

# ARGENTINA

## The Rights of the Child in Argentina

### **Text of the submission by Amnesty International on its concerns regarding the Argentine Government's application of the United Nations Convention on the Rights of the Child**

In September 2002 the Committee on the Rights of the Child will examine the second periodic report submitted by Argentina in accordance with Article 44 of the Convention on the Rights of the Child. In this context, Amnesty International is submitting a summary of some of its concerns on this issue to the members of the Committee.

For the purposes of this summary Amnesty International is using the definition of 'Child' given in Article 1 of the Convention which states that "a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier". This summary also uses the 'Definition of Child' given in the periodic report of the State Party<sup>1</sup> which states that "any reference to children applies to male and female children without gender differentiation"; "the Argentine Republic understands a child to be any human being from its conception to 18 years of age"; and [that given in] the civil regulations currently in force in Argentina: "Minors are people who have not reached 21 years of age" (Article 126 National Civil Code)".

Argentina ratified the United Nations Convention on the Rights of the Child in December 1990 and presented its first report to the Committee in March 1993. According to Article 75, paragraph 22, of the Argentine Constitution, the Convention on the Rights of the Child has had constitutional status since 1994. Although Argentina is a federal state in which the provinces have their own Constitution, Article 31 of the National Constitution states that international commitments adopted by the State are binding on all provincial authorities.

At a provincial level only five provinces of Argentina and the Autonomous City of Buenos Aires have passed new laws on childhood and adolescence which partly implement the provisions of the Convention.<sup>2</sup> In the rest of the country, specific legal measures to protect the rights of the child have still not been adopted.

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<sup>1</sup> Doc.UN.CRC/C/70/Add/10, 26 February 2002, paragraphs 1, 2 and 4.i).

<sup>2</sup> Province of Mendoza, Law 6354 of 1995; Province of Chubut, Law 4347 of 1997, Autonomous

In addition to this regulatory defect, Amnesty International is concerned that the Argentine authorities do not appear to have fully satisfied their obligations under the Convention on the Rights of the Child. In February 2002 a delegation from Amnesty International visited the cities of Buenos Aires and La Plata and presented their concerns to the national and provincial authorities about the cases of torture that had been reported.<sup>3</sup>

Since the visit by the delegation, Amnesty International has received information from the authorities in the Province of Buenos Aires indicating that measures are being taken to improve the prison system and put an end to ill-treatment. In March 2002, the Governor of the Province of Buenos Aires publicly stated his opposition against the use of torture. Similarly, the Supreme Court of Justice for the Province informed Amnesty International about recent resolutions it has passed to ensure compliance with the provisions of Law 12,061 which obliges members of the *Ministerio Público*, Attorney-General's Office, to carry out visits to places of detention and confinement within each legal department. Under the recent resolution passed on 19 March 2002, No. 064/02, a copy of which Amnesty International has received, the *Procuración General*, General Prosecutor's Office, of the Supreme Court of Justice for the Province of Buenos Aires determines that "c) Members of the *Ministerio Pupilar*, Attorney-General's Minors Office, will carry out monthly visits to establishments in which minors are confined and fortnightly visits to police stations in which minors are detained ...". Article 2 of the same resolution orders "each member of the Attorney-General's Office to give a monthly report of the visits carried out to the Attorney General or *Defensor General*, General Defender, as appropriate....".

While these initial steps, undertaken at the level of the Buenos Aires Province, are welcomed by the organization, Amnesty International will be following developments on this issue and expects to learn of further measures promoted by both Provincial and Federal authorities to guarantee children's rights in the country. Under international law, governments are obliged to respect and guarantee the rights of the child, to respect their right to life and the right not be subjected to torture or ill-treatment under any circumstances. The State's obligation does not end when it ratifies the Convention on the Rights of the Child or brings legislation condemning the torture of children into force.

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City of Buenos Aires, Law 113 of 1999; Province of Buenos Aires, Law 12,607 of December 2000; Tierra del Fuego and Antartica, Law for the Joint Protection of the Rights of Children, Adolescents and their Families of November 2000, and Province of Neuquén, Law 2302 of December 2000.

<sup>3</sup>See: Argentina: Action Plan and Respect for Human Rights, 11 to 16 February 2002 Mission, AI Index AMR 13/002/2002 of March 2002

Amnesty International believes that all complaints of torture and ill-treatment must be investigated promptly and thoroughly. The lack of effective public remedies with regard to such complaints can facilitate these unlawful practices. Governments must clearly and unequivocally condemn the torture of children wherever it occurs. They must also make it clear to all members of the security forces and the judiciary that, without any doubt or exception, torture must never be tolerated. Steps to put an end to the torture of children and the violation of their right to life include improved protection for children, the duty of governments to take responsibility and be accountable for such violations, implementation of effective preventive measures, the immediate independent investigation of complaints and the bringing to justice of those responsible, and the taking of effective measures to deal with the causes and factors which contribute to this situation.

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To date there is an increasing concern at the number of cases of human rights violations reportedly committed against children and related in particular to Articles 6 and 37 of the Convention regarding the right to life and the right to liberty and personal safety respectively. These articles are particularly relevant in the context of the organization's concerns and the deteriorating state of the rights of the child in Argentina.

**Article 6(1): States Parties recognize that every child has the inherent right to life.**

**Deaths of Children**

Cases of deaths of children caused by members of the security forces in situations known as *"gatillo fácil"*, "trigger happy", and in so-called confrontations may constitute extrajudicial executions. Children who are prepared to testify about incidents in which those apparently involved are members of the police have been the victims of reprisals including threats and death. Most of the information about these situations in the country has come from the media and, in the absence of official information from federal and most provincial authorities, non-governmental organizations have set up databases based on press reports or official complaints submitted by lawyers acting for the families. According to information provided by non-governmental organizations, during the first half of 2001 30% of killings by members of the police in so-called confrontations were of children. Among the little official data available for the year 2001, a report from the Ministry of Security for the Province of Buenos Aires showed that, as of 15 December 2001, a total of 33 children had died in so-called confrontations with the police.

