



**Convention on the
Rights of the Child**

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COMMITTEE ON THE RIGHTS OF THE CHILD

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 8 OF THE OPTIONAL PROTOCOL TO THE CONVENTION ON
THE RIGHTS OF THE CHILD ON THE INVOLVEMENT OF CHILDREN IN
ARMED CONFLICTS**

Initial reports of States parties due in 2004

ARGENTINA*

[12 June 2007]

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

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**Initial report of Argentina under article 8 of the Optional Protocol
to the Convention on the Rights of the Child on the involvement of
children in armed conflicts**

I. INTRODUCTION

1. Argentina ratified the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts (hereinafter “the Optional Protocol”) on 10 October 2002.
2. To begin with, it is important to bear in mind that the periodic reports submitted by Argentina pursuant to article 44 of the Convention on the Rights of the Child, as well as its other periodic reports submitted to various treaty bodies, contain information on the implementation of the Convention in particular and the enjoyment of human rights in general; in the interests of brevity, therefore, the reader is referred to them.
3. Argentina has always strongly supported all projects at the international and regional levels aimed at prohibiting the use of children in armed conflicts and ensuring the special protection of vulnerable groups in situations covered by international humanitarian law.
4. Accordingly, Argentina complies with its obligations under article 38 of the Convention, and in particular paragraph 3, which prohibits the recruitment into the armed forces of persons who have not attained the minimum age of 15 years. What is more, upon depositing the instrument of ratification of the Convention, Argentina made the following declaration: “Concerning article 38 of the Convention, the Argentine Republic declares that it would have liked the Convention categorically to prohibit the use of children in armed conflicts; such a prohibition exists in its domestic law which, by virtue of article 41 of the Convention, it shall continue to apply in this regard.”
5. On the specific question of the Optional Protocol, it should be pointed out that Argentina collaborated actively with the open-ended intersessional working group on the draft optional protocol to the Convention on the Rights of the Child on involvement of children in armed conflicts. In the working group, Argentina maintained its firm position on establishing a universal minimum age of 18 for recruitment by government forces and on the implementation of all norms of international humanitarian law that prohibit the recruitment of minors by non-governmental armed groups involved in hostilities as combatants. However, if those groups do not have the status of combatants, the recruitment of children should constitute a violation of domestic law.
6. Although it is difficult to imagine a need to apply the Optional Protocol or of the minimum norms of international humanitarian law within Argentina’s borders, given the lack of domestic or international conflicts, the studies Argentina’s conducting in order to adopt measures in peacetime that make provision for such situations, its accession to existing international instruments and its participation in international forums that address the issue testify to its commitment in this regard.
7. The preparation of this report was coordinated by the Human Rights Department of the Ministry of Foreign Affairs, which organized the information supplied by various national bodies

with competence in the area, including the Ministry of Defence, the Office of the Secretary for Human Rights of the Ministry of Justice and Human Rights and the then National Council for Children, Adolescents and the Family. The report was drafted in accordance with the guidelines regarding initial reports to be submitted by States parties under article 8, paragraph 1, of the Optional Protocol (CRC/OP/AC/1).

II. GENERAL INFORMATION

A. Definition of the child in Argentine legislation

8. The definition of the child in Argentine law is similar to the one contained in the Convention on the Rights of the Child. In the words of the interpretive declaration made at the time of ratifying the Convention, “The Argentine Republic declares that the article must be interpreted to the effect that a child means every human being from the moment of conception up to the age of 18.”

9. In September 2005, Act No. 26,061 on the Comprehensive Protection of the Rights of Children and Adolescents was passed, article 2 of which provides that, under the conditions of its applicability, the Convention on the Rights of the Child must be applied to all acts, decisions or measures of an administrative, judicial or other nature which are adopted with regard to persons up to 18 years of age. Children and adolescents have the right to be heard and listened to, regardless of the form in which they express themselves and in all areas.

10. Argentina’s current civil legislation recognizes:

- (i) Minors: persons who have not attained the age of 21 years (Civil Code, art. 126);
- (ii) Minors below the age of puberty: persons who have not attained the age of 14 years (art. 127);
- (iii) Adult minors: persons between the ages of 14 and 21 years (art. 127).

B. Applicability of the Optional Protocol in Argentina

11. Article 31 of the Constitution of Argentina provides that treaties are the supreme law of the nation. The Supreme Court, which interprets the provisions of the Constitution, has ruled that treaties and national law have equal rank.

