2010, a basic course and an advanced course on gender-based violence (domestic violence and workplace sexual harassment) took place, both open to participants from all over the country.

383. Within the judiciary, a large number of judges, defence counsel and technical staff took part in a pilot training programme on domestic violence in 2006 and 2007, which, of course, incorporated a gender perspective.

384. Furthermore, prior to the establishment of new family courts specializing in domestic violence, comprehensive training was provided for judges, defence counsel, court clerks, technical staff and officials.

385. The Centre for Judicial Studies, at the request of psychologists from the Forensic Medical Institute (ITF) and with the approval of the Supreme Court of Justice, also implemented a course for forensic experts, specifically taking a cross-cutting and gender-based approach to the situation of persons whose rights have been violated.

386. In November 2010, the Judges' Association of Uruguay organized a multidisciplinary workshop on domestic violence and the family.

387. In May 2012, the Centre for Judicial Studies put in place a three-module course: the first module concerns the theoretical framework relating to child sexual abuse and child witnesses; the second relates to children's and adolescents' accounts of events; and the third relates to children and adolescents in judicial proceedings.

388. With regard to the initial training course for candidates for judge positions, which is held regularly, the staff who teach the modules on an introduction to the judiciary, judicial psychology and human rights provide a clear gender perspective in the various subjects they address; the same approach is taken by the teachers who coordinate the subject of family rights.

389. The Ministry of the Interior has three levels of training. The first level consists of training academies for junior staff, who account for 80 per cent of law enforcement staff. In the metropolitan area, which currently consists of Montevideo and San José, training is the responsibility of the Junior Staff Training Centre, while in the other 17 departments each police headquarters has its own departmental academy. Training at this level lasts approximately six months and is provided to officials who have passed the competition for entry into the police.

390. The second level is the Cadets' Academy, which is responsible for training police officers; the training lasts three years and is residential. Graduates may then pursue a degree in security affairs, which lasts two years.

391. The third level is the Promotion Academy, responsible for training executive staff who have graduated from the Cadets' Academy, junior administrative staff and professional technical staff.

## **Article 11**

### **Reply to paragraph 26 of the list of issues**

392. With regard to the situation of female detainees, the problem of overcrowding in the metropolitan area, where most of the prison population is situated, has been resolved

through the closure of Cabildo prison and the opening of the National Rehabilitation Centre, which currently has spare places.

393. In fact, one of the first measures taken was the closure of a section of the Correctional and Detention Facility for Women, which was managed until 1989 by the Congregación del Buen Pastor (Cabildo).

394. Following the closure of the section, the women held in the facility had to be rehoused, and, in accordance with classification criteria, 100 women were moved to the National Rehabilitation Centre, which in future will house all female detainees from the capital and the surrounding departments, with a view to ensuring dignified conditions and providing proper social reintegration programmes.

395. Cabildo also had a section for female detainees who had children living with them; work on the El Molino facility was therefore speeded up so that it could be opened, and all the children were transferred there with their mothers.

396. This facility was designed with the situation of children in mind. It currently houses 30 women and 30 children, who receive paediatric, psychological and psychomotor care and are housed in spacious, light rooms with private bathrooms, recreation facilities, infrastructure that minimizes the negative impact of imprisonment and a diet prescribed by a nutrition specialist. The facility is situated in a district of the capital with good public transport and access to nearby health centres. The children attend the Pájaros Pintados day care centre, by agreement with the Institute for Children and Adolescents.

397. With a view to finding a permanent solution to the situation of female detainees in the capital, the first group was moved from the Correctional and Detention Facility for Women in Cabildo and relocated permanently at the National Rehabilitation Centre on 25 July 2011. On 12 September 2011, the last of the 170 women detained at Cabildo — those from the high-security sections — were moved, and the facility was closed permanently as a detention centre for women. The National Rehabilitation Centre currently houses a total of 378 women.

398. As part of ongoing prison reform, the closure of the Cabildo facility reaffirms the current Administration's focus on eliminating overcrowding and establishing dignified conditions of detention, in line with current national and international human rights standards.

399. The classification phase which is currently under way in the new women's accommodation is also helping to improve rehabilitation programmes, which bodes well for improved results in tertiary crime prevention, or prevention of reoffending, as a fundamental responsibility of the prison system.

400. In the Department of Canelones, the situation of female detainees living with their children was also serious, and they were therefore immediately rehoused, subject to their consent, at the El Molino facility and the rural facility in Campanero in the Department of Lavalleja. In addition, overcrowding has been reduced by transferring 70 women to the National Rehabilitation Centre, which has alleviated the situation in the departmental prison, even if the problem of overcrowding has not been entirely resolved.

401. In the Department of Maldonado, the places vacated by detainees who were rehoused in the recently opened new module are being reused to accommodate female detainees in better conditions than those in which they currently live.

402. In the Department of Rocha, the relocation of female detainees in facilities adapted for living with children (site in Callejuela Ascención, between 25 August and Rincón streets) means that they have separate quarters, as in the old prison, but with more dignified conditions of detention.



403. The situation of male detainees with regard to overcrowding and conditions of detention has changed significantly in the past 22 months, but there are still problems to be resolved in four modules at the COMCAR facility and at Canelones departmental prison.

404. In June 2011, a new module (module 8) was fitted out at COMCAR, with capacity for 250 inmates, and one of the modules with the worst problems of overcrowding and dilapidation was closed. The relocation of 250 inmates (the maximum capacity without any spare places) to a module that meets the minimum accommodation standards has not only relieved them of the deteriorating conditions they had been living in, but has also facilitated the process of classifying all the inmates at the facility.

405. The plan to improve the conditions of detention at COMCAR, one of the facilities most affected by dilapidation, is beginning with the closure and subsequent refurbishment of one of its modules (module 3) so that, once it is completed, inmates already classified can be transferred there and all the other modules in the complex can gradually be closed for refurbishment and reopening.

406. On 28 December 2011 module 9, which is in an adapted building previously used for the police unit, was opened. The adaptation work was done by inmates. The extra 220 places helped with the relocation of selected persons classified for a minimum security regime while also alleviating overcrowding in other sections, which is another step in the right direction.

407. In addition, the Punta Rieles facility has opened; it is projected to have a maximum capacity of 750 inmates in the future and currently has 336 places occupied (inmates transferred from COMCAR and Libertad prison). It is contributing to reform of the system through observance of minimum human rights standards and provides a medium-security prison intended only for persons who have been convicted; requests to classify inmates are thus gradually being fulfilled.

408. At Libertad prison in the Department of San José, a new module has been built with capacity for 310 inmates and is now occupied, allowing classification and relocation of inmates to begin, as at COMCAR. These 310 places have helped alleviate the problem of overcrowding and improve conditions of detention, which now comply with minimum standards. Currently the facility is not only free of overcrowding but actually has spare places.

409. The total number of places at detention facility No. 2 (Granja) had also increased to 110 by the end of July 2011. The facility, considered a minimum-security facility, currently houses 98 detainees.

410. Similar progress has been made in the Department of Maldonado, where a module with capacity for 256 inmates has been opened, thus reducing overcrowding and improving living conditions, and a process of classification and relocation of the inmates has been launched. By order of the Minister of the Interior, work has resumed on the construction of another section with the same number of places, which, once completed, will provide a permanent solution to the problem of overcrowding in the Department and alleviate the situation at Canelones departmental prison.

411. In the Department of Rivera, a new prison facility has been opened with 422 places, which has made it possible to move all the male detainees previously held in deplorable conditions in facilities belonging to the police headquarters. In this way, the Ministry of the Interior is progressing with the plan for the gradual withdrawal of prisons from the police administration, as already mentioned, and is removing prisons from premises belonging to departmental police headquarters. Although only half of the available places are currently occupied, the ongoing recruitment of new civilian prison staff will make it possible gradually to fill the spare places.

412. Since this new detention facility is located in the north of the country, near the border with Brazil, and has places available, it will soon be possible to close the other two facilities in the Departments of Artigas and Tacuarembó as part of the project for regionalization of the prison system.

413. In the Department of Lavalleja, the gradual clearing of the prison within the police headquarters is recognized as an example of good practice, which, like the case in the Department of Rivera, reflects the Government's firm intention to progress swiftly with the permanent withdrawal of the prison system from the purview of the police administration.

414. The Campanero facility, still under construction by a workforce of relocated inmates, is serving as a model for the future configuration of the system of farm prisons in other departments. The presence of an intramural section and an extramural section contributes to the development of a progressive system.

415. In the Department of Rocha, the Minister of the Interior has decided on permanent closure, planned for this year, and is accelerating the expansion work at the farm prison located in the Department.