Several incidents of this nature, which have characteristics that suggest extrajudicial executions have been widely published. Relatives of the victims have repeatedly alleged that members of the police fabricated the circumstances to make them appear as confrontations between the victims and police. Investigations have been initiated in six of

these cases; the killing of 16-year-old David Elías Vera Pinto in March 2001 is one of such cases.

According to reports, David **Elías Vera Pinto** died on 7 March 2001 as a result of gunshots fired by members of the Police Patrol of San Isidro during a police car-chase. Information provided publicly by members of the Argentine non-governmental human rights organization *Coordinadora contra la Represión Policial e Institucional (CORREPI)*, Association against Police and Institutional Repression, whose lawyers represent the relatives of the victim, indicated that there were contradictions between the description of the "shoot-out" given by the police personnel involved and the autopsy carried out on the body of David Elías Vera Pinto, in that the former talk about a pursuit and shooting from car to car while the body had bullet holes in the lower part of the body, from the groin to the thighs and going from front to back. In the same autopsy, it emerged that there were bullets which mysteriously "disappeared" from David's body. Equally the lawyers cited the testimony of an eyewitness stating that David Elías Vera Pinto was targeted and shot at practically point-blank range by police personnel and told the prosecutor (who took her statement personally) that she could see how the child was holding his hands up clearly demonstrating that he was giving himself up and that he was unarmed. The seizure of a weapon which the police said the child had was done without the presence of competent witnesses, thereby not complying with the emergency measures set out in relevant legislation.

The ruling by the Supreme Court of Justice for the Province of Buenos Aires issued on 24 October 2001 is a measure of the increasing concern at killings of children involving the police in so-called confrontations. In its Ruling No. 3012, the Supreme Court of Justice for the Province of Buenos Aires, stated that between 1999 and 2000, 60 children died in alleged confrontations with police. Equally, the ruling points out that records of similar incidents registered in 2001 indicated that several of the dead victims had complained that they had been subjected to threats or ill-treatment by police officers at the police stations under whose jurisdiction the alleged confrontation later took place.

#### **Threats and intimidation to relatives of killed children**

Relatives of child victims of police shootings have suffered threats and intimidation in their efforts to achieve justice. Amnesty International has appealed to the Argentine authorities to investigate the threats, to guarantee their safety and to ensure that human rights violations committed against children be thoroughly investigated and those found responsible brought to justice.<sup>4</sup>

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<sup>4</sup>Urgent Action 62/01 AI Index: AMR 13/007/2001, of 16 March 2001.

A group of parents of children killed in police shootings, who have been campaigning for justice, are being intimidated and threatened. The threats intensified since the group published a report documenting over 800 cases of fatal police shootings. Amnesty International expressed its concern for their safety. The *Comisión de Familiares de Víctimas de Gatillo Fácil*, Commission of Relatives of Victims of Police Shootings, was established in 1993 by a group of parents whose children had been killed by the police. They have been campaigning for the truth about the killings to be established, and for those responsible to be brought to justice. On 18 December 2000 the group submitted a report to the Ministry of the Interior detailing over 800 fatal police shootings. Also in December 2000 they staged a 25 day protest against the local authorities in Buenos Aires Province, where more than 50% of fatal shootings in Argentina reportedly take place. Subsequently a number of people belonging to the group have been threatened, some of them by armed police officers.

On 9 March 2001 a known police informer brandishing a gun forced his way into Mary Ortiz's home. He reportedly attacked her, threatening her and telling her to stop her campaign for justice. Mary's husband, Pedro Ortiz, had been attacked in February, only a few days after appearing on television to denounce police killings. Two men claiming to be police officers attacked him with a knife outside his home, cutting his arms and telling him to keep quiet: "*Callate la boca. No sigas hablando o te hacemos boleta*", "Keep quiet. Don't keep talking [about the killings] or we will kill you". The police shot dead the Ortiz's 16-year-old son **Ricardo Javier Ortiz** in March 2000.

Lidia Zarate and her family were reportedly threatened on 2 January 2001 by a policeman, who works at the same station as those believed to have killed her 17-year-old son, **Juan Marcelo González Zarate** in March 2000. Reportedly the policeman warned her: "*Cuidese. ¿Por qué no se dedica a cuidar a sus otros hijos? Que quiere? Que termine toda la familia como el?*", "Take care of yourself. Why don't you look after your other children? What do you want? For all the family to end up like him?". Since the killing of Juan Marcelo the police have detained his younger brother, Martín, three times. They reportedly beat him and told him that he was going to die even younger than his brother. Shortly after he was threatened, unknown men driving a car shot Martín three times in the leg while shouting "*esto te pasa por culpa de tu vieja. Decile que no joda con la cana.*", "this is your mum's fault. Tell her not to mess about with the police". On 16 March 2001 16-year-old **Martín González Zarate** was shot dead by an unidentified gunman driving by in a vehicle in Buenos Aires Province. A policeman was reportedly arrested in connection with the killing.<sup>5</sup>

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<sup>5</sup>Urgent Action 62/01 AI Index: AMR 13/08/2001 of 20 March 2001; News Service 52, AI Index AMR 13/009/2001 of 21 March 2001.

On 13 January 2001, a relative told Delia Garcilazo, whose son Adolfo Ríos was killed by the federal prison police in 1992, that an anonymous caller had phoned to say her teenage grandson had been shot, and that she should look for him at police stations. The following day, immediately after the grandson called to say he was with friends, an anonymous caller rang to say that this was meant as a warning, but that the next time it would be true.

On 5 January 2001 the police prevented Oscar Ríos, another member of the Commission of Relatives from posting flyers denouncing the killing of his 16-year-old son, **José Guillermo Ríos**. The policeman who reportedly shot Oscar's son approached him, and, while handling his gun, threatened to kill him the way his son was killed.

Silvia Ruiz's 16-year-old son, **Fabián Blanco**, was shot dead by police in November 2000. Since then, the police have reportedly forced their way into her home on four occasions, although they did not have a warrant. They have fired gunshots in the house, and at least twice have threatened to kill her other teenage son. They have also threatened to kill Silvia Ruiz.

Alberto Barreto, whose 12-year-old daughter **Gisella Barreto** was killed in a police shooting in January 2000, has reportedly also been threatened and harassed by the police, and has been followed by a police patrol car on numerous occasions.