12. Following the constitutional reform of August 1994, article 75, paragraph 22, of the new Constitution provides that:

“Treaties and concordats take precedence over laws

Under the conditions of their applicability, the American Declaration of the Rights and Duties of Man, the Universal Declaration of Human Rights, the American Convention on Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the Optional Protocol thereto, the Convention on the Prevention and Punishment of the Crime of Genocide, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on

the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Cruel, Inhuman or Degrading Treatment or Punishment, and the Convention on the Rights of the Child have constitutional rank, do not abrogate any article of the first part of this Constitution, and shall be interpreted as complementary to the rights and guarantees recognized in the Constitution. They may be denounced, if necessary, only by the Executive, with the approval of two thirds of the members of each Chamber. Other human rights treaties and conventions, after being approved by Congress, shall require the vote of two thirds of the members of each Chamber in order to acquire constitutional rank.”

13. In accordance with the procedure set out in the above article, congressional legislation subsequently gave constitutional rank to the Inter-American Convention on Forced Disappearance of Persons and the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity.

14. Accordingly, the above-mentioned international human rights instruments rank equal with constitutional provisions and take precedence over national and provincial legislation. This has been confirmed in a number of decisions handed down by the Supreme Court. Moreover, pursuant to articles 116 and 117 of the Constitution, the Supreme Court has found that international custom and the general principles of law - the sources of international law in accordance with article 38 of the Statute of the International Court of Justice - are directly incorporated in the legal system. For that reason, in many cases the Supreme Court has invoked the “people’s law of nations” and the “general principles of international law” in applying rules of international law.

C. Implementation of the Optional Protocol in line with the general principles of the Convention on the Rights of the Child

1. Non-discrimination (Convention, art. 2)

15. Article 16 of the Constitution provides that all inhabitants are equal before the law. Chapter 1 (Declarations, rights and guarantees) provides in article 20 that “foreigners shall enjoy within national territory all the civil rights of citizens: they may exercise their industry, trade or profession, own, buy and sell real property, navigate the rivers and coasts, freely practise their religion, make wills and marry in accordance with the law. They are not required to take citizenship or to pay special compulsory taxes ...”.

16. The Supreme Court has interpreted this provision to mean that the guarantee of equality before the law consists in establishing equal legal treatment for persons in broadly similar circumstances, so that this guarantee does not prevent the Legislature from treating differently situations which it considers different, provided that the distinctions are not based on arbitrary criteria, undue favour or disfavour, personal or class inferiority or privilege, or unlawful persecution.

17. Where non-discrimination is concerned, it must be pointed out that the enjoyment and exercise of all the human rights protected under the legislation in force in Argentina are provided for in respect of all “inhabitants” of the Republic. As the Supreme Court of Justice has defined it,

the term “inhabitants” covers both Argentine nationals and foreigners and refers to the persons residing in the territory of the Republic with the intention of remaining there, and who may live there even though they may not have established full legal domicile.

18. In respect of the constitutional norms that grant recognition of the rights protected by the Convention, the inclusion in the Constitution of article 75, paragraph 22, is an amendment of profound importance, as indicated earlier.

19. The amendment introduced in article 75, paragraph 23, of the Constitution added to the powers of Congress: “To enact and promote measures of affirmative action guaranteeing genuine equality of opportunity and treatment and the full enjoyment and exercise of the rights recognized by this Constitution and by the international human rights treaties in force, particularly in respect of children, women, older persons and disabled persons.”

20. Moreover, article 1 of Act No. 26,061 on the Comprehensive Protection of the Rights of Children and Adolescents provides that “the purpose of this law is the comprehensive protection of the rights of children and adolescents present in the territory of Argentina in order to guarantee the full, effective and permanent exercise and enjoyment of the rights recognized in the national legal system and in those international treaties to which Argentina is a party. The rights recognized here are fully enforceable and are based on the principle of the best interests of the child. Where State bodies fail to comply with their duties in this regard, every citizen shall be entitled to take administrative or legal action to restore the exercise and enjoyment of those rights through swift and effective measures”.

21. Lastly, article 28 of the Act specifies that its provisions “shall be applicable to all children and adolescents, without any discrimination on the basis of race, sex, colour, age, language, religion, beliefs, political opinion, culture, financial situation, social or ethnic origin, special abilities, health, physical appearance or physical or health defects, birth or any other condition of the child or their parents or legal guardians”.

2. Best interests of the child (Convention, art. 3)

22. In Argentine law, the principle of the best interests of the child is a general rule in that it is enshrined in an international instrument that has constitutional rank. The rule has moreover been incorporated into the Act on the Comprehensive Protection of the Rights of Children and Adolescents, as pointed out earlier.