416. One of the first projects under the Public-Private Association Act adopted by Parliament in 2011 is to be the construction of a prison complex with 1,800 places — Punta Rieles II — where the State will be in charge of security and overall treatment and the private sector will take responsibility for construction, general maintenance, food, and training and employment places for detainees.

417. In short, even though the national prison occupancy level is not such as to conclude that the efforts made in the past few years to eliminate prison overcrowding have been completely successful, more than 10 of the 31 facilities in Uruguay (not including farm prisons, which exist in every department and which have 10-20 inmates, with appropriate infrastructure to accommodate them) have an occupancy rate of 80 per cent, including the Libertad facility, which is one of the largest in the system. Eight facilities have an acceptable occupancy level of 100 to 115 per cent, and only 11 facilities still have critical overcrowding, with an occupancy level of 120 per cent or more. This latter group presents the greatest challenge for the current Administration, and work is ongoing in that regard.

#### **Reply to paragraph 27 of the list of issues**

418. With regard to the medical care provided to detainees, the health-care system in detention facilities has been improved by professionals and nurses under the State Health Services Administration of the Ministry of Public Health.

419. The State Health Services Administration, having previously taken over responsibility for health-care provision at COMCAR, is now also responsible for El Molino, the National Rehabilitation Centre and the Punta Rieles facility and is becoming established at the Libertad facility under the gradual plan for full nationwide coverage.

420. Since 2008, when an agreement was signed under which the Ministry of Public Health would assume responsibility for detainees' health care, the gradual transfer process has been stepped up with the support and cooperation of both the State Health Services Administration and the Prison Medical Service.

421. The remaining facilities in the metropolitan area are the responsibility of the Prison Medical Service, while those outside the capital are attended by doctors attached to departmental police headquarters in coordination with public hospitals.

422. Nurses have been provided with the basic information needed for primary health care, and the number of technical staff allocated for the treatment of detainees has been increased.

423. Under a cooperation project with the European Union launched in November 2011, Uruguay plans to adapt existing infrastructure with a view to establishing a prison referral hospital that can provide surgery and other treatment in areas exclusively set aside for detainees. The facility will have areas for the care of persons with severe psychiatric illnesses.

424. In addition, under a project financed by the Global Fund to Fight AIDS, Tuberculosis and Malaria entitled “Towards social inclusion and universal access to HIV/AIDS prevention and comprehensive care for the most vulnerable population groups in Uruguay”, an agreement was signed between the Ministry of the Interior and the Ministry of Public Health with a view to achieving the general objectives of the project.

425. These objectives are:

(a) To ensure that men who have sex with men and homosexuals have universal access to prevention, diagnosis and treatment not only of HIV/AIDS but also of other sexually transmitted infections;

(b) To strengthen these groups and their associations;

(c) To ensure full social inclusion of these groups and full exercise of their citizenship;

(d) To help consolidate a national registration system in this regard.

426. Furthermore, under Act No. 18426 on the protection of sexual and reproductive health rights (see annex XXII), the Ministry of Public Health began supplying condoms to detainees throughout the country in late 2011.

427. In November 2011 an agreement was signed with the National Drugs Council for the transfer of Ur\$ 4,472,600 (approximately US\$ 212,980) to fund refurbishment works in detention facilities and emergency rooms, and also the premises in which the information, consultancy and advice service is to be housed.

428. The situation with regard to the provision of food at Libertad prison, the National Rehabilitation Centre (women) and Maldonado has greatly improved through an emphasis on better management. COMCAR and Canelones departmental prison continue to present a challenge.

429. In those facilities where health services are provided by the State Health Services Administration, examinations of inmates are guaranteed at the time of arrest and transfer and before release. In this regard, particular attention has been paid to preventing ill-treatment of inmates when they are transferred between detention facilities.

430. Significant progress has been made in the provision of certain services to juveniles in detention facilities.

431. With regard to food, the Nutrition Department of the Institute for Children and Adolescents determines the quantity of supplies to be delivered to facilities on the basis of the number of people to be fed, both juvenile inmates and staff. Given the increase in the number of staff and juvenile inmates, it is estimated that the quantity of supplies will increase by 20 per cent a year, amounting to Ur\$ 8,000,000 (approximately US\$ 380,952).

432. With regard to drinking water supplies, access to water both for consumption and for other purposes has been uninterrupted, except for one-off incidents which have been resolved on the same day on which they occurred.

433. Sanitation services in the capital are provided by the Montevideo city council and in the rest of the country by the State Sanitary Works. In Montevideo the services have always been connected with the city’s sanitation networks. In Colonia Berro there are septic tanks

which comply with the regulations in force and are in good condition. In this area, sanitation services have been provided 24 hours a day for years by the Ministry of Transport and Public Works.

434. Medical services have been increased substantially, particularly in the areas of mental health and addiction treatment.

435. In addition to the competitive recruitment process for health-care staff currently under way, the care provided by psychiatric and addiction clinics has increased. The number of juveniles receiving care is set to increase by 50 per cent, with an annual cost increase of some Ur\$ 15 million (approximately US\$ 714,285).

#### **Reply to paragraph 28 of the list of issues**

436. The provision of new places and the commitment to manage the system in accordance with the principle of dignity and respect for the rights of detainees have made it possible to close permanently the section known as Las Latas and to relocate almost 600 inmates whose physical and mental health were at serious risk.

437. The steps taken in the second half of 2011 represented an important qualitative change for a facility that was traditionally managed exclusively on the basis of security criteria.

438. Levels of conflict have fallen significantly since the start of an uninterrupted phase of improvements in conditions of detention. This can be ascribed to the opportunities provided for dialogue with the prison population, the agreement established for the implementation of the "Beehive Plan", or the plan for general cleaning of the central cell block, the replacement of all mattresses and blankets, the provision of toys for children in the visiting room, cleaning by the inmates, the election of representatives, the fitting-out of a new consulting room, the launch of a psychological and social study of the entire prison population and a survey of persons who do not receive visits.

439. With regard to modules 2-4 at COMCAR, the plan for improved conditions of detention at the facility began with the closure and subsequent refurbishment of module 3. Once that is completed, inmates already classified will be transferred there and all the other modules in the complex will gradually be closed for refurbishment and reopened, including those that were recommended for closure by the Special Rapporteur on the question of torture.

440. Resolution No. 1866/008 has been reviewed, as it predates the exponential increase in the population concerned.

441. The SER centre has not been closed; on the contrary, the State has invested in its refurbishment and the creation of extra places and is continuing work on fitting out the buildings. Substantial investment has been made, particularly in level 2 of SER, creating 26 new places.

442. While Uruguay recognizes the difficulties faced at Colonia Berro, for the moment the possibility of closure has not been assessed.

443. Firstly, this is because it has not been possible to find an appropriate site for the construction of a new facility with sufficient safeguards for juvenile inmates.

444. Secondly, Uruguay has no plans to build facilities with a high concentration of juveniles that might breach international standards of detention and care for juvenile detainees.

445. Thirdly, in its 13 centres Colonia Berro houses more than 320 juvenile detainees out of a total of 440. Its closure would mean that, within a short time, it would be necessary to address the needs of a large number of juveniles that are currently met by existing centres.

446. Fourthly, the number of juvenile detainees is increasing, the problem of escapes by juveniles has been largely contained, and other detention facilities are being refurbished, which means that juvenile detainees are being transferred to Colonia Berro.

#### **Reply to paragraph 29 of the list of issues**

447. Uruguay recognizes that it was tardy in incorporating the concept of equity, in terms of the rights of women and men, into its approach to current social issues.

448. This social reality is reflected in the prison system, since the number of women in detention facilities is small compared to the number of men.

449. Female detainees have been incorporated into the prison system without any account taken of their particular needs. There are shortcomings in their conditions of detention, building construction, programmes for rehabilitation, education, employment, recreation, health care and so on.

450. Despite this situation, Uruguay has made significant efforts to address the particular needs of the female prison population, as explained in this report in the reply to paragraph 26.

451. The problem of overcrowding at the women's prison in Montevideo was resolved with the closure of the Cabildo facility and the rehousing of the female inmates at the National Women's Rehabilitation Centre, which currently has spare capacity.

452. In April 2010 the El Molino facility in Montevideo was opened, with a capacity of 30 places. It accommodates mothers with children up to 4 years of age.

453. Also in 2010, a women's detention facility was opened in the Department of Lavalleja, in the Campanero area, 145 kilometres from the capital. It is a modern building located in a suburban area, where the women can engage in various activities.

454. In July 2012, the women's facility in the city of Canelones, 45 kilometres from the capital, was closed. It had an endemic problem of overcrowding; the last inmates were moved to the Montevideo facility.

455. A women's block is currently under construction in Salto and is scheduled to be fitted out by the end of 2012.

456. Information on the legal regime, in particular the possibility of house arrest in the last trimester of pregnancy and the first three months of breastfeeding, is provided by defence counsel.