#### **Failure to investigate cases of death of children**

Attacks on the lives of children are alarming and progress in the investigations that are known about is slow, apparently suffering from unjustified delays and obstacles. Governments must ensure that legislation does not facilitate, allow or accept impunity for acts that may signify torture or violation of the intrinsic right to life and must take necessary measures so that such laws are applied in practice. Amnesty International has been concerned to receive reports about difficulties faced by lawyers when representing the families of victims of violations to the rights of the child during investigations and trial proceedings which have been brought in connection with these serious violations, including apparently unjustified delays and obstacles being placed in the way of such investigations.

An example of such situations is the case of 16- years-old **José Guillermo Ríos**, who was killed reportedly by the police and whose relatives have been represented by lawyers of CORREPI. **José Guillermo Ríos** was killed in the locality of Tigre, Buenos Aires Province, on 14 May 2000 when, according to the police, he and another child tried to attack two police officers in plain clothes. Reports indicate that a chase followed and José Guillermo Ríos was hit by three bullets. The case was taken up by the Investigating Court No. 7 (*Unidad Funcional de Instrucción n.º 7 -UFI n.º 7*).

According to the information received by Amnesty International and provided by the CORREPI lawyers, at the end of 2000 the defence asked for the case against the two officers involved to be dismissed but this was refused by the Judge in charge of the *Juzgado de Garantías n° 4*, Court of Safeguards No.4, of the San Isidro Legal Department. After the appeal, which was heard by *Sala II de la Cámara de Apelaciones y Garantías*, Second Chamber of the Court of Appeals and Safeguards, which agreed with the arguments made by the Judge and ruled against dismissal, the Deputy Prosecutor in charge of the investigation ruled that the proceedings should be shelved. In the ruling itself the Deputy Prosecutor maintained that there was evidence of a confrontation. The lawyers acting for the family of the victim have argued that there were reasons to doubt this.

The Deputy Prosecutor himself, in a witness hearing that took place before the decision to close the case had been taken, said, in the presence of the lawyer representing the father of the victim and a witness appearing on his behalf, that in his opinion "this is a case in which money could be got out of the police". In response to the decision by the Prosecutor, an appeal for review was made to the Attorney-General, resulting in a decision that the investigation should continue, thereby giving leave for all the measures requested at the appropriate time by the family lawyers and which had been previously refused by the investigator.

At the *Fiscalía Distrital n° 2 de Tigre*, 2nd District Prosecutor's Office for Tigre, an investigation is under way into alleged threats involving the father of the victim, Óscar Ríos. The complaint was made by Hugo Alberto Cáceres after the father put up posters in the street asking for justice so that his son's killers could be convicted. Proceedings in the case in question were initially started at that prosecutor's office and the person in charge of the case, the then secretary, held a clear position with regard to the events that culminated in the death of José Ríos since he suggested to his father, in the context of the case for threats in which he is allegedly implicated, that they should fix a meeting with Hugo Alberto Cáceres, that he should abandon his stance and admit that what had happened had been no more than "the gunning down of a delinquent in self defence". The father therefore requested the Judge to be present when the statement was to be made in answer to the charges. At the same time, in relation to the same incident, he made a complaint for aggravated unlawful deprivation of liberty and threats against Hugo Alberto Cáceres and Marcelo A. Puyo which went to the UFI n° 9 and was immediately shelved. Óscar Ríos stated that the named police officers arrested him for putting up the aforementioned posters and that, after a discussion about what he was doing, they forced him to take them down and told him that it was they who had killed his son and "a few others".

According to reports received in March 2002, the case of the killing of José Guillermo Ríos is being investigated by the Office of Internal Affairs of the Ministry of Security and Justice for the Province of Buenos Aires.

**Article 37: States Parties shall ensure that: a) no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. c) Every child deprived of liberty shall be treated with humanity and with respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age.**

**Torture and ill-treatment of children**

Reports are still being received of the torture and ill-treatment of children held at police stations. There are reasons to fear that the real number of cases is greater than that made known by the media or by lawyers and human rights non-governmental organizations in Argentina as a result of official complaints lodged by the victims or their relatives. Amnesty International believes that many cases of torture and ill-treatment of children are not reported for fear of reprisals and no official statistics are available of the number of cases which have been reported at a national level. The official statistics which have been most widely disseminated and which refer solely to the Province of Buenos Aires, were made public in 2001 by members of the judiciary.

Prior to that, complaints lodged by members of the judiciary had been published in the press and provided an overview of the ill-treatment and torture to which children were being subjected in police stations. The types of torture and ill-treatment used against children by the police which have been made public include threats with firearms, beatings and sexual humiliation. In August 2000 the newspaper *Página 12*, Page 12, referred to a report submitted by the *asesor de menores*, minors' counsellor, in San Isidro. In his report the minors' counsellor, who is a civil servant attached to the Attorney-General's Office, said that in the police stations belonging to the Province of Buenos Aires, during the 18 months from July 1998 until December 1999, there had been 129 complaints of torture and cruel, inhuman or degrading treatment of children; in the first seven months of 2000 the complaints numbered 159. The counsellor added that "the common characteristic shared by children who are victims of institutional violence is that they come from a poor home", indicating that the consequence of the selectivity of the penal system is that "the prisons are populated by the poor and institutions for minors [are populated] by the children of the poor".

Data provided by the then President of the Supreme Court of Justice and published in July 2001, showed that in the previous nine months 800 complaints of torture and ill-treatment in police stations and rehabilitation institutions in the province had been received. This was not the first time that the Supreme Court had questioned the treatment of children. Two months earlier it had warned about what was going on and had called for an end to such practices. The Supreme Court also indicated that the complaints were being



investigated by the courts but that some of the investigations had been closed for lack of evidence.

Amnesty International has welcomed the fact that some of the police stations where children had been subjected to ill-treatment and held in conditions amounting to cruel, inhuman and degrading treatment, such as the police stations in Villa Elisa, Villa Maipú, Los Hornos, San Miguel, Berisso, Benavídez and Barrancas, have been closed down by law. However, the apparent failure of the provincial and national authorities to instigate a program to improve prisons in compliance with the commitments the Argentine State made when it ratified the United Nations Convention on the Rights of the Child remains a concern with regard to this serious issue.