23. The Act provides that:

“The best interests of the child and adolescent shall mean the fullest possible, comprehensive, simultaneous satisfaction of the rights and guarantees recognized in law; the following must be respected: (a) their situation as subjects of law; (b) the right of children and adolescents to be heard and to have their views taken into account; (c) individual realization of their rights in their family, social and cultural environment; (d) their age, degree of maturity, capacity for discernment and other individual characteristics; (e) the balance between the rights and guarantees of children and adolescents and the common good; (f) their centre of interest. Centre of interest means the

place where children and adolescents have lawfully spent most of their lives When there is a conflict between the rights and interests of children and adolescents and other equally legitimate rights and interests, the former shall prevail”.

24. The firm commitment of the national courts to provide special protection for children’s best interests is reflected in a range of case law to that effect. Thus, the courts have held that “The principle of the child’s best interests is weak in relation to other, more weighty, factors such as power and financial interests, even where these operate in the most irreproachable and transparent legality. There is therefore a need for firm and decisive jurisprudence to show the community the road to take in protecting its children, especially when family and school appear powerless in the face of the spread of the media, which cannot interfere in children’s lives under cover of the right to freedom of expression and the right to publish news without prior censorship” (National Civil Court of Appeal, C Division, 3 October 1996 - P., V.A.).

25. “Children are entitled to special protection. The defence of their rights must therefore prevail as the primary consideration in any judicial matter, so that in any conflict of interests of equal weight the moral and material interests of the child must be given priority over any other circumstance of the case” (National Civil Court of Appeal, A Division, 28 May 1996).

3. Right to life, survival and development (Convention, art. 6)

26. The right to life is embodied in Argentina’s legal system through a number of provisions. First, reference should be made to article 33 of the Constitution, which makes provision - as indeed it did before the 1994 reform - for the right to life as an implied right, i.e., one of those rights not expressly provided for in the Constitution but which it nevertheless recognizes. At the same time, article 18 of the Constitution specifies that “the death penalty for political reasons and all forms of torture and beating are abolished for ever”.

27. As pointed out earlier, following the 1994 reform of the Constitution, the right to life was given explicitly recognition through the granting of constitutional rank to a number of fundamental international instruments in which it is expressly established, namely: article 3 of the Universal Declaration of Human Rights, article 6 of the International Covenant on Civil and Political Rights, article 11 of the International Covenant on Economic, Social and Cultural Rights, article 1 of the American Declaration of the Rights and Duties of Man and article 4 of the American Convention on Human Rights.

28. The right to life is also established in the Act on the Comprehensive Protection of the Rights of Children and Adolescents.

4. Respect for the views of the child (Convention, art. 12)

29. The Constitution guarantees freedom of opinion and expression. Article 14 reads: “All inhabitants of the Nation shall enjoy the following rights in accordance with the laws governing their exercise, namely: the right ... to publish their ideas in the press without prior censorship.”

30. Article 24 of the Act on the Comprehensive Protection of the Rights of Children and Adolescents provides that:

“Children and adolescents have the right: (a) to participate in and freely express their views on subjects of concern to them and in which they have an interest; (b) to have their views taken into consideration in accordance with their age and maturity. This right shall apply to all areas in which children and adolescents are involved, including State, family, community, social, school, scientific, cultural, sports and recreational domains.”

31. Article 27 of the Act provides that:

“State bodies must guarantee to children and adolescents, in any judicial or administrative procedure affecting them, and in addition to all the rights established in the Constitution, the Convention on the Rights of the Child, the international treaties ratified by Argentina and the accompanying legislation, the following rights and safeguards: (a) to be heard before a competent authority whenever they so request; (b) for their view to be given priority consideration in any decision affecting them; (c) to be assisted by a lawyer, preferably one specializing in children and adolescents, from the beginning of the judicial or administrative proceedings in which they are involved. Where financial means are insufficient, the State must appoint a lawyer for the child; (d) to take an active part in the entire proceedings; (e) to appeal any decision affecting them to a higher authority.”

32. In view of the above, it can be said that in Argentina the implementation of the Optional Protocol is in full compliance with the general principles embodied in the Convention on the Rights of the Child.

III. INFORMATION RELATING TO THE ARTICLES OF THE PROTOCOL

A. Article 1 (minimum age for direct involvement in hostilities)

33. No members of the Armed Forces of Argentina are under 18 years of age.

B. Article 2 (minimum age for recruitment)

34. The Act establishing compulsory military service in Argentina has been abrogated.

35. Argentine legislation is clear on questions concerning the minimum age for involvement in armed conflicts, for recruitment and for enrolment in military academies.

