

## ARGENTINA

### CRC A/51/41 (1996)

#### 12. Concluding observations

291. The Committee considered at its seventh session the initial report of Argentina (CRC/C/8/Add.2) at its 177th to 179th meetings (CRC/C/SR.177-179), on 10 and 11 October 1994. In view of the fact that the additional report, which had been requested from the Government of Argentina to supplement the information contained in Argentina's initial report, was received just before the consideration of the report, the Committee decided to postpone the adoption of its concluding observations until its next session. The Committee therefore adopted, at its 208th meeting, on 26 January 1995, the following concluding observations.

##### (a) Introduction

292. The Committee expresses its appreciation to the State party for engaging in a dialogue with the Committee. The Committee notes with regret that the report submitted by the Government of Argentina does not cover all rights enshrined in the Convention on the Rights of the Child and that it was not prepared in accordance with the Committee's guidelines for the preparation of initial reports. It notes that the report mainly deals with the legal framework and does not contain sufficient information, either analytical or statistical, on the actual implementation of the principles and rights set forth in the Convention. The extensive additional information submitted by the Government came too late for the Committee members to study and examine before the discussion with the State party delegation.

##### (b) Positive factors

293. The Committee notes with satisfaction the declaration made by the State party upon ratification in regard to article 38 that a prohibition exists in national legislation on the use of children under 18 in armed conflicts.

294. The Committee also welcomes the establishment of the National Council for Children and Family, the development of a National Plan of Action for Children as well as the signing of a federal Pact for Mothers and Children.

295. The Committee welcomes the efforts undertaken by the Government of the State party to publicize the Convention.

296. The Committee welcomes the incorporation of the Convention, as well as other human rights treaties ratified by Argentina, into the domestic legal system and the high legal status attributed to them by virtue of which they are given precedence over national laws.

297. The Committee notes with satisfaction the successful immunization programme with 99 per cent coverage and the high literacy rate - 95 per cent in 1990.

(c) Principal subjects of concern

298. The Committee is furthermore concerned about the reservations entered by the Government of Argentina upon the ratification of the Convention with respect to article 21 (b) to (e) owing to their broad nature.

299. The Committee is concerned that sufficient administrative and other measures seem not to have been taken to facilitate an effective coordination of the implementation of the Convention on local, regional and national levels.

300. The Committee takes note of the disparity of marriage ages for boys and girls in Argentine law, which seems to be contrary to the provisions of article 2 of the Convention.

301. The Committee notes with special concern the situation of children from vulnerable and disadvantaged groups, such as disabled children, abandoned children and children living and/or working in the streets, as well as children belonging to households living in poverty.

302. The Committee is also worried about the high number of single mothers in Argentina between the ages of 12 and 18 and about reports on the occurrence of domestic violence and sexual abuse.

303. The Committee notes the problems in the schools, with high turnover of teachers and children dropping out.

(d) Suggestions and recommendations

304. The Committee recommends that the Government of Argentina consider reviewing the reservation entered upon ratification of the Convention with a view to withdrawing it. In that connection, the attention of the State party is drawn to the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights in June 1993, which encouraged States to withdraw reservations to the Convention.

305. The Committee recommends that, given the federal nature of the Argentine State, a comprehensive approach be taken by the Government in implementing the Convention, particularly in assuring better coordination between the various mechanisms and institutions already in place to deal with the promotion and protection of the rights of children. Of importance, in that context, would be the establishment of an appropriate infrastructure at all levels and increased coordination between efforts undertaken at the local and provincial level with those taken at the national level. It is recommended that emphasis also be put on the aspect of monitoring, including through an ombudsman, and on cooperation with non-governmental organizations working for the rights of the child.

306. The Committee suggests that the budgetary measures be reviewed 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.

307. The Committee recommends that further efforts be made to ensure that personnel dealing with children be provided with adequate training that emphasizes the principles and norms in the Convention.

308. The Committee suggests that a larger part of the education and training of law enforcement personnel, judges and other administration of justice officials be devoted to an understanding of international standards on juvenile justice. The Committee also recommends that juvenile courts be set up in all provinces.