457. With regard to the dissemination of information on Act No. 17897, training courses for prison service staff cover the content of the Act and meetings have been organized with the Public Defence Service for Criminal Enforcement and the Public Defence Service for Criminal Cases. No statistical survey of the number of cases in which the Act has been applied is currently available.

#### **Reply to paragraph 30 of the list of issues**

458. Although improvements are needed in this area, Uruguay has prioritized the review of interrogation instructions, methods and practices. In addition, law enforcement officers act with the utmost prudence in any situation that involves the use of physical means of coercion in respect of detainees.

459. The staff of detention facilities have been instructed to observe the principles of rationality, necessity and proportionality when using force in respect of detainees, in accordance with international instruments such as the Convention against Torture, the International Covenant on Civil and Political Rights, the American Convention on Human Rights and the United Nations Standard Minimum Rules for the Treatment of Prisoners, and the code of conduct for law enforcement officers.

460. Uruguay does not share the view set out in the question that Act No. 18315 of 5 July 2008 is too broad and grants excessive powers to police officers.

461. On the contrary, the legislature's intention was to adopt a modern legal instrument, consistent with international standards, which improved the existing law in this area.

462. In particular, section III of the Act, on solitary confinement, and section IV, on detainees in medical centres, specify police procedures in these situations, which has reduced the margin of discretion granted under previous legislation in this area.

463. This is an example of how the Act refers to specific situations so as to establish precise procedural requirements for the police.

#### **Reply to paragraph 31 of the list of issues**

464. Of the country's total prison population of 9,400, approximately 150 are of foreign origin, including from countries in the region that have an indigenous population.

465. There are currently no indigenous people among these foreigners, although they may have some kind of indigenous heritage, just as some Uruguayan prisoners do.

466. The principle of equality is applied when all these individuals are housed; that is, they share the same conditions of detention as the rest of the prison population.

467. The same applies to persons of African descent, who share accommodation in the various detention facilities with other detainees; no distinction is made on the basis of race or ethnicity with regard to accommodation.

468. The only criteria used for the classification and treatment of detainees are other, non-racial, factors such as the stage they have reached in the judicial process, the type of offence concerned and their conduct while in detention.

469. The percentage of the prison population that is of African descent is about 2-3 per cent, although there may be detainees who have an African ancestor.

470. A census of the national prison population was recently conducted, with specific questions on this issue. The data are being processed and will be available soon.

#### **Reply to paragraph 32 of the list of issues**

471. Uruguay has paid particular attention to procedures for the inspection of visitors, incorporating the technology needed to ensure that searches are carried out with respect for individuals' dignity.

472. Appropriate detection equipment has already been acquired by the Ministry of the Interior and staff are being trained to use it; it is due to be put into operation soon.

473. Initial priority is being given to the three main detention facilities — COMCAR, Libertad and Canelones — which between them house more than 60 per cent of the prison population.

474. In exceptional situations, where visitors have difficulty reaching the facilities where their family members are held because they live far away, the State ensures that supplies,

such as food and personal hygiene items, are delivered to their intended recipients, subject to a security search.

475. In order to prevent the theft or loss of any items sent, parcels are accompanied by a detailed list of contents signed by the relative and checked by the detainee in the presence of a staff member.

**Reply to paragraph 33 of the list of issues**

476. From 2005 to the present, pursuant to various budget laws, the State has improved and will continue to improve both the quantity and the quality of prison staff.

477. Pursuant to Act No. 18046 of 24 October 2006, 462 police posts were created in the National Directorate of Prisons, Penitentiaries and Rehabilitation Centres. All the posts had been provided for under the previous Administration (2005-2010).

478. Subsequently, under Act No. 18667, the Prison Emergency Act, of 15 July 2010, 1,500 civilian prison officer posts were to be created during the current Government's term.

479. Almost 50 per cent of these posts have already been created and the remainder will be in place soon.

480. With regard to training, both police staff and civilian staff received instruction before taking up their duties.

481. Uruguay has received assistance from the European Union and the Federal Prison Service of Argentina with regard to civilian prison officers.

482. With these measures, Uruguay has been able to improve the quantity and quality of prison staff.

483. With regard to the economic resources allocated to the prison system, under Act No. 18172 of 31 August 2007 and Act No. 18362 of 6 October 2008, additional sums of more than 5 million dollars were assigned to the prison system.

484. With these sums and the additional 15 million dollars subsequently allocated under Act No. 18667, the State created some 3,000 new places, which reduced the level of prison overcrowding.

485. These 3,000 places are in the Punta de Rieles facility (visited and recognized by the Secretary-General of the United Nations on his official visit to Uruguay in 2011), the Libertad facility, the Santiago Vázquez complex, and Maldonado, Rivera, San José and Lavalleja prisons.

486. In September 2012, the State also began construction work for another 1,000 places in the Santiago Vázquez complex and is planning to create another 2,000 places in Punta de Rieles.

487. With regard to staff remuneration, from 2005 to the present, budget resources have been allocated to increase the salaries of police and civilian officers at different grades. Civilian prison officers have been recruited at a pay level that can be considered equivalent to what they could earn, with their level of training, in the private sector or in other areas of public service.

488. The salaries of civilian officers vary between 1,000 and 1,500 dollars a month.

489. With regard to absenteeism, a problem which the State recognizes, steps have been taken to reduce its negative impact, for example by supporting and monitoring staff who show signs of emotional overload.

**Reply to paragraph 34 of the list of issues**

490. One of the expected results of the restructuring of the Implementation System for Measures for Juvenile Offenders (SEMEJI) through the Adolescent Criminal Responsibility System is the establishment of an Education Department which will meet the educational needs of all juveniles who are subject to the Adolescent Criminal Responsibility System with a view to providing them with basic knowledge and appropriate training to enable them to enter a labour market that is constantly being transformed by science and technology.

491. The Education Department is being set up in response to the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), which stipulate that juvenile detainees should be given training that assists them to assume constructive and productive roles in society. It also takes into account the outcome of the fifth International Conference on Adult Education organized by UNESCO in 1997, which recognized the right to learn of all prison inmates.

492. Act No. 18771 establishes the budget for the Adolescent Criminal Responsibility System, which is separate from the budget of the Institute for Children and Adolescents. The legislation allocates funds to the System to cover infrastructure needs, including, *inter alia*, construction, upgrading and refurbishment of property, communications, external and internal electronic monitoring and vehicles.

493. With regard to drug rehabilitation programmes in juvenile detention facilities, there is a clear will to involve those juveniles who have a drug problem when they enter detention.

494. These children and adolescents come from extremely deprived socioeconomic backgrounds, from households that are living below the poverty line, without family or educational support, and have suffered some form of violence.

495. In this context, a pharmacological approach is used only in the first instance, for the purpose of detoxification and to ensure the juvenile's emotional stability.

496. In this first phase, rehabilitation programmes are implemented under agreements with NGOs (Dianova, Manantiales, Renacer) and psychiatric clinics (comprehensive psychological support). Under no circumstances does the pharmacological approach take the form of substitution therapy.

497. Through the competent bodies, Uruguay has substantially and continuously increased its health budget, in particular with regard to therapeutic treatments and rehabilitation programmes.

**Articles 12 and 13****Reply to paragraph 35 of the list of issues**

498. Numerous steps have been taken to bring to justice those who committed violations of human rights and fundamental freedoms during the dictatorship.

499. Pursuant to a Presidential Resolution of 31 August 2011, an interministerial commission was established, reporting directly to the Office of the President and made up of the Ministers of Education and Culture, Foreign Affairs, Defence and the Interior, and also the Executive Coordinator of the Secretariat for Follow-up of the Commission for Peace.

500. The interministerial commission is responsible, *inter alia*, for formulating policies for the elucidation of enforced disappearances and murders that took place in similar



circumstances during the period referred to in articles 1 and 2 of Act No. 18596 of 18 September 2009 on acknowledgement of the responsibility of the State and of the right of victims to full reparation (annex XXIII to this report).

501. The commission organized the public act of acknowledgement that took place on 24 March 2012 in accordance with the aforementioned Resolution. In addition, a plaque was laid bearing the names of the victims and of all the persons who were illegally detained at the National Centre for Higher Studies (CALEN, former defence information system).

502. The Presidential Resolution also strengthens the composition and responsibilities of the Secretariat for Follow-up of the Commission for Peace. The Secretariat is to consist of an executive coordinator appointed by the President, a representative of the Public Prosecutor's Office, a representative of civil society organizations with recognized experience in the protection and promotion of human rights, two representatives of the University of the Republic in the areas of history and forensic anthropology, and an administrative secretary.