36. Decree No. 1,537 of 29 August 1994 made military service voluntary. By Act No. 24,429, promulgated on 5 January 1995, Congress then regulated voluntary military service, defined in article 1 as “service performed of their own free will by men and women of Argentine nationality, whether by birth, by choice or by naturalization, as a contribution to the national defence ...”.

37. Article 2 reflects the human rights perspective adopted in the Act:

“The rights protecting human dignity that Argentina recognizes, subscribes to and exercises constitute the foundation on which specific rules of procedure are predicated and structured; they must be respected and, where they are not, may be asserted by all citizens. The laws, military regulations and international agreements accepted by Argentina, which

shall govern the activities and behaviour of members of the Armed Forces, must include and guarantee the necessary safeguards for citizens serving in the system of national defence as well as guarantees of the objectives and purposes of relevance to the highest interests of the Nation.”

38. Article 8, paragraphs (c) and (d), of the Act set the following conditions for admission to voluntary military service: “to be between 18 and 24 years of age” and “in the case of minors, to have the permission of their legal guardian” (bearing in mind that the age of majority in Argentina is 21).

39. Article 19 of the Act provides that, in the exceptional event that the quotas annually established for each service of the Armed Forces by the President (pursuant to article 3) are not filled by volunteers, the Executive may, under the terms of Act No. 17,531, conscript citizens who reach 18 years of age in the year in question, for a period of service not exceeding one year.

40. To conduct such a conscription, the Executive must first request authorization by law from Congress, indicating the reasons for the request and explaining why it was not possible to fill the relevant quotas.

41. Citizens who join the Armed Forces under such circumstances, shall have the same rights and obligations as set out in article 2 of the Act and shall be paid for their service.

42. When an exceptional situation under article 19 arises, citizens who consider that they are prevented from undergoing military training because they profess profound religious, philosophical or moral beliefs opposed in any circumstances to the personal use of arms or membership of military units, shall perform alternative social service for the period set under the regulations, which may not exceed one year.

43. Since the passage of the Voluntary Military Service Act, no exceptional situation has arisen making it necessary for the Executive to call for compulsory military service.

C. Article 3 (minimum age for voluntary recruitment and schools operated by or under the control of the Armed Forces)

44. As pointed out earlier, article 8 of Act No. 24,429, sets the age limits for admission to voluntary military service, namely between 18 and 24 years of age and with the authorization of a legal guardian in the case of a minor, since the age of majority in Argentina is 21.

45. When it ratified the Optional Protocol, Argentina declared the minimum age for voluntary recruitment in the national Armed Forces to be 18.

46. As to the provisions of article 3, paragraph 5, the following information is provided, in accordance with the Committee’s guidelines for the preparation of the report:

1. Minimum age of enrolment

47. The minimum age of enrolment varies depending on the academic level. The age requirements are as follows:

- (a) National Rivers Naval Academy (secondary level): 14 for boys and girls;
- (b) National Nautical Academy (university level): 17 for boys and girls;
- (c) Naval Aviation Academy (secondary level): 17 for boys and 18 for girls;
- (d) Marine Infantry Academy (secondary level): 17 for boys and 18 for girls;
- (e) Naval NCO Academy (higher non-university and secondary level - one- and two-year courses): 17 for boys and 18 for girls;
- (f) Naval Academy (university level): 17 for boys and 18 for girls;
- (g) Admiral Brown Naval High School (secondary level): 12 for boys and girls;
- (h) Admiral Storni Naval High School (secondary level): 11 for boys and girls;
- (i) Military Aeronautical High School (secondary level): 12/13 for basic general education, equivalent to the seventh year under the Federal Education Act.