The worrying situation in the police stations has been acknowledged by the new *Ministro de Seguridad y Justicia*, Minister of Security and Justice, for the Province of Buenos Aires, who took up his post at the beginning of July 2002. In information published internationally, the Minister said, in an interview with the newspaper *El Día* from the city of La Plata, that the police stations in the province “were like Auschwitz, an absolute disgrace”, referring to the overcrowding and conditions of detention. The Minister said that children are not separated from other prisoners and added that children “are treated like adult offenders and then it is impossible for them to come out with any chance of being rehabilitated.”

Public information shows that the ill-treatment of children is not restricted to police stations. For example, in 2000 Amnesty International received reports of the situation of ill-treatment prevailing in the *Instituto de Menores Manuel Roca*, Manuel Roca Minors’ Institute, in Buenos Aires. Responsibility for guarding the facility is in the hands of staff from the *Consejo Nacional del Menor y la Familia*, National Council for the Minor and the Family. The information indicated that in June 2000, the police, acting on a warrant, searched the place as part of an investigation into a complaint made by relatives of inmates in connection with the unlawful ill-treatment of children from the Institute. According to the information, the children were beaten during inspections, were forced to bathe in cold water in the winter and were given extremely poor food.

In March 2001 information was published stating that the Supreme Court of the Province of Buenos Aires had recorded 400 complaints for torture of children in police stations and institutes in the Province over the previous five months. Newspaper reports indicated that the information came from the *Registro de Denuncias por Malos Tratos*, Register of Complaints of Ill-Treatment, a register that had been set up in September 2000. The information indicated that almost 85% of the incidents had occurred in police stations and 15% in institutes run by the province, including the *Aráoz Alfaro* and *Almafuerte* Institutes in the city of La Plata.

**Article 40.1: States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.**

**Non-governmental human rights organizations and the justice system for children**

Non-governmental organizations in Argentina have expressed their concern at the failure to amend Argentine legislation to ensure that it effectively complies with the provisions of the Convention. The Argentine non-governmental organization *Centro de Estudios Legales y Sociales (CELS)*, Centre for Legal and Social Studies, points out, for example, that family judges use the definition of "*Protection of the Person*" laid down in the *Código Procesal Civil*, Code of Civil Procedure, to forcibly intern children and adolescents from deprived backgrounds in institutional care homes simply for being poor. In this respect the legislation is based on the model that the minor is in an "*irregular situation*" such that the State is allowed to intervene with regard to his or her personal, family and social conditions.

**Article 40.4 of the Convention establishes that "...other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence."** According to CELS, the failure to amend the legislation is made worse by the passive role played by the judiciary since the Argentine courts have not declared the laws based on the doctrine of "*irregular situation*" to be unconstitutional and have only on very rare occasions directly applied the Convention.

The justice system for children, which includes the *Ley de Patronato de Menores*, Law on the Welfare of Minors, *Régimen Penal de la Minoridad*, Prison System for Minors, and the *Código Procesal Penal de la Nación*, National Code of Penal Procedure, does not fully protect the rights of children in Argentina as spelled out in the Convention.

In this context, an analysis of the current state of the justice system for children at the national level as well as of the provincial legislation relating to the rights of the child, seen within the nature of the Argentine federal system in terms of how the Convention is enforced, has been submitted by CELS in its *Informe Alternativo ante el Comité*, Alternative Report to the Committee, for your consideration when examining the Second Periodic Report submitted by the Argentine State, and deserves the full attention of the Committee on the Rights of the Child.

**CONCLUDING OBSERVATIONS OF THE  
COMMITTEE ON THE RIGHTS OF THE CHILD**

CRC/C/15/Add.187

4 October 2002

UNEDITED VERSION

COMMITTEE ON THE RIGHTS OF THE CHILD  
Thirty-first session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 44 OF THE CONVENTION

**Concluding Observations of the Committee on the Rights of the Child: ARGENTINA**

1. **The Committee considered the second periodic report of Argentina (CRC/C/70/Add.10), submitted on 12 August 1999, at its 807<sup>th</sup> and 808<sup>th</sup> meetings (see CRC/C/SR. 807-808), held on 17 September 2002, and adopted the following concluding observations at its 833<sup>rd</sup> meeting, held on 4 October 2002.**

**A. Introduction**

2. The Committee welcomes the submission of the State party's second periodic report but it notes with regret that it does not follow the guidelines for reporting. It further regrets the late and incomplete submission of the written replies to its list of issues (CRC/C/Q/ARG.2). It welcomes, however, the senior and well-informed delegation sent by the State party and the frank dialogue and the positive reactions to the suggestions and recommendations made during the discussion.

**B. Follow-up measures undertaken and  
progress achieved by the State party**

3. The Committee notes with satisfaction that the state legislation regarding children in some of the provinces, such as in the case Mendoza, Chubut and the City of Buenos Aires, complies with the provisions and principles of the

Convention.

4. The Committee welcomes the adoption of Law 24.417 on protection against domestic violence.
5. The Committee notes the recent establishment of the National Council for Children, Adolescents and the Family and the creation of the Office for Comprehensive Assistance for Victims of Crime (OFAVI), as recommended in the previous Concluding Observations (*idem*, para.20).
6. The Committee welcomes the improvement in the cooperation between the State party and non-governmental organisations working on children's rights issues.
7. The Committee welcomes the signature of a Memorandum of Understanding with IPEC and the establishment in 2000 of a National Commission for the Eradication of Child Labour (CONAETI).
8. The Committee notes with satisfaction the adoption of a National Plan of Action against the Sexual Commercial Exploitation of Children
9. The Committee welcomes the ratification of the Optional Protocol to the Convention on the involvement of children in armed conflicts.

**C. Factors and difficulties impeding progress in the implementation of the Convention**

10. The Committee acknowledges that the State party is facing many difficulties in the implementation of the Convention, in particular due to the economic, political and social crises affecting the country and that the increasing poverty is impeding the full achievement and enjoyment of the rights recognised in the Convention.