309. The Committee suggests that the State party consider undertaking greater efforts to provide family education and developing awareness of the equal responsibility of parents. Health education programmes should be developed to counter the high incidence of teenage pregnancy.

310. The Committee suggests that the State party considers the possibility of introducing more effective legislation and follow-up mechanisms to prevent violence within the family in the spirit of article 19.

311. The Committee also recommends that further measures be taken by the Government to reduce drop-out rates in schools and to ensure that the schools are adequately staffed with qualified personnel. It is also recommended that further steps be taken to encourage the active participation of children in the schools, as well as outside, in the spirit of article 12 of the Convention.

312. The Committee also recommends that the report and the additional information submitted by the State party, the summary records of its consideration and the concluding observations of the Committee be disseminated as widely as possible within the country.

## **CRC CRC/C/121 (2002)**

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

### **A. Introduction**

27. The Committee welcomes the submission of the State party's second periodic report, but 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 high-level and well-informed delegation sent by the State party, the frank dialogue and the positive reactions to the suggestions and recommendations made during the discussion.

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

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

29. The Committee welcomes the adoption of Law 24.417 on protection against domestic violence.

30. 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, as recommended in the previous concluding observations (CRC/C/15/Add.36, para. 20).

31. The Committee welcomes the improvement in the cooperation between the State party and non-governmental organizations concerned with children's rights issues.

32. The Committee welcomes the signing of a memorandum of understanding with the International Programme on the Elimination of Child Labour (IPEC) and the establishment in 2000 of a National Commission for the Eradication of Child Labour.

33. The Committee notes with satisfaction the adoption of a National Plan of Action against the Sexual Commercial Exploitation of Children.

34. The Committee welcomes the ratification by the State party of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

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

35. 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 increasing poverty is impeding the full achievement and enjoyment of the rights recognized in the Convention.

#### D. Principal areas of concern and recommendations

##### 1. General measures of implementation

##### Committee's previous recommendations

36. The Committee regrets that most of the concerns and recommendations (ibid.) it made upon consideration of the State party's initial report (CRC/C/8/Add.2 and 17) have been insufficiently addressed, particularly those contained in paragraphs 14 (reservations), 15 (coordination) and 16 (review of budgetary measures). The Committee notes that those concerns and recommendations are reiterated in the present document.

37. The Committee urges the State party to make every effort to address those recommendations in 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.

##### Reservations

38. The Committee reiterates its concern about the reservations (ibid., para. 8) entered by the Government of Argentina upon ratification of the Convention with respect to article 21 (b), (c), (d) and (e).

39. The Committee reiterates its recommendation (ibid., para. 14) that the State party consider reviewing the reservations entered upon ratification of the Convention with a view to withdrawing them.

##### Legislation

40. The Committee is concerned 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. Furthermore, the Committee also notes that provincial legislation often does not comply with the provisions and principles of the Convention.

41. The Committee recommends that the State party:

(a) Take all the necessary measures for the adoption by Parliament without delay of the draft law on the comprehensive protection of the rights of the child;

- (b) Ensure the full implementation of the law on the comprehensive protection of the rights of the child, once enacted in compliance with the Convention, paying particular attention to the need to allocate the necessary human and financial resources in order to establish the adequate structures;
- (c) Ensure that legislation at provincial level as a whole fully complies with the provisions and principles of the Convention;
- (d) Seek technical assistance from, among others, the United Nations Children's Fund (UNICEF).

#### Coordination

42. 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 better coordination between mechanisms and institutions dealing with the promotion and protection of the rights of children (ibid., para. 15) was not fully followed up, and that the State party still lacks a clearly defined and comprehensive child rights policy and plan of action for the implementation of the Convention.

43. The Committee reiterates its previous recommendation (ibid.) that the State party adopt a comprehensive approach in implementing the Convention, in particular by:

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

44. 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 per cent of children in Argentina live in poverty, of whom 35.4 per cent live in extreme poverty.

45. In light of article 4 of the Convention, the Committee encourages the State party:

- (a) To review economic and social policies and the allocation of resources in the budget with a view to ensuring that the maximum amount of available resources is allocated to promoting and protecting 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 (ibid., 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 of expenditures on children.

#### Independent monitoring

46. 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.