48. The following information concerns schools operated by the Armed Forces:

- National Rivers Naval Academy

Level: secondary

Proportion of academic courses in the curriculum: 98 per cent

Proportion of military training: 2 per cent

Duration of studies: 4 years

Proportion of civilian personnel employed: 100 per cent

Proportion of military personnel employed: 0 per cent

- National Nautical Academy

Level: university

Proportion of academic courses in the curriculum: 98 per cent

Proportion of military training: 2 per cent

Duration of studies: 4 years

Proportion of civil personnel employed: 100 per cent

Proportion of military personnel employed: 0 per cent

- Naval Aviation Academy
 - Level: secondary
 - Proportion of academic courses in the curriculum: 93 per cent
 - Proportion of military training: 7 per cent
 - Duration of studies: 2 years
 - Proportion of civil personnel employed: 60 per cent
 - Proportion of military personnel employed: 40 per cent
- Marine Infantry Academy
 - Level: secondary
 - Proportion of academic courses in the curriculum: 90 per cent
 - Proportion of military training: 10 per cent
 - Duration of studies: 1 to 2 years
 - Proportion of civil personnel employed: 70 per cent
 - Proportion of military personnel employed: 30 per cent
- Naval NCO Academy
 - Level: higher non-university, secondary
 - Proportion of academic courses in the curriculum: 93 per cent
 - Proportion of military training: 7 per cent
 - Duration of studies: 1 to 2 years
 - Proportion of civil personnel employed: 70 per cent
 - Proportion of military personnel employed: 30 per cent
- Naval Academy
 - Level: university
 - Proportion of academic courses in the curriculum: 93 per cent
 - Proportion of military training: 7 per cent
 - Duration of studies: 5 years

Proportion of civil personnel employed: 70 per cent

Proportion of military personnel employed: 30 per cent

- Admiral Brown Naval High School

Level: secondary

Proportion of academic courses in the curriculum: 98 per cent

Proportion of military training: 2 per cent

Duration of studies: 5 years

Proportion of civil personnel employed: 100 per cent

Proportion of military personnel employed: 0 per cent

- Admiral Storni Naval High School

Level: secondary

Proportion of academic courses in the curriculum: 98 per cent

Proportion of military training: 2 per cent

Duration of studies: 6 years

Proportion of civil personnel employed: 100 per cent

Proportion of military personnel employed: 0 per cent

- Military Aeronautical High School Academy (the Argentine air force only enrolls students under the age of 15 in the Military Aeronautical Academy)

Level: secondary

Proportion of academic courses in the curriculum: 80 per cent

Proportion of military training: 20 per cent

Duration of studies: 6 years

Proportion of civil personnel employed: 100 per cent

Proportion of military personnel employed: 0 per cent

49. In terms of facilities, all these schools have classrooms, workshops and sports grounds, the aim being to supplement the curriculum and meet graduation profiles and predefined objectives.

50. The curriculum must in all cases be approved by the Ministry of Education, Science and Technology.

51. The curricula of all schools operated by the Armed Forces include courses and/or contents that envisage the teaching of topics relating to human rights and international humanitarian law

in order to teach respect for the person (both as an individual and as part of society) as well as knowledge of the Constitution and the set of universally recognized values relating to respect for human dignity.

52. Disaggregated data on students in these academies:

- Naval Academy

Number of students below 18 years of age: 0

Social and ethnic origins: no information available*

Military status: they are students in the naval academy and subject to military discipline. However, they do not have military status because these units are not mobilized.

- Naval NCO Academy

Number of students below 18 years of age: 1

Place of origin: one student is from an urban area of Misiones province

Social and ethnic origins: no information available*

Military status: they are students in the naval academy and subject to military discipline. However, they do not have military status because these units are not mobilized.

- Marine Infantry Academy

Number of students below 18 years of age: 0

Social and ethnic origins: no information available*

Military status: they are students in the naval academy and subject to military discipline. However, they do not have military status because these units are not mobilized.

- Naval Aviation Academy

Number of students below 18 years of age: 0

Social and ethnic origins: no information available*

Military status: they are students in the naval academy and subject to military discipline. However, they do not have military status because these units are not mobilized.

* No information available, because this is not a criterion that is used to classify students.

- National Nautical Academy

Number of students below 18 years of age: 0

Social and ethnic origins: no information available*

Military status: they are not part of the Navy and not subject to military discipline.

- National River Naval Academy

Number of students below 18 years of age: 89 boys and 15 girls

Place of origin: 104 students from an urban area in the Autonomous City of Buenos Aires

Social and ethnic origins: no information available*

Military status: they do not have military status because these units are not mobilized.

- Admiral Brown Naval High School

Number of students below 18 years of age: 106 boys and 15 girls

Place of origin: City of Buenos Aires: 103 students from urban areas; Buenos Aires province: 1 student from a rural area

Social and ethnic origins: no information available*

Military status: they do not have military status because these units are not mobilized.

- Admiral Storni Naval High School

Number of students below 18 years of age: 149 boys and 68 girls

Place of origin:

Chaco: 1 student

Entre Ríos: 1 student

Misiones: 172 students from urban areas; 2 from rural areas

Corrientes: 38 students from urban areas

Tierra del Fuego: 2 students from urban areas

* No information available, because this is not a criterion that is used to classify students.

Social and ethnic origins: no information available*

Military status: they do not have military status because these units are not mobilized.