503. Furthermore, its responsibilities include: (a) the receipt, analysis, classification and compilation of information on enforced disappearances during the period referred to in articles 1 and 2 of Act No. 18596 of 18 September 2009 and on persons assassinated in similar circumstances; (b) the creation of a unified database; and (c) the establishment of a genetic sample bank within the National Institute for Cell, Tissue and Organ Donation and Transplant of the Ministry of Public Health.

504. On 27 October 2011, Act No. 18831, entitled "Punitive claims of the State: re-establishment in respect of crimes committed in the context of State terrorism up to 1 March 1985", was promulgated (see annex XXIV). Article 1 of the Act re-establishes the State's full right to punitive action in respect of crimes committed in the context of State terrorism up to 1 March 1985 and covered by article 1 of Act No. 15848 of 22 December 1986.

505. Article 2 provides that no period of limitation or expiry shall apply to the period between 22 December 1986 and the entry into force of the Act in respect of offences covered by article 1 of the Act. Nonetheless, article 3 states that the offences covered by the previous articles are crimes against humanity in accordance with the international treaties to which Uruguay is a party.

506. Furthermore, on 30 June 2011, the Executive adopted Resolution No. 323/2011 revoking, on legitimacy grounds, administrative acts and communications issued by the Executive pursuant to article 3 of Act No. 15848 of 22 December 1986 that deemed alleged acts to be covered by article 1 of the Act, and instead stated that such acts were not covered by that article. A list of more than 80 cases known to the Executive was also published with basic details of each file, without prejudice to the possibility of other court cases.

507. In addition, the historical investigation was brought up to date and the results can be found on the website of the Office of the President ([www.presidencia.gub.uy](http://www.presidencia.gub.uy)); a team of archivists was established to put in order, catalogue, classify, digitize and systematize all the documentation held by the Secretariat for Follow-up of the Commission for Peace since its establishment in August 2000; and a team of anthropologists are continuing excavations to find the remains of the disappeared.

508. Since the judgement of the Inter-American Court of Human Rights in the case of *Gelman v. Uruguay*, which was the first time that the State of Uruguay had been condemned in the inter-American system, efforts to bring to justice those responsible for human rights violations during the military dictatorship have continued.

509. For example, in 2011, five retired soldiers were sentenced to imprisonment for the murder of María Claudia García de Gelman. The soldiers convicted were José Nino

Gavazzo, José Ricardo Arab, Gilberto Vázquez, Jorge Silveira Quesada and Ricardo José Medina, who were already in detention in connection with other cases.

510. The indictment, signifying the beginning of the trial, was for the crime of especially aggravated murder, with penalties of 15 to 30 years' imprisonment. The judge also requested that Brazil and Argentina should extradite the retired soldier Manuel Cordero, who is also serving a sentence in an Argentine prison. The measure taken by the Uruguayan criminal courts was the first step in the process of trying the oppressors for the deprivation of liberty and murder of María Claudia García Iruretagoyena.

511. In addition, as part of the same case, the remains of the teacher Julio Castro were found on 21 October 2011 in premises used by Infantry Parachute Battalion No. 14.

512. By a verbal order of 17 December 2008, the Supreme Court of Justice decided to request all judges with competence in criminal matters to inform it of proceedings instituted in their respective courts in respect of cases excluded from the purview of Act No. 15848 and to indicate the status of such proceedings.

513. The following information relates to the status of investigations, trials, judgements and sentences resulting from complaints:

(a) Murder of Nibia Sabalsagaray:

- In September 2004, relatives of the victim filed a complaint with the judiciary. At the time, the criminal court, pursuant to article 3 of Act No. 15848 on Expiry of the Punitive Claims of the State, requested the Executive's opinion as to whether the case was covered by article 1 of the Act. The Executive ruled that the military personnel and police officers involved were covered but authorized the investigation of civilians who might have been involved in the case;
- In 2008 the Public Prosecutor's Office invoked the exception of unconstitutionality against Act No. 15848, which was declared unconstitutional in October 2009 by the Supreme Court of Justice and consequently not applicable to the case in question. This was a very important step forward in combating impunity, since it was the first such ruling since the Act had entered into force in 1986 and modified all the prior jurisprudence of the Supreme Court from 1988 onwards;
- In November 2010 the criminal courts, in accordance with the application filed by the Public Prosecutor's Office, sentenced General Miguel Dalmao to imprisonment for the crime of especially aggravated murder, along with retired Colonel José Chialanza. Both soldiers were sentenced to imprisonment for a minimum of 15 years and a maximum of 30. There is no possibility of parole in either case;

(b) Deprivation of liberty and enforced disappearance of María Claudia García Iruretagoyena de Gelman, and abduction of a minor and deprivation of civil status in respect of her daughter:

- In June 2002 a criminal complaint was filed with a criminal court for the crimes of deprivation of liberty and murder of María Claudia García Iruretagoyena de Gelman and abduction of a minor and deprivation of civil status in respect of her daughter. The court declined jurisdiction, stating that the complaint should be filed with the relevant rota court;
- In December 2002 the complaint was filed with the Second Rota Criminal Court;

- In May 2003 the documents were formally handed over to the Public Prosecutor's Office, which ruled that the case should be closed as it was covered by Act No. 15848. The Executive at the time supported the position of the Public Prosecutor's Office and requested formal closure of the case;
  - In June 2005 an application to reopen the case on the grounds of emergence of new evidence was filed with the Second Rota Criminal Court. The court referred the proceedings to the Executive, chaired by Dr. Tabaré Vázquez, who ruled that the case was not covered by the Expiry Act, thus authorizing the continuation of the investigation;
  - In February 2008 Macarena Gelman appeared before the Second Rota Criminal Court and requested that the case should be reopened on the grounds that new evidence had come to light. The Public Prosecutor's Office accepted the arguments put forward and authorized the reopening of the case. In November 2008, it became known that human remains had been found in the city of Vichadero in the Department of Rivera, and there was speculation that the skull could be that of María Claudia. However, according to the two foreign laboratories that were consulted, the results of DNA tests were negative. Nonetheless, the relatives of María Claudia filed the case with the inter-American system, which for the first time condemned the State of Uruguay for human rights violations;
- (c) Deprivation of liberty, torture and murder of Gerardo Alter:
- In October 1986 Ms. Rosalía Alter, the sister of Gerardo Alter, filed a complaint regarding the detention and murder of her brother;
  - In 1988 the Executive argued that the events in question were still covered by article 1 of the Expiry Act and closed the pretrial proceedings;
  - In 2009 the complaint was filed again with the Fourth Rota Criminal Court. The Executive ruled that the case was not covered by the Expiry Act and in early 2010 evidentiary proceedings began, the witness and sole survivor of the kidnap and murder of Gerardo Alter having testified. A number of military personnel directly or indirectly linked with Alter's death, who were serving in the detention facility where the victim had been held and tortured, were summoned to testify;
- (d) Detention and murder of the teacher and journalist Julio Castro Pérez:
- In June 1985 the victim's son filed a complaint with the First Rota Criminal Court of First Instance seeking an investigation of the whereabouts of his father and the establishment of criminal responsibility for his disappearance. The criminal court at the time, in accordance with article 3 of the Expiry Act, requested a report from the Executive, which ruled that the case was covered by article 1 of the Act and closed it. In 1989 the Executive ordered an administrative investigation pursuant to article 4 of the Act, which lasted from 5 September to 13 November of that year and concluded that there was no evidence concerning Julio Castro in any State offices;
  - In December 2003, the victim's children filed a civil claim concerning State liability for omission, injury caused by detention, false communications from the Montevideo police headquarters, lies by officials and the State, and information provided by the members of the Commission for Peace. In April 2009, the courts ordered the Executive to pay 200,000 dollars for moral injury;