**D. Principal areas of concern and recommendation**

**1. General Measures of Implementation  
(arts. 4, 42 and 44, paragraph 6 of the Convention)**

Committee's previous recommendations

11. The Committee regrets that most of the concerns and recommendations (CRC/C/15/Add.35 of 15 February 1995) it made upon consideration of the State party's initial report (CRC/C/8/Add.12 and 17) have been insufficiently addressed, particularly those contained in paras.14 (reservations), 15 (coordination) and 16 (review of budgetary measures). The Committee notes that those concerns and recommendations are reiterated in the present document.
12. **The Committee urges the State party to make every effort to address those recommendations from the concluding observations of the initial report that have not yet been implemented and to address the list of concerns contained in the present concluding observations on the second periodic report.**

#### Reservations

13. The Committee reiterates its concern about the reservations (*idem*, para.8) entered by the Government of Argentina upon the ratification of the Convention with respect to article 21 (b), (c), (d), and (e).
14. **The Committee reiterates its recommendation (*idem*, para.14) that the State party consider reviewing the reservations entered upon ratification of the Convention with a view of withdrawing it.**

#### Legislation

15. The Committee is concerned that that the current legislation on children, Law 10.903 (*Ley de Patronato*), dates back to 1919 and is based on the doctrine of "irregular situation" where children are an object of "judicial protection". Although the Chamber of Deputies passed a draft law on the comprehensive protection of the rights of the child in November 2001, it has not yet been enacted (*media sanción*), so that there is no legislation in force at the federal level which considers the child as a subject of rights. Further, the Committee also notes that provincial legislation often does not comply with the provisions and principles of the Convention.
16. **The Committee recommends that the State party:**
  - a) **Take all the necessary measures for the adoption as a priority by Parliament without delay of the draft law on the comprehensive**

**protection of the rights of the child;**

**b) Once enacted, ensure the full implementation of the law on the comprehensive protection of the rights of the child in compliance with the Convention, paying particular attention to the need for adequate structures by allocating the necessary human and financial resources;**

**c) Ensure that legislation at provincial level as a whole fully complies with provisions and principles of the Convention;**

**d) Seek technical assistance from, among others, UNICEF.**

Coordination

17. While noting the recent efforts of the National Council for Children, Adolescents and the Family to improve coordination and the establishment of monitoring teams in 17 provinces, the Committee regrets that its previous recommendation about assuring better co-ordination between mechanisms and institutions dealing with the promotion and protection of the rights of children (*idem*, para.15) was not fully followed up, and that State party still lacks a clearly defined and comprehensive child rights policy and plan of action for the Convention's implementation.

18. **The Committee reiterates its previous recommendation (*idem*, para.15) that the State party take a comprehensive approach in implementing the Convention in particular by:**

**(a) improving the coordination between various mechanisms and institutions already in place to deal with the promotion and protection of children's rights; and**

**(b) strengthening its children's rights policy and developing a National Plan of Action for the implementation of the Convention, which should be prepared through an open, consultative and participatory process.**

Resources for children

19. The Committee expresses its concern that budgetary allocations for children are still insufficient to respond to federal, provincial and local priorities for the protection and promotion of children's rights and to overcome and remedy existing disparities between rural and urban areas, as well as within urban areas in particular Buenos Aires, with respect to public services provided to children. It notes with deep concern that, according to recent statistics mentioned by the State party in its reply to the list of issues, 69.2% of children in Argentina live in poverty, of which 35.4 live in extreme poverty.
20. **In light of article 4 of the Convention, the Committee encourages the State party:**
- (a) **to review economic and social policies and allocations in of resources in the budget with a view to ensuring that the maximum amount of available resources is allocated to promote and protect the rights of the child at the federal, regional and local levels, especially in the fields of health, education, social welfare and security, as previously recommended (*idem*, para.16)**
  - (b) **to identify the amount and proportion of resources spent on children at the national and local levels in order to evaluate the impact and effect of the expenditures on children.**

Independent monitoring

21. While noting the existence of the Defensor del Pueblo, the Committee is concerned at the absence of an overall national mechanism with the mandate to regularly monitor and evaluate progress in the implementation of the Convention and which is empowered to receive and address complaints by children. It further notes that the draft law on the comprehensive protection of the rights of the child, which has not yet been enacted, includes provisions for the creation of a Child Rights Defender.
22. **The Committee encourages the State party, as previously recommended (*idem*, para.15), to establish an independent and effective mechanism in accordance with the Paris Principles relating to the status of national institutions for the promotion and protection of human rights (General Assembly resolution 48/134), either as a part of a National Institution on Human Rights or as a separate body, such as a Children Ombudsman, which should be provided with adequate human and financial resources and easily accessible to children, that:**

- (a) **monitors the implementation of the Convention;**
- (b) **deals with complaints from children in a child-sensitive and expeditious manner; and**
- (c) **provides remedies for violations of their rights under the Convention. In this regard, the Committee further recommends that the State party consider seeking technical assistance from, among others, UNICEF and OHCHR.**

#### Data collection

- 23. The Committee notes the establishment of a unified system of collecting data, yet remains concerned that statistical data about children do not cover sufficiently and in a disaggregated way all areas covered under the Convention and that, when available, are not used in an adequate way to assess trends and as a basis for policy-making in the field of children's rights.
- 24. **The Committee recommends that the State party:**
  - (a) **improve its system of data collection with a view to incorporating all the areas covered by the Convention in a disaggregated manner. Such a system should cover all children below the age of 18 years, with specific emphasis on those who are particularly vulnerable, including children with disabilities; and**
  - (b) **effectively use these indicators and data for the formulation and evaluation of policies and programmes for the implementation and monitoring of the Convention.**

#### **2. Definition of the child (article 1 of the Convention)**

- 25. The Committee reiterates its concern at the disparity of marriage ages for boys and girls in Argentine law (*idem*, para.10).
- 26. **In light of articles 1, 2 and other related provisions of the Convention, the Committee recommends that the State party review its legislation with a view to increasing the minimum age of marriage of girls to the one of boys.**