47. The Committee encourages the State party, as previously recommended (ibid., para. 15), to establish an independent and effective mechanism, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (The Paris Principles) (General Assembly resolution 48/134, annex), either as a part of a national human rights institution 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 would:

- (a) Monitor the implementation of the Convention;
- (b) Deal with complaints from children in a child-sensitive and expeditious manner;
- (c) Provide 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 the Office of the United Nations High Commissioner for Human Rights (OHCHR).

#### Data collection

48. 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 manner all areas covered under the Convention and that, when available, are not used in an adequate manner to assess trends and as a basis for policy-making in the field of children's rights.

49. 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;
- (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

50. The Committee reiterates its concern at the disparity between the ages of marriage for boys and girls in Argentine law (*ibid.*, para. 10).

51. In light of articles 1 and 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 that of boys.

## 3. General principles

52. The Committee is concerned that the principles of non-discrimination, the best interests of the child, the right to life, survival and development of the child and respect for the views of the child are not fully reflected in the State party's legislation and administrative and judicial decisions, or in policies and programmes relevant to children at federal, provincial and local levels.

53. The Committee recommends that the State party:

(a) Appropriately integrate the 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;

(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

54. The Committee is concerned that the principle of non-discrimination 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 marginalized adolescents who are neither studying nor working, especially with regard to their access to adequate health care and educational facilities.

55. 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;

(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.



56. The Committee requests that specific information be included in the next periodic report on measures and programmes relevant to the Convention undertaken by the State party to follow up on the Durban Declaration and Programme of Action adopted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and taking account of the Committee's General Comment No. 1 on article 29, paragraph 1, of the Convention (aims of education).

#### Respect for the views of the child

57. The Committee notes that the right of all children to participate in schools, as well as outside in all matters concerning them, needs to be further strengthened.

58. In light of article 12, the Committee recommends that the State party:

(a) Follow up on the Committee's previous recommendation (ibid., para. 21) that further steps be taken to encourage the active participation of children in schools, and in 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;

(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

##### Preservation of identity

59. The Committee recognizes the work done by the National Commission for the Right to an Identity to recover children missing during the military regime in power from 1976 to 1983, and notes that out of an estimated 500 cases of disappearances of children, 73 have been found.

60. 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 regime.

##### Right not to be subjected to torture

61. The Committee expresses its deep concern about institutional violence and specific reports of torture and ill-treatment of children held at police stations (*commissarias*) which, in some cases, have resulted in death. It is also extremely concerned at additional reports of police brutality, specifically the phenomenon 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

reported pressures and torture by the provincial police and that the majority of the cases are not adequately investigated and the perpetrators not brought to justice.

62. In light of article 37 (a) of the Convention, the Committee urges the State party:

(a) To undertake a study on the above-mentioned issues in order to assess their extent, scope and nature;

(b) To enforce the recently signed National Plan of Action for the Prevention and Elimination of Institutional Violence;

(c) To investigate, in an effective way and within a reasonable time, reported cases of killings, torture and ill-treatment of children;

(d) Urgently to take measures to transfer from active duty or suspend, as appropriate, alleged perpetrators while they are under investigation, and release them from service if convicted;

(e) To provide systematic training of law enforcement personnel in human and children's rights and ways to avoid the use of force;

(f) To establish a complaint mechanism, which should be easily accessible and child-sensitive and inform children about their rights, including the right to complain;

(g) To ensure that independent and qualified medical personnel are required to carry out regular examinations of child detainees;

(h) In light of article 39, to take all appropriate measures to ensure possibilities for physical and psychological recovery and social reintegration for child victims of torture and/or ill-treatment, and that they receive compensation.

#### Corporal punishment

63. The Committee notes with concern that there is no explicit prohibition of corporal punishment under law and that it is still widely practised in the home and in some institutions.

64. 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

##### Children deprived of family environment

65. 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.

66. 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 sanción*) comes into force, replacing Laws N.10.903 and N.22.278.

67. The Committee expresses its serious concern about the number of children, in particular children from poor families, who are deprived of a family environment and placed in public assistance institutions or residential homes, often far from their home.

68. 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

69. 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 standardized 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.