- In August 2010, the President of Uruguay, José Mujica, declared that the case of Julio Castro was not subject to the Expiry Act; the criminal case therefore continues;
  - On 21 October 2011, Julio Castro's remains were found in premises used by Infantry Parachute Battalion No. 14;
- (e) Murder of Luis Roberto Luzardo:
- In 2002 the victim's mother and widow filed a complaint with the First Rota Criminal Court;
  - In 2006 Luzardo's family filed a new criminal complaint against the civilian, military and police leaders of the civilian-military Government during the period from 16 August 1972 to 12 September 1973 and other persons responsible for the crimes of illegal arrest, illegal detention, grievous bodily harm, torture, failure to assist and murder;
  - In December 2009, after three months' consideration of the case, it was affirmed, on the basis of detainees' statements, reconstruction of the clinical history and forensic examination by military doctors, that Luis Roberto Luzardo had been deliberately denied medical care and that this had caused his death;
  - In August 2010, the trial judge declared the case closed and forwarded the file to the Public Prosecutor's Office for comment;
- (f) Enforced disappearance of Adalberto Soba:
- In April 2006, a criminal complaint was filed regarding the disappearance of Adalberto Soba, who was arrested in Buenos Aires in 1976;
  - On 11 September 2006, José Gavazzo, Jorge Silveira Quesada, Ernesto Ramas, Ricardo Medina, José Arab, Gilberto Vázquez, Luis Maurente and José Sande were sentenced to imprisonment. The indictment for the crime of deprivation of liberty was confirmed by the Second Rota Criminal Court of Appeal;
  - On 26 March 2009, the trial judge handed down two final judgements of first instance, convicting the eight defendants of 28 counts of especially aggravated murder;
  - These two judgements were the first convictions for acts of State terrorism;
- (g) Enforced disappearance of the teacher Elena Quinteros:
- In 2002 Juan Carlo Blancos was prosecuted for an offence of deprivation of liberty. Later the charge was changed to especially aggravated murder;
  - In 2004 the trial judge ordered a search for the victim in premises used by Infantry Battalion No. 13, adopting a precautionary measure of no action and making use of expert assistance in locating possible places of burial;
  - The prosecutor in the case filed a charge of enforced disappearance in August 2008 and requested a sentence of 20 years' imprisonment;
  - On 21 April 2010 a final judgement of first instance was handed down. The court convicted Juan Carlos Blanco as co-perpetrator of especially aggravated murder and sentenced him to 20 years' imprisonment;
- (h) Enforced disappearances of Gustavo Edison Inzaurrealde Melgar and Nelson Rodolfo Santana Scotto:

- In May 2007 a complaint was filed concerning the enforced disappearance of Gustavo Inzaurrealde and Nelson Santana, activists from the People's Victory Party. After the complaint was filed in Uruguay, one of the accused persons most directly involved in the case, the retired soldier Carlos Calcagno, was arrested at the request of the Paraguayan judiciary in the context of extradition proceedings in connection with the disappearance of the Paraguayan activist Federico Tatter. The prosecutor in the case requested the trial of Calcagno for the crime of enforced disappearance pursuant to article 21 of Act No. 18026;
  - On 21 September 2010, the trial judge, granting the prosecutor's request, sentenced him to imprisonment on two counts of enforced disappearance;
- (i) Kidnapping and disappearance of Anatole and Victoria Julien:
- A complaint was filed against civilian and military officials, leaders and subordinates connected with the case. It was filed in May 2008 with the Twentieth Rota Criminal Court of First Instance. Anatole and Victoria Julien were detained together with their parents in September 1976. The children were taken to Valparaíso, Chile, where they were abandoned and passed for adoption to a Chilean family not linked to the repression. In 2010 the pretrial proceedings were ongoing;
- (j) Case against the Death Squad:
- In 2009, Death Squad members Nelson Bardesio Marzoa, extradited from Argentina, and Pedro Walter Freitas Martínez, both former officials of the Ministry of the Interior, were tried for the enforced disappearance of Héctor Castagnetto Da Rosa. The former prosecutor in the case had requested the trial of Bardesio and Freitas and of other members of the Death Squad for criminal conspiracy (art. 150 of the Criminal Code) as perpetrators of a combination of principal and secondary offences of enforced disappearance (art. 21 of Act No. 18026) and as co-perpetrators of two counts of especially aggravated murder (art. 312, paras. 1 and 5, of the Criminal Code). The Eighth Rota Criminal Court tried the individuals in question for joint perpetration of murder (art. 312 of the Criminal Code), which carries a sentence of 15 to 30 years' imprisonment. The defendants were convicted only of the enforced disappearance of Héctor Castagnetto; the provisions of Act No. 18026 on cooperation with the International Criminal Court in combating genocide, war crimes and crimes against humanity were not applied as requested by the Public Prosecutor's Office;
- (k) Murder of Roberto Julio Gomensoro Josman:
- In August 2010 the Paso de los Toros court ordered the trial of two soldiers for the murder of Roberto Gomensoro. The soldiers — José Nino Gavazzo, who was already in prison for committing crimes against humanity, and Juan Carlos Gómez — were tried as secondary and principal party respectively to the crime of especially aggravated murder;
- (l) Enforced disappearance of Horacio Gels Bonilla:
- In May 2006 a formal complaint was filed with the Maldonado Second Rota Criminal Court against the civilian, military and police leaders of the civilian-military Government and other persons responsible for the illegal arrest, illegal detention, torture, and enforced disappearance of the victim;
- (m) Murder of Ubagesner Chávez Sosa:

- The City of Pando First Rota Criminal Court became involved at the time when the victim's remains were discovered. The case was transferred from Pando to Montevideo because a previous complaint had been filed by the victim's daughter and widow. It was combined with the case of the former President, Juan María Bordaberry, which made it difficult to advance the investigation because the case file constituted evidence in the principal case. A new, independent case was established and submitted for consideration to the Executive, which ruled that it was not subject to the Expiry Act. Charges of political murder and crimes against humanity were brought. In this case, the Public Prosecutor's Office requested the prosecution of three former soldiers. In a judgement handed down on 8 October 2010, the criminal court judge sentenced two soldiers to imprisonment for political murder: Araujo Umpiérrez was convicted as secondary party, since he had been in charge of the Intelligence Service and had had control over the political prisoners at the base, and Enrique Rivero as principal party, since he had participated directly in the torture that led to Chávez Sosa's death. Other military personnel were also summoned to appear as witnesses, including the former Commander-in-Chief of the Air Force, retired Lieutenant-General Pilot Enrique Bonelli, a number of officials and subordinates working at the Boiso Lanza air base at the time of the death, and new witnesses who were to appear in court in November 2010. In particular, alongside this case, an investigation is under way as to the fate of Arpino Vega;
- (n) Murder of Horacio Ramos:
- In 2006, the victim's daughter filed a complaint with the Third Rota Criminal Court concerning the then leaders, raising doubts as to whether her father's death had been suicide;
  - In December 2007, the Public Prosecutor's Office requested an autopsy, the conclusion of which was that the victim had not committed suicide. The investigation continued, and both witnesses and defendants were recalled; the victim's remains were also exhumed so as to carry out a proper autopsy to confirm the information arising from the proceedings;
- (o) Murder of Ramón Peré:
- In September 2008, the victim's widow and children filed a complaint with the Montevideo Third Rota Criminal Court of First Instance. The Executive ruled that the case was not covered by the Expiry Act;
- (p) Murder of Edgar Francisco Sosa Cabrera, "El Gato Sosa":
- The victim's daughter filed a complaint with the Sixth Rota Criminal Court against civilian, police and military leaders for illegal arrest, torture and murder. The Executive ruled that the case was not subject to the Expiry Act;
  - During 2010 the pretrial proceedings continued in private, and witnesses and defendants testified;
- (q) Complaint of enforced disappearances in Argentina in 1977 and smuggling of persons into Uruguay in 1978:
- The complaint was filed with the Nineteenth Rota Criminal Court of First Instance in May 2007. It concerned enforced disappearances of families of Uruguayans exiled to Argentina on political grounds, births in captivity, the abduction of babies and substitution of identity;

- Information was provided on five or six cases of human smuggling in 1978. Uruguayans kidnapped in Argentina were smuggled from Buenos Aires to Montevideo and are still missing to this day. In some cases they were Uruguayans who spoke out politically against the dictatorship and had links to or belonged to various groups such as the Revolutionary Communist Party, unified action groups, the National Liberation Movement and socialist groupings;
- In many cases, the individuals involved had no political affiliation. The complainants included children of the disappeared who were born in captivity and abducted by third parties, and who recovered their identities years later;
- A judicial investigation of the smuggling cases and the whereabouts and fate of the disappeared was requested with a view to establishing the criminal responsibility of the civilian and military officials in question, in particular that of the former dictator Gregorio Álvarez, who became Commander-in-Chief of the Army in February 1978;
- The Navy's role in coordinating the repression was a particular focus of complaint, as the first incidents of smuggling were carried out by launch, and Uruguayan naval forces were involved, in coordination with the Argentine dictatorship. It was also requested that excavations of possible burial sites, such as La Tablada and the Anti-Aircraft Artillery Brigade base, should be resumed. It was requested that charges of crimes against humanity, specifically enforced disappearance of persons, should be brought pursuant to Act No. 18026;
- More than 60 statements, some of which are particularly important as they relate to survivors of Pozo de Banfield and La Tablada, have been taken in connection with this complaint, along with statements from people who were smuggled and survived. Declassified documents have emerged from the United States Government and the files of the Ministry of Foreign Affairs proving the leadership's responsibility and showing that smuggling was common practice;
- If the alleged events were to be confirmed, it would change the official history as it has been known up to now and confirm that human smuggling took place between the two countries by air, sea and land. On 5 November 2006 the former dictator Gregorio Álvarez testified;
- In October 2009, Gregorio Álvarez was convicted of the enforced disappearances of 37 Uruguayan citizens in Argentina, including the victims whose relatives filed the complaint, which were classified as 37 counts of murder, deemed especially aggravated murders because they were repeated offences;
- In the same case, Juan Carlos Larcebau was convicted of 29 counts of murder, deemed especially aggravated murders because they were repeated offences. In the verdict, it was acknowledged that the victims of enforced disappearance had suffered a crime against humanity, but the judge took the view that the offences should be classified as especially aggravated murders under the Criminal Code;
- The 37 disappeared were: José Enrique Michelena Bastarrica, Graciela Susana de Gouveia Gallo, Daniel Pedro Alfaro Vázquez, Luis Fernando Martínez Santoro, Alberto Corchs Laviña, Elena Paulina Lerena Costa, Edmundo Sabino Dossetti Techeira, Ileana Sara María García Ramos,