**3. General principles  
(arts. 2, 3, 6 and 12 of the Convention)**

General principles

27. The Committee is concerned that the principles of non-discrimination (art. 2 of the Convention), best interests of the child (art. 3), right to life, survival and development of the child (art.6) and respect for the views of the child (art. 12) are not fully reflected in the State party's legislation and administrative and judicial decisions, as well as in policies and programmes relevant to children at federal, provincial and local levels.
28. **The Committee recommends that the State party:**
- a) **appropriately integrate general principles of the Convention, namely articles 2, 3, 6 and 12, in all relevant legislation concerning children;**
  - b) **apply them in all political, judicial and administrative decisions, as well as in projects, programmes and services which have an impact on all children; and**
  - c) **apply these principles in planning and policy-making at every level, as well as in actions taken by social and health welfare and educational institutions, courts of law and administrative authorities.**

Non-discrimination

29. The Committee is concerned that the principle of non-discrimination (art. 2 of the Convention) is not fully implemented for children living in poverty, indigenous children, children of migrant workers, primarily those from neighbouring countries, street children, children with disabilities and marginalised adolescents who are neither studying nor working, especially with regard to their access to adequate health care and educational facilities.
30. **The Committee recommends that the State party:**
- a) **monitor the situation of children, in particular those belonging to the above-mentioned vulnerable groups, who are exposed to discrimination; and**

- b) **develop, on the basis of the results of this monitoring, comprehensive strategies containing specific and well targeted actions aimed at eliminating all forms of discrimination.**
31. **The Committee requests that specific information be included, in the next periodic report, on the measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party to follow up on the Declaration and Programme of Action adopted at the 2001 World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and taking account of General Comment no. 1 on article 29(1) of the Convention (aims of education).**

Respect for the views of the child

32. The Committee notes that the right to participate in schools, as well as outside, and the right to be heard for all children needs to be further strengthened.
33. **In light of article 12, the Committee recommends that the State party:**
- (a) **Follow up on the Committee's previous recommendation (idem, para.21) that further steps be taken to encourage the active participation of children in schools, and society in general, in the spirit of article 12 of the Convention;**
  - (b) **make sure that all children mature enough to express their views are heard in all judicial and administrative procedures affecting them; and**
  - (c) **undertake campaigns to make children, parents, professionals working with and for children and the public at large aware that children have the right to be heard and to have their views taken seriously.**

**4. Civil rights and freedoms  
(arts. 7, 8, 13-17 and 37 (a) of the Convention)**

Preservation of identity

34. The Committee recognises the work done by the National Commission for the Right to an Identity (CONADI) to recover missing children during the military rule from 1976 to 1983 and notes that out of an estimated 500 cases of disappearances of children, 73 have been found.
35. **In light of article 8 of the Convention, the Committee encourages the**

**State party to continue and strengthen its efforts to recover the children who disappeared during the military rule.**

Right not to be subjected to torture

36. The Committee expresses its deep concern about institutional violence and specific reports of torture and ill-treatment of children held at police stations (*Comisarias*) which in some cases have resulted in death. It is also extremely concerned at additional reports of police brutality, specifically the phenomena of *gatillo fácil* (easy trigger syndrome), especially in the Province of Buenos Aires, which has led to the death of many children. It notes that, according to the Supreme Court of Justice of the Province of Buenos Aires, several of the children who died, had previously denounced pressures and torture by the provincial police and that the majority of the cases are not adequately investigated and perpetrators not brought to justice.
37. **In light of article 37(a) of the Convention, the Committee urges the State party to:**
- (a) **Undertake a study on the above mentioned issues in order to assess the extent, scope and nature of these practices;**
  - (b) **Enforce the recently signed National Plan of Action for the Prevention and Elimination of Institutional Violence;**
  - (c) **investigate in an effective way and within a reasonable time reported cases of killings, torture and ill treatment of children;**
  - (d) **urgently take measures to transfer from active duty or suspend alleged perpetrators, as appropriate, while they are under investigation, and release them if convicted;**
  - (e) **provide a systematic training of law enforcement personnel on human and children's rights and on how to avoid the use of force;**
  - (f) **establish a complaint mechanism, which should be easily accessible and child sensitive and inform children of their rights, including the right to complain;**
  - (g) **ensure that independent and qualified medical personnel be required to carry out regular examinations of child detainees; and**
  - (h) **in light of article 39, take all appropriate measures to ensure physical and psychological recovery and social reintegration for child victims**

**of torture and/or ill treatment, and that they receive compensation.**

Corporal punishment

38. The Committee notes with concern that there is no explicit prohibition of corporal punishment under law and that it is still widely practiced in the home and in some institutions.
39. **The Committee recommends that the State party expressly prohibit corporal punishment in the home and all institutions, and carry out public education campaigns to promote positive, non-violent forms of discipline as an alternative to corporal punishment.**

**5. Family environment and alternative care  
(arts.5; 18 (paras.1-2); 9-11; 19-21; 25; 27 (para.4); and 39 of the Convention)**

Children deprived of family environment

40. The Committee is deeply concerned that Law N.10.903 of 1919 and Law N.22.278, which are currently still in force and based on the doctrine of "irregular situation", do not distinguish between children in need of care and protection and those in conflict with the law in terms of judicial procedures and treatment.
41. **The Committee recommends that the State party establish appropriate mechanisms and procedures to address the situation of children in need of care and protection that can be implemented immediately once the draft law on the comprehensive protection of the rights of the child currently under consideration (*media sanction*) comes into force, thereby replacing Law N.10.903 and N.22.278.**
42. The Committee expresses its serious concern about the number of children, in particular children coming from poor families, who are deprived of a family environment and placed in public assistance institutions or residential homes, often far from their home.
43. **In light of article 20 of the Convention, the Committee recommends that the State party:**
- (a) **Take effective measures to increase and strengthen foster care, family-type foster homes and other family-based alternative care;**

- (b) Place children in institutions only as a measure of last resort;**
- (c) Take all necessary measures to improve conditions in institutions;**
- (d) Provide support and training for personnel working in institutions;**
- (e) Establish effective mechanisms to receive and address complaints from children in care, to monitor standards of care and, in light of article 25 of the Convention, to establish regular periodic review of placement.**