- Military Aeronautical High School

Number of students below 18 years of age: 336 (86 girls and 250 boys)

Place of origin: 30 per cent from rural areas, 70 per cent from urban areas

Rosario: 58 per cent

Buenos Aires: 33 per cent

Centre: 7 per cent

North: 1 per cent

South: 1 per cent

Social and ethnic origins: no information available*

Military status: These cadets are not subject to military discipline; upon graduation they become part of the Armed Forces reserves, after which they may be called up. They may leave the academy at any time at the request of their parents or guardian. As they are minors, the students enter the academy with the written permission of their parents or legal guardians.

53. In all schools operated by the Armed Forces, students may discontinue their studies at any time if they so decide.

54. The regulations on disciplinary measures are consistent with existing legislation; the disciplinary measures are included in the rules and regulations of each school, which are approved and monitored by the competent authorities.

55. The regulations provide that, in the event of a violation of a right, the students and/or the personnel in charge may lodge a complaint.

D. Article 4 (armed groups)

56. There are no armed groups operating or taking refuge in Argentina.

* No information available, because this is not a criterion that is used to classify students.

E. Article 5 (applicability in Argentina of international human rights instruments and international humanitarian law)

57. As noted in part II, the provisions of national law that most favour the exercise of the rights of the child are the Constitution, the Convention on the Rights of the Child, which has constitutional rank, its two Optional Protocols, which have been ratified by Argentina and prevail over domestic law, and the Act on the Comprehensive Protection of the Rights of Children and Adolescents, which states that, under the conditions of its applicability, the Convention on the Rights of the Child must be applied.

58. As already noted, the principal international human rights instruments ratified by Argentina, under the conditions of their applicability, have constitutional rank and are to be understood as complementing the rights and guarantees recognized in the Constitution. They may only be denounced, if necessary, by the Executive, with the approval by two thirds of all the members of both chambers.

59. In addition to the international human rights instruments with constitutional rank, listed in the part I of this report, Argentina has ratified the following international instruments:

- (a) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography;
- (b) The Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador);
- (c) The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- (d) The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, ratified by Argentina on 23 February 2007;
- (e) The Convention relating to the Status of Refugees;
- (f) International Labour Organization (ILO) Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999). Pursuant to the preamble to Decree No. 719/00, the National Committee for the Elimination of Child Labour is the body responsible for promoting the effective elimination of the worst forms of child labour. In this context, the gradual elimination of poverty, the inclusion of children in the educational system, health care and compliance with legal norms, as well as the strengthening of the family, become instruments of the State policies Argentina is developing to prevent and eliminate the worst forms of child labour. Creating and heightening awareness of the subject through the media is fundamental to ensuring that children's rights cease to be mere words and that children genuinely benefit from policies on children;
- (g) The Rome Statute of the International Criminal Court.

60. In December 2006, Argentina signed the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, and the Protocol to the American Convention on Human Rights to Abolish the Death Penalty. The competent authorities are carrying out the necessary procedures for legislative approval of the two instruments with a view to ratification at a later date.

61. Although they are not yet in force, Argentina has not only signed but firmly supported the International Convention for the Protection of All Persons from Enforced Disappearance and the Convention on the Rights of Persons with Disabilities and its Optional Protocol.

62. With regard to the protection of children in armed conflicts, Argentina has approved the following international instruments of international humanitarian law:

(a) The Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects;

(b) The Protocol on Prohibitions or Restrictions on the Use of Mines, Booby Traps and Other Devices;

(c) The Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction (Ottawa Convention);

(d) Geneva Conventions of 1949 (I, II, III and IV);

(e) Protocol I Additional to the Geneva Conventions, 1977;

(f) Protocol II Additional to the Geneva Conventions, 1977.

F. Article 6 (measures adopted to ensure the effective implementation and enforcement of the provisions of the Optional Protocol)

1. Review of domestic legislation and amendments introduced to it

63. As noted earlier in the report, Argentine legislation is in full compliance with the requirements of the Optional Protocol.

2. The legal status of the Optional Protocol in national law and its applicability before domestic jurisdictions

64. See information provided earlier in the report.

3. Governmental departments or bodies responsible for the implementation of the Optional Protocol and their coordination with regional and local authorities, as well as with civil society

65. A number of governmental bodies have responsibility for the implementation of the Optional Protocol:

Ministry of Defence

66. This Ministry is responsible for assisting the President in all matters relating to national defence and relations with the Armed Forces within the institutional framework, and in particular for defining the objectives and policies in its area of competence; determining the requirements of national defence; logistical coordination for the Armed Forces in all matters relating to the supply, standardization, cataloguing and classification of materials, and the needs established by joint military planning; formulating and implementing mobilization policy and the national mobilization plan in case of war; registration, classification and distribution of manpower for the Armed Forces reserves, and promotion of activities and skills of relevance for national defence; joint military planning, needs identification and monitoring of implementation; and formulation and application of principles and rules for the functioning and deployment of the Armed Forces.