Alfredo Fernando Bosco Muñoz, Julio César D'Elía Pallares, Yolanda Iris Casco Gelphi, Raúl Edgardo Borelli Cattaneo, Guillermo Manuel Sobrino Berardi, María Antonia Castro Huerga, José Mario Martínez Suárez, Gustavo Alejandro Goycochea Camacho, Graciela Noemí Basualdo Nogueira, Gustavo Raúl Arce Vierra, Raúl Gambaro Núñez, Atalivas Castillo Lima, Miguel Ángel Río Casas, Eduardo Gallo Castro, Aída Celia Sanz Fernández, Elsa Haydée Fernández Lanzani, María Asunción Artigas Nilo, Alfredo Moyano Santander, Juvelino Andrés Carneiro da Fontoura Gularte, Carolina Barrientos Sagastibelza, Carlos Federico Cabezudo Pérez, Célida Elida Gómez Rosano, Ary Héctor Severo Barreto, Beatriz Alicia Anglet de León, Jorge Hugo Martínez Horminoguez, María Beatriz Severo Barreto, Carlos Baldomero Severo Barreto, Claudio Ernesto Logares Mogares Manfrini and Mónica Sofía Grispón Pavón de Logares;

- Apart from the last seven names on the list, these are Juan Carlos Larcebau's victims;
  - In 2010 the Criminal Court of Appeal confirmed the indictments of Gregorio Álvarez and Juan Carlos Larcebau for crimes of especially aggravated murder, thus confirming their criminal responsibility;
- (r) Enforced disappearance of Omar Cubas Simones:
- The complainants were the victim's siblings and niece. Confirmation of the disappearance was received, during questioning, by one of the siblings, Mirtha Cubas, who identified Colonel Ernesto Ramas and Lieutenant José Luis Parisi in court as the torturers. All the complainants and some witnesses have now testified. Evidence is being gathered from the site of the victim's disappearance. The case has been referred to the Executive for a ruling on whether or not it is subject to the Expiry Act;
- (s) The Orletti case in Uruguay, or "Second Flight": enforced disappearance, torture, abduction of minors, human smuggling:
- A complaint was filed regarding the enforced disappearance and smuggling in October 1976 of some 20 Uruguayan members of the People's Victory Party and the Tupamaros National Liberation Movement, who were held illegally in Argentina and smuggled by the law enforcement agencies, acting under Operation Condor, on an illegal flight known as the Second Flight;
  - They were smuggled to Uruguay, where it is presumed that they were executed after being tortured and that their bodies were disposed of, remaining buried in Uruguay (this information comes from documents passed on to the relatives by the Commission for Peace). The complaint was filed by relatives of the victims;
  - The case was heard by the Nineteenth Rota Criminal Court. It was known as the mega-case, Second Flight or the Orletti case in Uruguay. The competent authorities took statements from all the witnesses who came forward and assessed the evidence submitted by the complainants. A number of military personnel directly involved in the Office for Coordination of Anti-subversive Operations, the Air Force and the National Army, among others, also appeared and testified as defendants. In 2009, eight military personnel were convicted;
- (t) Murder of Bonifacio Olveira Rosano:



- This case was among the 19 covered by the unconstitutionality ruling of 1 November 2010 handed down by the Supreme Court of Justice. The ruling reiterated the Court's view that the Expiry Act violated the principle of separation of powers and infringed the right of victims and their families to access the justice system in order to identify and punish those responsible for events that took place during the military dictatorship;
- (u) Murder of Hugo Leonardo de los Santos Mendoza:
- In 2006 a criminal complaint was filed with the aim of reopening a complaint dating from 1973. The complaint concerned the political murder of the victim as a crime against humanity and accused the military and civilian leaders of the period. The case had originally been filed with the Third Rota Criminal Court, which had decided to close the case against the military personnel on the grounds that the Expiry Act applied to them, but not the case against the civilian personnel concerned. The case is currently before the Seventh Rota Criminal Court, which is hearing the case against Juan María Bordaberry (1-608/2003), considered to be directly related to the murder of de los Santos;
- (v) Murder of Hugo Walter Arteche:
- In 2009 the victim's sister filed a criminal complaint concerning the political murder of Hugo Walter Arteche, committed in Uruguay by State agents in 1973. The case is being heard by the Seventh Rota Criminal Court;
  - On 1 November 2010, the Supreme Court of Justice ruled on the case through the advance ruling mechanism, reiterating the arguments put forward in the case of Nibia Sabalsagaray. The ruling reiterated the Court's view that the Expiry Act violated the principle of separation of powers and infringed the right of victims and their families to access the justice system in order to identify and punish those responsible for events that took place during the military dictatorship;
- (w) Murder of Nelson Santiago Rodríguez Muela:
- In 2009 the victim's aunt filed a criminal complaint accompanied by documentation retrieved from State files and declassified, bibliographic material from eminent historians, journalistic reports and testimony;
  - The court was requested to summon former President Sanguinetti and the judge who had heard the case at the time, who had convicted the defendants of an offence of private violence and sentenced them to two months' deprivation of liberty; they were even released early for good behaviour. A complaint was also filed against recognized members of the organization Juventud Uruguaya de Pie (Uruguayan Youth, Stand Up) (JUP). The case was heard by the Eighth Rota Criminal Court;
- (x) Murder of Nuble Donato Yic:
- In 2007 one of the victim's daughters filed a complaint against the military, civilian and police leaders of the period. The Executive ruled that the case was not subject to the Expiry Act. During 2009, relatives, friends and surviving colleagues of Nuble Yic and doctors involved in the events testified. The Public Prosecutor decided to close the case on the grounds that the leaders in question had died and the other individuals involved were covered by the Expiry Act. One month later, an application was made to reopen the case, with a request that the middle-ranking military leaders and

Juan María Bordaberry, a surviving civilian leader, should appear and testify. The application was rejected and the case was closed permanently;

- In 2010, at the complainant's request, the case of Nuble Yic was combined with another one concerning the responsibility of the civilian leader Bordaberry; it was included in the "Human Rights Organizations" case, with a plea of unconstitutionality;
- In November 2010, a new judgement was handed down by the highest organ of the judiciary in the aforementioned case through the advance ruling mechanism, reiterating the arguments put forward in the case of Nibia Sabalsagaray. The new ruling reiterated the Court's view that the Expiry Act violated the principle of separation of powers and infringed the right of victims and their families to access the justice system in order to identify and punish those responsible for events that took place during the military dictatorship;

(y) Murders of Óscar Fernández Mendieta and Iván Morales:

- In 2009 the journalist and investigator Roger Rodríguez reported in *La República* newspaper on the death by torture of the young man Óscar Fernández Mendieta in 1972 and the death in similar circumstances of Iván Morales. Both died as a result of brutal torture; one of them was literally cooked from inside by having an electric cattle prod inserted in his anus, according to the testimony given by the journalist in court. The complaint attributed responsibility to three military personnel;
- In September of that year Roger Rodríguez testified in court, where he gave details of the facts, including a letter signed by the oppressor and torturer Manuel Cordero which refers to the death by torture of one of the victims. Bibliographic material and documentation retrieved from State files and declassified were also submitted. The complaints are currently at the stage of pretrial proceedings before the Seventh Rota Criminal Court. The Supreme Court of Justice was requested to rule on the plea of unconstitutionality. Although in principle no such plea could be lodged because the events occurred in 1972, the Public Prosecutor took the view that that was the best option, since those directly involved in the events were non-senior military personnel;
- This case is also one of the 19 that were covered by the unconstitutionality ruling handed down by the Supreme Court of Justice on 1 November 2010. The ruling reiterated the Court's view that the Expiry Act violated the principle of separation of powers and infringed the right of victims and their families to access the justice system in order to identify and punish those responsible for events that took place during the military dictatorship;

(z) Murders — Illegal "Flight Zero" — the Soca shootings:

- In 2006 a criminal complaint was filed against the civilian, police and military leaders of 1974 concerning illegal arrest, torture, human smuggling, abduction of minors and the murder of five citizens;
- The case is currently being heard by the Seventh Rota Court. A number of witnesses have testified and the evidence submitted in the case is being analysed, including with regard to the murder of Colonel Trabal in Paris;
- In 2010 the Public Prosecutor requested an unconstitutionality ruling in the case from the Supreme Court of Justice.