Abuse and neglect

44. The Committee, while noting the adoption of Law 24.417 on protection against domestic violence, remains concerned about the extent of domestic violence, the lack of standardised procedures for the identification and reporting of cases of neglect, ill-treatment and abuse, and the limited services for the support of victims especially in the provinces.
45. **In light of article 19 of the Convention, the Committee recommends that the State party:**
- (a) Undertake studies on domestic violence, violence against children, ill-treatment and abuse, including sexual abuse, and increase the statistical system for the whole country to keep a record of incidents of physical and mental violence and neglect against children, in order to assess the extent, scope and nature of these practices;**
  - (b) Adopt and implement effectively adequate measures and policies, including public campaigns on alternative forms of discipline, and contribute to changing attitudes;**
  - (c) Investigate effectively cases of domestic violence and ill-treatment and abuse of children, including sexual abuse within the family, within a child-sensitive inquiry and judicial procedure in order to ensure better protection of child victims, including the protection of their right to privacy;**
  - (d) Increase measures to provide support services to children in legal proceedings, and for the physical and psychological recovery and social reintegration of the victims of rape, abuse, neglect, ill-treatment and violence, in accordance with article 39 of the Convention;**
  - (e) Take into account the Committee's recommendations adopted at its days of general discussion on "Violence Against Children within the Family and in Schools" (CRC/C/111) and on "State Violence against**

**Children” (CRC/C/100).**

**6. Basic health and welfare  
(arts. 6; 18, para. 3; 23; 24; 26; 27, paras 1-3 of the Convention)**

Health and health services

46. While noting the decrease in the infant, child and maternal mortality rates, the Committee is nevertheless concerned that the rates remain high and that there are great disparities existing within these rates, in particular with regard to children with a lower socio-economical origin, those living in rural areas, in particular in the northern provinces, and indigenous children. It also notes that 6 out of 10 infant deaths could be avoided with low cost actions.
47. **The Committee recommends that the State party:**
- (a) **Allocate appropriate resources and develop comprehensive policies and programmes to improve the health situation of all children without discrimination, in particular by focusing more on health promotion and prevention;**
  - (b) **In order to further decrease child mortality and morbidity and maternal mortality rate, take measures to implement the Reproductive Health and Responsible Procreation Act of July 2000;**
  - (c) **and provide adequate antenatal and postnatal health-care services and develop campaigns to inform parents about basic child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation, family planning and reproductive health, especially in the provinces.**

Malnutrition

48. The Committee notes with deep concern that the increasing rates of malnutrition are affecting, according to the most recent statistics, more than 4 million children, in particular newborn children and those living in the northern provinces. It further notes that the impact of the economic crisis on children's state of health and nutrition was not yet assessed.
49. **The Committee recommends that the State party:**
- (a) **Undertake a study on child malnutrition, and create a unified statistical system to keep a record of malnutrition cases in order to assess the extent, scope and nature of this practice;**
  - (b) **develop a comprehensive nutritional programme in order to prevent and combat malnutrition;**
  - (c) **and seek international cooperation from, among others, UNICEF and WHO.**

#### Adolescent health

50. The Committee notes with concern the growing number of cases of HIV/AIDS among the youth, notwithstanding an existing National Plan of Action for HIV/AIDS, and reiterates its concern (*idem*, para.12) about the number of teenage pregnancies, in particular in some of the provinces.
51. **The Committee recommends that the State party:**
- (a) **Review and reactivate its programmes against HIV/AIDS and increase its efforts to promote adolescent health policies. Due attention should be given particularly to reproductive health and the programme of health and sexual education in schools should be further strengthened;**
  - (b) **Undertake a comprehensive and multidisciplinary study to assess the scope and nature of adolescent health problems, including the negative impact of STDs and HIV/AIDS, and continue to develop adequate policies and programmes;**
  - (c) **Undertake further measures, including the allocation of adequate human and financial resources, to evaluate the effectiveness of training programmes in health education, in particular as regards**

**reproductive health, and to develop youth-sensitive and confidential counselling, care and rehabilitation facilities that are accessible without parental consent when this is in the best interests of the child; and**

- (d) Seek technical cooperation from, among others, UNFPA, UNICEF, WHO and UNAIDS.**

Children with disabilities

52. The Committee notes with concern that there is a lack of information about children with disabilities in Argentina. It further notes with concern that there are cases when children are institutionalised because of insufficient support to poor families with disabled children.

53. **In light of article 23 of the Convention, the Committee recommends that the State party:**

- (a) Undertake studies on the situation of children with disabilities in order to assess its extent, scope and nature;**
- (b) Undertake measures to ensure that the situation of children with disabilities is monitored in order to assess their situation and address their needs effectively;**
- (c) Conduct public awareness campaigns to raise awareness of the situation and the rights of children with disabilities;**
- (d) Allocate the necessary resources for programmes and facilities for all children with disabilities, especially the ones living in provinces, and strengthen community-based programmes to enable them to stay at home with their families;**
- (e) Support the parents of children with disabilities with counselling and, when necessary, financial support;**
- (f) In light of the Standard Rules on the Equalisation of Opportunities for Persons with Disabilities (General Assembly Resolution 48/96) and the Committee's recommendations adopted at its day of general discussion on "The Rights of Children with Disabilities" (CRC/C/69, paras.310-339), further encourage their integration into the regular educational system and inclusion into society, including by providing special training to teachers and by making**



**schools more accessible.**

Standard of living

54. The Committee notes with concern that the recent economic, political and social crises have caused increased poverty, particularly among children and vulnerable groups.
55. **The Committee recommends that the State party continue its efforts to prevent, including through a comprehensive poverty reduction strategy which incorporates human rights principles, the decline in living standards of families, in particular, among vulnerable groups.**

7. **Education, leisure and cultural activities**  
(arts. 28, 29, 31 of the Convention)