National Office for Children, Adolescents and the Family

67. The Act on the Comprehensive Protection of the Rights of Children and Adolescents established the National Office for Children, Adolescents and the Family as part of the Executive, as the body specializing in the rights of children and adolescents; it will operate with the participation of various ministries and civil society organizations.

68. By Decree No. 416/2006 the Office was placed under the Ministry of Social Development. Its functions include: devising general operating standards to be observed by State and private welfare and child-rights protection agencies; helping NGOs define their institutional objectives in promoting the rights of children and adolescents and avoiding their institutionalization; coordinating initiatives agreed with governmental and non-governmental bodies and encouraging the active involvement of children and adolescents; facilitating technical assistance and training initiatives for provincial and municipal bodies and community actors; organizing a single decentralized information system that includes indicators for monitoring, assessment and supervision of policies and programmes for children and the family; and preparing the reports required under article 44 of the Convention on the Rights of the Child, representing the State during consideration of the reports and receiving the recommendations made.

Federal Council for Children, Adolescents and the Family

69. This body, which was also established under the Act on the Comprehensive Protection of the Rights of Children and Adolescents, comprises the National Office for Children, Adolescents and the Family, as Chair, and representatives of existing or future bodies responsible for the protection of the rights of children, adolescents and the family in each of the provinces and in the Autonomous City of Buenos Aires.

70. The Federal Council for Children, Adolescents and the Family functions as a deliberative and consultative body and can formulate proposals and policies on coordination, the scope and content of which will be defined in its statute. Its functions include devising and implementing comprehensive policies on the protection of the rights of children and adolescents and their families; cooperating with the National Office for Children, Adolescents and the Family in preparing a national plan of action as a policy on rights in that specific area, in accordance with the legal principles established under the Act; proposing and promoting legislative and

institutional reforms designed to implement the principles embodied in the Convention on the Rights of the Child; developing mechanisms for the active involvement of civil society organizations in the provinces and in the city of Buenos Aires; cooperating with the National Office for Children, Adolescents and the Family to promote mechanisms for follow-up, monitoring and assessment of public policies on comprehensive protection of the rights of children and adolescents.

Ombudsman for the Rights of the Child

71. Established pursuant to article 47 of the Act on the Comprehensive Protection of the Rights of Children and Adolescents, the Ombudsman is responsible for protecting and promoting the rights embodied in the Constitution, the Convention on the Rights of the Child and domestic legislation. The Ombudsman is nominated, appointed and removed by Congress, which will appoint a bicameral committee to evaluate the candidates by public competition based on experience and examinations. The Ombudsman has the following functions:

(a) To promote initiatives for the protection of the individual and collective interests of children and adolescents;

(b) To take action to protect the rights of children and adolescents in any proceedings, body or court;

(c) To monitor the effective observance of the legal rights and guarantees of children and adolescents and take whatever judicial or extrajudicial measures may be required. To that end the Ombudsman may take statements from a complainant, confer directly with the person or authority complained against, make recommendations for improving State and private services for children and adolescents and fix a reasonable time frame for full compliance;

(d) To initiate proceedings to penalize violations of provisions to protect children and adolescents, without prejudice to the offender's civil and criminal liability, where applicable;

(e) To supervise private and State institutions working with children - either providing temporary or permanent accommodation or running support programmes - and report to the competent authorities any irregularity that threatens or violates children's rights;

(f) To request the assistance of the police and of State and private medical, welfare and educational services in the performance of tasks;

(g) To advise children and adolescents and their families as required, through an appropriate organization;

(h) To advise children, adolescents and their families on State, private and community resources and where they can obtain help with their problems;

(i) To participate in advisory, mediation and conciliation bodies;

(j) To receive any complaints by children or adolescents and any reports regarding children or adolescents, whether made in person or by telephone helpline, and respond immediately to the request.

72. The Ombudsman for the Rights of the Child must submit an annual report to Congress. A special report may be submitted if warranted by the seriousness or urgent nature of events. Moreover, the Ombudsman must personally attend, alternately every quarter, one of the special standing committees established by the two chambers of Congress, in order to present any reports required, or whenever a committee so requests.