**Reply to paragraph 36 of the list of issues**

514. To date, the Uruguayan electorate has twice given its opinion on Act No. 15848.

515. On 16 April 1989 a referendum was held on the Act. Fifty-seven per cent of the population voted against repealing the Act, compared with 43 per cent who voted in favour.

516. In addition, between 2007 and 2009 there was a campaign to hold a plebiscite on constitutional reform, with a view to repealing articles 1, 2, 3 and 4 of Act No. 15848. In the plebiscite held on 25 October 2009, 1,105,768 voters (47.98 per cent) voted in favour of amending the Constitution to incorporate the partial repeal of the Act. The proposed amendment was therefore rejected, as it had not received more than 50 per cent of the votes cast, which was the amount needed for the amendment to be approved.

517. The legal obstacles posed by Act No. 15848, which prevents the elucidation of serious human rights violations, were limited in some cases by rulings of the Executive in the last two Administrations (2005-2010 and 2010 to the present) that complaints were not subject to the Act.

518. Under the Presidency of José Mujica and pursuant to Executive Resolution No. CM/323 of 30 June 2011, all administrative acts and communications issued by previous Governments that deemed all complaints of serious human rights violations to be covered by the Expiry Act were revoked on legitimacy grounds.

519. Act No. 15848 remained in force until 27 October 2011, when Parliament adopted Act No. 18831 re-establishing punitive claims of the State and suspending the statute of limitations in respect of crimes committed during the period in question. Article 1 of the Act provides: "The State's full right to punitive action in respect of crimes committed in the context of State terrorism up to 1 March 1985 and covered by article 1 of Act No. 15848 of 22 December 1986 is hereby re-established".

520. As a result of the adoption of these legal provisions, numerous cases concerning complaints of human rights violations were reopened and are now being heard by various criminal courts.

**Reply to paragraph 37 of the list of issues**

521. Measures have been taken to update and enhance training in all aspects of protection of the human rights of persons deprived of their liberty. These measures have enjoyed ongoing international support under the project to reform detention facilities with the participation of UNDP, INMUJERES, OHCHR, the United Nations Office on Drugs and Crime (UNODC), Spanish cooperation agencies, ILO and others.

522. Procedures for monitoring prison staff are the responsibility of the Office of Internal Affairs and the Prison Information and Analysis Department of the Ministry of the Interior.

523. In addition, since 2005 the Parliamentary Commissioner has been responsible for monitoring prison facilities. Since 2010, the Commissioner's Office has made more than 400 annual visits to facilities throughout the country and has informed Parliament of the results through the Special Commission for Monitoring of the Prison System. The Commission is made up of 5 senators and 10 deputies and is the body that liaises between the legislature and the Parliamentary Commissioner on prison-related matters.

524. The Commissioner, personally or through his team, which consists of 10 professional staff with different areas of specialization, supervises searches that are carried out.

525. In 2012, the Commissioner's Office supervised more than 20 searches of this kind. The purpose is to safeguard detainees against potential excesses by officials.

**Reply to paragraph 38 of the list of issues**

526. There are mechanisms for minors to file complaints of ill-treatment with the staff of adolescent detention facilities. These mechanisms are consistent with those provided for in the May 2008 general regulations of the Technical Institute for Juvenile Rehabilitation (INTERJ) on rights, duties and the disciplinary regime for detention facilities under the restricted contact regime.

527. Article 15 of the regulations establishes the right to be informed of the internal complaint or report system. It states expressly that juveniles have the right to be informed of the system that allows them to communicate personally with the judge, the prosecutor, the defence counsel, educators, technical staff, the authorities and their relatives and to exercise that right effectively. The administration takes the necessary steps to that end, exercising due confidentiality and discretion, with a view to protecting juveniles.

528. When the staff of a facility receive complaints, they have a duty to report the offences in question, irrespective of the function they perform (educators, technical staff or the director of the facility); failure to report an offence is also an offence (art. 177 of the Criminal Code).

529. As mentioned in previous replies, torture is an offence under Uruguayan law, specifically article 22, paragraph 1, of Act No. 18026.

530. Communication with relatives is provided for in the Code on Childhood and Adolescence, article 74, paragraph (g) (principle of freedom of communication), and article 102, paragraph 2 (right to be informed of the internal system of personal communication with the judge, prosecutor, defence counsel, educators and relatives and to exercise that right effectively), and article 21 of the general regulations of the Technical Institute for Juvenile Rehabilitation and the Institute for Children and Adolescents on rights, duties and the disciplinary regime for detention facilities under the restricted contact regime.

531. Communication with defence counsel is provided for in the Code on Childhood and Adolescence, article 74, paragraphs (f) and (g) (principle of inviolability of the right to a defence and principle of freedom of communication), and article 102. Article 12 of the aforementioned regulations establishes the principle of inviolability of the right to a defence.

532. With regard to the role to be played by national and international organizations in monitoring compliance with the laws in force, chapter 8 (rights monitoring) of the aforementioned regulations provides for a system of rights monitoring that can be accessed by human rights organizations.

533. There are also measures in place to protect minors who have filed complaints.

534. The State's most effective means of ensuring that victims of torture and ill-treatment are not dissuaded from lodging a complaint and of guaranteeing the inviolability of the person is to move adolescents who have lodged complaints out of the detention facility concerned.

535. In addition, when misconduct has occurred in young offenders' institutions, the Board of Directors of the Adolescent Criminal Responsibility System has itself filed complaints with the courts or the police authorities.

536. In September 2012, the Board of Directors filed a complaint with the police against staff of the former Puertas centre concerning the escape of an inmate who committed four murders and took drugs at the centre.

537. In the complaint, the Board of Directors reported a number of instances of administrative misconduct recorded by technical staff of the institution's Legal Department.

**Reply to paragraph 39 of the list of issues**

538. The number of complaints or cases filed against law enforcement officials in the performance of their duties in 2010 was 437.

539. In addition, since his appointment in 2005, the Parliamentary Commissioner has filed dozens of criminal complaints of ill-treatment or failure to care for persons deprived of their liberty.

540. In the past year, the following complaints have been filed:

(a) On 27 November 2011 there was a violent intervention by law enforcement officers at Canelones departmental prison, in which at least nine inmates were injured. Following the incident, the Commissioner immediately filed a complaint of torture against two officers (art. 21 of Act No. 18026). One of them was charged with that offence and the other was tried for abuse of authority. The case is still being heard by the Canelones Court of First Instance. The officers are still in detention. This is the only case to date in which a serving official has been indicted for torture because, in other cases, the judges have laid charges of bodily harm or other offences under the Criminal Code;

(b) On 20 April 2011, eight inmates of the Libertad facility were injured by guards. On 8 May 2011 the Commissioner filed a complaint with the relevant criminal court, the City of Libertad Court of First Instance, and broadened the complaint on 29 May 2012 after obtaining evidence that another four inmates had been injured. Both complaints are currently being investigated;

(c) In February 2012 a violent incident took place at Las Rosas departmental prison, 150 kilometres from Montevideo, in which five inmates were injured by five officers. The Commissioner's Office filed the appropriate complaint with the facility's management, which filed a criminal complaint leading to the indictment of the five officers involved in the incident;

(d) On 30 May 2011, 17 inmates were injured in an incident at Rivera departmental prison, 500 kilometres from Montevideo. The Parliamentary Commissioner filed a criminal complaint and the proceedings are currently at the investigation stage;

(e) Between September and November 2011, the Parliamentary Commissioner's Office filed three criminal complaints of failure to provide medical assistance at three facilities (Libertad, Cabildo and Canelones). One of the complaints concerned events prior to the death of the inmate Julio César Isabella Linares, a 24-year-old Argentine national who died at the Libertad facility on 5 May 2012.

**Reply to paragraph 40 of the list of issues**

541. The prison chief referred to in the question was dismissed after the Special Rapporteur's visit and has not returned to work in the prison system.

542. In addition, from 1 March 2010, all the prison system authorities were gradually removed.

543. In the process of prison reform being carried out by the current Administration, priority is being given to the recommendations of the special rapporteurs in all areas of human rights protection.