Education

56. The Committee, while noting the increase in school enrolment for both primary and secondary schools, remains concerned at the limited access to education, high drop-out and repetition rates, especially at secondary school level, which affects in particular children from marginalised urban and rural areas, indigenous children and the ones belonging to migrant families, particularly when illegal. It further notes with concern the reduction in education spending which affects in particular poorer children.
57. **In light of articles 28 and 29 of the Convention, the Committee recommends that the State party:**
- (a) **Increase the budget allocated to education;**
  - (b) **Enforce the Social Plan of Education in order to ensure regular attendance at schools and the reduction of drop-out rates, especially with regard to the most vulnerable children;**
  - (c) **Strengthen programmes of subsidies and scholarships for the children who are most affected by the economic crisis;**
  - (d) **Strengthen and expand education in human and children's rights;**
  - (e) **Improve the quality of education in order to achieve the goals**

**mentioned in article 29(1), in line with the Committee's general comments No.1 on the aims of education.**

**8. Special protection measures  
(arts. 22, 38, 39, 40, 37 (b)-(d), 32-36 of the Convention)**

Economic exploitation

58. The Committee, while noting that the State party ratified ILO Conventions No.138 concerning Minimum Age for Admission to Employment in 1996 and No.182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour in 2001, notes with deep concern the growing number of children under 14 who are exploited economically, in particular in rural areas, because of the economic crisis. It is also concerned at the lack of data and information with regard to this issue.

**59. In light of article 32 of the Convention, the Committee recommends that the State party:**

- (a) Undertake a comprehensive study on child labour in order to assess the extent, scope and nature of this problem;**
- (b) Continue to enforce and strengthen its legislation protecting working children in accordance with ILO Conventions No. 138 and 182, also with a view to increasing the minimum age to 15;**
- (c) Continue to develop and ensure the adoption of the National Plan to Prevent and Eradicate Child Labour;**
- (d) Establish a reliable system to gather information on child labour;**
- (e) Combat and eradicate as effectively as possible all forms of child labour, including by strengthening its cooperation with ILO/IPEC and UNICEF.**

Sexual exploitation and trafficking

60. The Committee is concerned that the phenomenon of child prostitution, especially in big cities, is increasing. It further notes that, although a National Plan of action to combat commercial sexual exploitation of children was adopted in 2000, there are not yet coordinated policies and programmes on

this.

61. **In light of articles 32 to 36 of the Convention, the Committee recommends that the State party:**
- (a) **Undertake a study on the issue of commercial sexual exploitation and trafficking of children in order to assess its scope and causes and develop effective monitoring and other preventive measures;**
  - (b) **Combat and eliminate commercial sexual exploitation and trafficking of children, including through the enforcement of the National Plan of Action, the development of social integration programmes, and policies and programmes for the rehabilitation and recovery of child victims according to the Declaration and Agenda for Action and the Global Commitment adopted at the 1996 and 2001 World Congresses against Commercial Sexual Exploitation of Children;**

Administration of juvenile justice

62. The Committee notes with satisfaction the enactment of the Bill on the Criminal Responsibility of Juveniles which establishes limits juvenile criminal responsibility and procedures to be followed, in accordance with art. 40 (3) of the Convention. Yet, it reiterates its deep concern that Law N.10.903 of 1919 and Law N.22.278, currently in force and based on the doctrine of "irregular situation", does not make a clear distinction between children in need of care and protection and those in conflict with the law. In this regard, the Committee notes that there are several draft laws for the reform of the juvenile justice system under discussion before Parliament, under which a judge can order the detention of children without due process only because of their social situation and that this decision cannot be appealed. In addition, it expresses its concern at the fact that, under art.205 of the Code of Criminal Procedure, there is a possibility of *incommunicado* detention of a child for a maximum of 72 hours. It further notes with concern the poor conditions of children in detention, including the lack of adequate basic services such as education and health, the absence of adequately trained staff, and the use of corporal punishment and isolation.
63. **The Committee recommends that the State party:**
- (a) **Review laws and practices regarding the juvenile justice system in order to bring it as soon as possible into full compliance with the Convention, in particular articles 37, 40 and 39, as well as with**

**other relevant international standards in this area, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines);**

- (b) Expedite its establishment, including by allocating adequate human and financial resources;**
- (c) Ensure that there is a clear distinction in terms of procedures and treatment between children in conflict with the law and children in need of protection;**
- (d) Use detention, including pre-trial detention, only as a measure of last resort, for as short a time as possible and for no longer than the period prescribed by law and ensure that children are always separated from adults;**
- (e) Use alternative measures to pre-trial detention and other forms of deprivation of liberty whenever possible;**
- (f) Incorporate into its legislation and practices the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty, in particular to guarantee them access to effective complaints procedures covering all aspects of their treatment;**
- (g) Take the necessary measures to improve detention conditions;**
- (h) In light of article 39, take appropriate measures to promote the recovery and social reintegration of the children involved in the juvenile justice system;**
- (i) Seek assistance from, inter alia, OHCHR, the United Nations Centre for International Crime Prevention, the International Network on Juvenile Justice, UNICEF, and through the United Nations Coordination Panel on Technical Advice and Assistance on Juvenile Justice.**

## **9. Optional protocols**

64. The Committee welcomes the State party's ratification of the Optional

Protocol on the involvement of children in armed conflict, but notes that it has not yet ratified Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

- 65. The Committee recommends that the State party continue to pursue ongoing efforts for the ratification of the Optional Protocol on the sale of children, child prostitution and child pornography.**

#### **10. Dissemination of reports**

- 66. Finally, the Committee recommends that, in light of article 44, paragraph 6, of the Convention, the second periodic report and written replies presented by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and the concluding observations adopted by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring within the Government, the Parliament and the general public, including concerned non-governmental organisations.**

#### **11. Next reports**

- 67. The Committee underlines the importance of a reporting practice that is in full compliance with the provisions of article 44 of the Convention. An important aspect of States' responsibilities to children under the Convention includes ensuring that the UN Committee on the Rights of the Child has regular opportunities to examine the progress made in the Convention's implementation. In this regard, regular and timely reporting by State parties is crucial. The Committee recognises that some State parties experience difficulties in initiating timely and regular reporting. As an exceptional measure, in order to help the State party catch up with its reporting obligations in full compliance with the Convention, the Committee invites the State party to submit its next periodic report before the due date established under the Convention for the fourth periodic report, on 2 January 2008. This report will combine the third and fourth periodic reports.**