Office of the Secretary for Human Rights of the Ministry of Justice, Security and Human Rights

73. The main task of this Office is to promote and protect human rights in Argentina. It takes part in the active monitoring, follow-up and reporting of cases and situations relating to human, civil, political, economic, social, cultural, community and collective rights, working with national, provincial and municipal bodies and civil society organizations involved with this issue. The Office runs the following activities:

(a) Complaints and Procedures Programme: reception of complaints from individuals relating to conflicts that may constitute human rights violations; it advises complainants and forwards cases to the competent national authority;

(b) Legislation Programme: participation in and assistance to the congressional human rights commissions;

(c) Institutional Relations Programme: promotion and maintenance of good relations with domestic (State and private) and foreign human rights agencies;

(d) National Commission for the Right to an Identity: expedites the search for disappeared children and determines the whereabouts of abducted and missing children whose identities are unknown, children born to mothers illegally deprived of their liberty, and other children whose identities are unknown because for various reasons they were separated from their biological parents;

(e) National Commission on the Disappearance of Persons (CONADEP): maintains and updates CONADEP files.

74. The Office of the Secretary for Human Rights includes the Department for Direct Assistance to Vulnerable Persons and Groups, whose tasks include:

(a) Ensuring the effective implementation of national and international standards that guarantee human rights and fundamental freedoms, with particular reference to vulnerable groups, which comprise, inter alia, the destitute, migrants, children, asylum-seekers, persons with disabilities, the elderly, indigenous peoples and sexual minorities;

(b) Receiving complaints of human rights violations and establishing an emergency response and follow-up mechanism to improve protection;

(c) Assisting the Secretary for Human Rights in elaborating programmes to promote and protect the rights of persons with disabilities and similar programmes for persons with HIV/AIDS and other vulnerable groups, on the basis of the principle of non-discrimination;

(d) Establishing procedures for active monitoring, either on its own initiative or on request, of situations involving human rights violations, in coordination with State bodies and social networks;

(e) Assisting the Under-Secretary for the Promotion and Protection of Human Rights in setting up a voluntary human rights service;

(f) Organizing the National Register of Missing Children, created by Act No. 25,746.

National Institute against Discrimination, Xenophobia and Racism

75. The National Institute against Discrimination, Xenophobia and Racism (INADI) was established in 1995 as a decentralized body within the Ministry of the Interior (since changed). Its purpose is to develop national policies and practical measures to combat discrimination, xenophobia and racism, and encourage and carry out initiatives to that end. INADI was officially constituted in 2002. In April 2002, a President and a Vice-President were nominated by Congress and appointed. Pursuant to Act. No. 26,572, promulgated on 19 December 2002, INADI was legally incorporated as a decentralized body, a status unanimously approved by both chambers of Congress.

76. INADI has a complaints centre to receive and evaluate complaints and assist and advise persons or groups who believe themselves the victims of discriminatory practices. It proceeds in the following manner: it checks the veracity of the allegation, seeks a peaceful settlement of the dispute through legal advice, administrative management, mediation and free legal aid. Since its creation, INADI has received around 4,000 complaints. It is also responsible for compiling a register of all discrimination cases nationwide for statistical purposes.

77. One noteworthy feature of INADI is the active participation of NGOs in its work. In addition to what was said in the previous paragraph, INADI is assisted by an advisory council entirely made up of NGOs representing various vulnerable groups.

78. Among other activities, INADI is required to act as the implementing body for anti-discrimination legislation, ensuring that it is applied and its goals are met; to provide a free comprehensive advice service to persons or groups subject to discrimination, xenophobia or racism; to provide free legal aid and, at the request of the concerned party, institute judicial or administrative proceedings on matters under its jurisdiction; to give technical advice to the Public Prosecutor's Office and the courts; and to institute and expedite judicial proceedings for emergency protection measures under the Constitution.

Human Rights Department of the Ministry of Foreign Affairs, International Trade and Worship

79. The primary responsibility of this government agency is to identify, develop and propose foreign policy plans, programmes, projects and objectives in the field of human rights and to assist in the conduct of foreign policy in these areas within international organizations, entities or ad hoc commissions.

80. The Department also helps study how legislation may be adapted to international commitments undertaken in the field of human rights in the signing and conclusion of treaties. It has been designated Argentina's chief representative to meetings of all United Nations human rights bodies.

81. The Department is responsible for coordinating the drafting of the periodic reports Argentina is required to submit to the various human rights treaty bodies.

4. Article 6, paragraph 3

82. With regard to the provisions of this article, and bearing in mind that Argentina is a State party to the Convention relating to the Status of Refugees, it should be noted that the body responsible for refugee status determination in Argentina has granted refugee status to a number of children and young people from various countries - mainly African countries - who claim to have been the victims of forced recruitment either by the Armed Forces of their country of origin or by armed groups.