**Reply to paragraph 41 of the list of issues**

544. Cases of ill-treatment by the police are referred to the relevant police authorities for investigation and reporting.

545. Police action in respect of juveniles is taken with the knowledge of the Institute for Children and Adolescents and prior notification of the judiciary, which determines the action to be taken by police officers.

546. With regard to training courses for prison staff, special emphasis has been placed on preventing ill-treatment of inmates.

547. In 2012 the Parliamentary Commissioner informed Parliament that the authorities were increasingly willing to punish those responsible for ill-treatment or abuse.

**Reply to paragraph 42 of the list of issues**

548. The general measures adopted with regard to violent incidents are administrative investigation, disciplinary proceedings and immediate referral to the courts.

549. Between 2010 and 2012, 46 prison inmates died in violent circumstances, whether as a result of fire, electrocution or clashes between inmates.

550. Of these 46 individuals, 19 died in fires. Since a number of these incidents were caused by burning mattresses, the prison authorities immediately launched an information campaign on the impact of smoke inhalation. In addition, Rocha departmental prison, where a fire on 8 July 2010 killed 12 inmates, was closed.

**Reply to paragraph 43 of the list of issues**

551. Since the restoration of democracy, various laws on redress have been adopted, in particular Act No. 18650 of 2009, which provides for compensation for the victims of torture during the military dictatorship.

552. It is hoped that the National Human Rights Institution will be the mechanism for guaranteeing substantial compensation and rehabilitation to victims in any future cases of torture.

553. Indeed, article 83 of Act No. 18446 provides that the Institution, in coordination with the Ministry of Foreign Affairs, will perform the functions of the national preventive mechanism under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which Uruguay is a party.

554. To that end, the Act provides that the Institution will comply with the requirements for the national mechanism set out in the Optional Protocol, within its competencies and terms of reference.

**Reply to paragraph 44 of the list of issues**

555. Recently, the Uruguayan State was ordered to compensate the relatives of the victims of the fire of 24 August 2009 at the Santiago Vázquez complex, in which five inmates died of asphyxiation. The judgement set the compensation at a sum equivalent to 40,000 dollars.

556. The Ministry of the Interior appealed against the court's decision; the appeal is currently ongoing.

**Reply to paragraph 45 of the list of issues**

557. The legal instruments guaranteeing that statements obtained as a result of torture are not admissible as evidence include the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment — specifically, article 15 of the Convention — which has force of law, having been ratified pursuant to Act No. 15798, which was promulgated on 27 December 1985.

558. The procedural regulations set out in the Code on Childhood and Adolescence also fulfil that purpose.

559. All procedural regulations establish that statements obtained as a result of torture are inadmissible as evidence.

560. Valid statements in judicial proceedings are those that are filed with the court. In criminal proceedings involving adolescents, article 76, paragraph 2, of Act No. 17823 of 7 September 2004 applies.

561. The preliminary hearing, at which a decision on instituting criminal proceedings is made, must be held within 24 hours of an adolescent's arrest.

562. The adolescent, his or her defence counsel, the Public Prosecutor's Office, the judge and the adolescent's parents or guardians must be present at the hearing; the victim and witnesses may also appear if they wish.

563. The presence of the aforementioned parties guarantees that the statements provided in such circumstances have not been obtained as a result of torture or cruel treatment; this is also an appropriate context in which to report such treatment.

## **Article 16**

### **Reply to paragraph 46 of the list of issues**

#### **Beatings and other ill-treatment by police of juveniles and other detainees in police stations after their medical examinations were performed upon arrest**

564. There are internal regulations prohibiting the use of police stations as detention facilities. Therefore, if a person is referred to a detention facility by a court order, a fresh medical examination is carried out — in those facilities already under the State Health Services Administration — in order to determine his or her state of health.

565. The purpose of this examination is to detect possible torture or ill-treatment between the time of arrest and the time of arrival at the detention facility.

#### **Prevention of wanton acts of humiliation, provocation and punishment of detainees, including juveniles, by prison guards and social workers**

566. All the measures relating to training and continuous learning for prison staff provided by the Prison Training Academy of the National Rehabilitation Institute are repeated in respect of the detention of adults.

567. With regard to adolescent detention facilities, the Institute for Children and Adolescents has a Disciplinary Proceedings Department responsible for supervising the staff assigned to the various facilities and implementing the relevant disciplinary administrative procedures in accordance with article 180 of Executive Decree No. 500/91.

568. No complaints from legal professionals outside the Institute are registered in this context, since the Institute's lawyers and attorneys have sufficient guarantees of autonomy.

569. From 2009 to the present, a total of 21 disciplinary cases have been brought, two of which resulted in staff dismissals.

**Improvements in the quality of medical services since the Ministry of Health took responsibility for providing them**

570. The State Health Services Administration has gradually taken over responsibility for health care at the Libertad and El Molino facilities and the Women's Rehabilitation Centre, in addition to COMCAR, which it already covered.

**Forced injections of sedatives administered to detainees, including juveniles**

571. No forced injections of sedatives are administered to adult detainees.

**Establishment of drug-substitute programmes in juvenile detention facilities by medical staff specializing in the treatment of minors**

572. As part of the strategy to strengthen the national drug support network, the Institute for Children and Adolescents and the National Drugs Council in 2012 called for the establishment of a new medium-term residential facility that could broaden the support on offer by promoting particular aspects of a comprehensive approach — therapy, education, recreation and employment — and incorporating the goal and challenge of social integration. The objective is to be able to provide comprehensive support and treatment for up to 30 juvenile and adult males between 15 and 23 years of age, with priority given to particularly vulnerable juveniles who fit the given profile.

**Allegations of corruption, including the alleged bringing of narcotics into prisons by penitentiary personnel**

573. In order to prevent illegal items such as drugs, weapons and narcotics from being brought into prisons, advanced technology is being introduced into detention facilities with high occupancy levels and inspectors are being replaced with officers from a separate police department. With a view to prevention, the Parliamentary Commissioner is regularly present at searches, during which, in the past, it was common for multiple acts of violence to be committed against detainees. In addition, with a view to eliminating any degrading or humiliating treatment during searches of prison visitors, the State has acquired the technology necessary to carry out checks in a manner that is effective and compatible with the inherent dignity of the person.

**Reply to paragraph 47 of the list of issues**

574. As stated in the reply to paragraph 6, the Observer Committee for Adolescents Deprived of their Liberty was established for the purpose of monitoring observance of the rights of adolescents in the system, keeping the Board of Directors of the Institute for Children and Adolescents informed and giving opinions where necessary. The Committee makes regular visits to juvenile detention centres and issues recommendations.

**Reply to paragraph 48 of the list of issues**

575. The State has a national plan to address the problem of child labour, under the responsibility of the National Committee for the Elimination of Child Labour.

576. Uruguay has enforced all the regulatory mechanisms necessary to comply with the law ratifying the ILO Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (Convention No. 182).

577. The Institute for Children and Adolescents has also carried out more than 1,100 labour inspections and has coordinated with other agencies that have competence in supervising inspections and checks in response to information on adolescent workers



received from the General Labour Inspectorate of the Ministry of Labour and Social Security.

578. In addition, the programme for the recording of information on work permits was established with the technical support of the data-processing unit, making it possible for all data relating to adolescent workers to be recorded and for work permits to be printed.

579. Between 2006 and 2010, two surveys of child labour in Uruguay were conducted.

580. The 2010 survey identified the key features of the phenomenon of child labour in Uruguay, providing a clear and up-to-date overview of factors that have a bearing on child labour and of the impact of economic exploitation.

581. This information has become a key element in the planning of policies aimed at eliminating child labour in Uruguay. It should be noted in particular that the respondents were children and adolescents themselves.

582. With regard in particular to the economic exploitation of children in waste collection, the National Committee for the Elimination of Child Labour drew up an action plan in 2011 for the elimination of child labour in waste collection for the period 2011-2015.

583. The plan, which is supported by UNICEF, involves direct work on the causes of child labour, in particular the need to address the issue of work in the family context. It is envisaged that a central component of the plan will be social, educational and labour market integration of the families of waste collectors through the creation of effective alternatives with a view to eliminating child labour in these families.

584. Key elements of the plan are intensive cooperation among the main national agencies concerned with childhood (the Institute for Children and Adolescents, the Ministry of Social Development, the National Public Education Administration and the Ministry of Education and Culture), a commitment to reintegrating child waste collectors into formal and non-formal education, the development of alternative proposals for the use of their free time and the adaptation of the care system (Institute for Children and Adolescents) to the situation of the families concerned.

585. Lastly, the National Committee for the Elimination of Child Labour, together with ILO in Uruguay, has conducted awareness-raising workshops and campaigns on the problem of child labour with a view to reducing the social stigmatization of child victims of economic exploitation.

---