70. 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 expand the system of data collection for the whole country so as 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, that 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 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 (see CRC/C/111) and on "State violence against children" (see CRC/C/100).

## 6. Basic health and welfare

### Health and health services

71. 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 in these rates, in particular with regard to children from a lower socio-economic background, 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 by low-cost actions.

72. 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 rates, take measures to implement the Reproductive Health and Responsible Procreation Act of July 2000;

(c) Provide adequate antenatal and post-natal 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

73. The Committee notes with deep concern that the increasing rate of malnutrition is affecting, according to the most recent statistics, more than 4 million children, in particular newborn babies 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 has not yet been assessed.

74. The Committee recommends that the State party:

(a) Undertake a study on child malnutrition and create a comprehensive system of statistics to keep a record of malnutrition cases in order to assess the extent, scope and nature of this phenomenon;

- (b) Develop a comprehensive nutritional programme in order to prevent and combat malnutrition;
- (c) Seek international cooperation from, among others, UNICEF and the World Health Organization (WHO).

#### Adolescent health

75. The Committee notes with concern the growing number of cases of HIV/AIDS among the youth, notwithstanding the existing National Plan of Action for HIV/AIDS, and reiterates its concern (ibid., para. 12) about the number of teenage pregnancies, in particular in some of the provinces.

76. 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 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 sexually transmitted diseases and HIV/AIDS, and continue to develop adequate policies and programmes;
- (c) Take 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;
- (d) Seek technical cooperation from, among others, UNFPA, UNICEF, WHO and UNAIDS.

#### Children with disabilities

77. 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 of children being institutionalized because of insufficient support to poor families with disabled children.

78. 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 the 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 Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96, annex) 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 their inclusion into society, including by providing special training to teachers and by making schools more accessible.

### Standard of living

79. The Committee notes with concern that the recent economic, political and social crises have caused increased poverty, particularly among children and vulnerable groups.

80. The Committee recommends that the State party continue its efforts to prevent, including through a comprehensive poverty reduction strategy which incorporates human rights principles, a decline in living standards of families, in particular among vulnerable groups.

## 7. Education, leisure and cultural activities

### Education

81. The Committee, while noting the increase in school enrolment for both primary and secondary education, remains concerned at the limited access to education and at the high drop out and repetition rates, especially at secondary school level, which affect, in particular, children from marginalized urban and rural areas, indigenous children and children from migrant families, particularly illegal migrants. It further notes with concern the reduction in education spending which affects, in particular, poorer children.

82. 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 school 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, paragraph 1, in line with the Committee's General Comment No. 1 on the aims of education.

#### 8. Special protection measures

#### Economic exploitation

83. 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.

84. 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 to provide protection for working children in accordance with ILO Conventions Nos. 138 and 182, inter alia 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 of gathering 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

85. 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, coordinated policies and programmes on this issue have yet to be formulated.

86. 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 and the development of social integration programmes and policies and programmes for the rehabilitation and recovery of child victims, in accordance with 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

87. The Committee notes with satisfaction the enactment of the Bill on the Criminal Responsibility of Juveniles which establishes limits on juvenile criminal responsibility and procedures to be followed, in accordance with article 40, paragraph 3, of the Convention. However, 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”, do 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 article 205 of the Code of Criminal Procedure, a child may be held in incommunicado detention 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.

88. The Committee recommends that the State party:

(a) Review its laws and practices regarding the juvenile justice system in order to bring them, 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 the above, 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 complaint 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, among others, OHCHR, the United Nations Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF, through the United Nations Coordination Panel on Technical Advice and Assistance on Juvenile Justice.

## 9. Optional Protocols

89. The Committee welcomes the State party's ratification of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, but notes that it has not yet ratified the Optional Protocol on the sale of children, child prostitution and child pornography.

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

## 10. Dissemination of reports

91. 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 organizations.

## 11. Next reports

92. 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 is to ensure that the Committee on the Rights of the Child has regular opportunities to examine the progress made in the implementation of the Convention. In this regard, regular and timely reporting by States parties is crucial. The Committee recognizes that some States parties experience difficulties in reporting in a timely and regular manner. 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, i.e. 2 January 2008. That report will be a combined third and fourth periodic report.

