



Convention on the Rights of the Child

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Summary record of the 1524th (Chamber B) meeting

Held at the Palais Wilson, Geneva, on Wednesday, 2 June 2010, at 3 p.m.

Chairperson: Mr. Zermatten (Vice-Chairperson)

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The meeting was called to order at 3.00 p.m.

Consideration of reports of States parties (continued)

Third and fourth periodic reports of Argentina (continued) (CRC/C/ARG/3-4); *list of issues* (CRC/C/ARG/Q/3-4); *written replies to the list of issues* (CRC/C/ARG/Q/3-4/Add.1); *core document* (HRI/CORE/1/Add.74)

1. *At the invitation of the Chairperson, the delegation of Argentina took places at the Committee table.*
2. **Mr. Filali** asked what legislative measures and what mechanisms had been adopted to combat corruption and reduce poverty. He also wished to know whether juveniles could be sentenced to death or life imprisonment and whether judges, police officers and prison staff received ongoing training to familiarize them with the provisions of the Convention and newly adopted laws such as Act No. 26.061 of 2005 on Comprehensive Protection of the Rights of Children and Adolescents. He also sought confirmation that the maximum duration of incommunicado detention permitted by law was 48 hours, subject to a 24-hour extension if approved by a judge, and that detained minors had automatic access to legal aid or other forms of assistance, and wished to know what alternatives to deprivation of liberty were envisaged. Lastly, he would like to know whether minors awaiting trial were interviewed during the period of pretrial detention and, if so, in what conditions the interviews took place and whether the right of the child to be heard was respected.
3. **The Chairperson** asked for additional information about measures adopted to assist children with disabilities, notably in terms of schooling, special care and financial assistance. He would also like more details on inclusive education and institutional care.
4. He would also like to know whether the bill on the legal regime applicable to minors in conflict with the law, which would lower to 14 the minimum age at which criminal penalties and custodial sentences could be applied, was still subject to amendment.
5. **Mr. Luongo** (Argentina) said that his country had a long tradition of statistics collection, particularly in education and health, and that the National Statistical and Census Institute (INDEC) adhered to international standards. However, the authorities were aware of the need to adopt a more human rights-based approach to statistics. Since 2002, research had covered children with disabilities, nutrition, and indigenous peoples, among other areas. The establishment of the National Secretariat for Children, Adolescents and the Family (SENNAF) and the Federal Council on Children, Adolescents and the Family (COFENAF) had enabled the Government to begin constructing an information system, and a number of important advances had been made. For example, a first nationwide assessment of the situation of children deprived of their liberty had been conducted, a draft decree providing for the creation of a comprehensive database providing information on child-, adolescent- and family-related policy had been approved in 2009, a comprehensive child and adolescent protection register had been established pursuant to presidential order No. 2044/09 with a view to creating a database that could be used to identify children in need and review the services that they were receiving, and in 2010 an agreement to survey the living conditions of Argentine children had been signed with the United Nations Children's Fund (UNICEF).
6. **Mr. Bonari** (Argentina) said that, because Argentina was a federal State, it was difficult to determine the level of budgetary expenditure on children nationwide, especially since local authorities were not required to furnish central Government with that information. A methodology had been developed, in conjunction with UNICEF, which would make it possible to collect information on expenditure at the federal, provincial and local levels. Using that methodology, direct spending on children could be distinguished from expenditure that benefited children indirectly, such as funding for housing projects. The information had been grouped into 11 categories: living conditions, sport, leisure and

culture, development, integration, education, food and nutrition, child protection, health, social security, and technical and other urban services. The figures were disaggregated in detail, for the country as a whole and by province. The Ministry of the Economy had created a website giving information on investments in child-related projects, which would be updated every six months. Those initiatives had stimulated debate on child policy and enabled the Government to harmonize its practices with those of other countries, including as part of South-South cooperation.

7. After the severe economic crisis of 2001–2002, social indicators showed that children had been the worst affected; in 2010, the poverty reduction was more pronounced among children than among adults. The economic crisis had resulted in a change of economic model and an increase in social spending. The recently introduced universal family allowance per child for social protection, intended to help children from the most disadvantaged families, attested to the heightened focus on social policy in recent years. The introduction of the universal allowance meant that investment in children would soon reach 8 per cent of GDP.

8. **The Chairperson** asked how long the system for collecting data on child-related expenditure had been in operation.

9. **Mr. Bonari** (Argentina) said that the system covering all three levels of the State administration had been operational since 2001, and that the system covering central Government alone had been in place since 1995.

10. **Mr. Perczyk** (Argentina) said that the special education system was developing apace. It was regulated by National Education Act No. 26.206 and consisted of preschool, primary and secondary levels as well as vocational training workshops. In 2010 there were 89,000 children enrolled in the special education system, up from 70,000 in 2002. In recent years, almost 800 new schools had been built, some of which had special needs facilities. In 2010, Argentina had launched a programme to provide all schools, including special needs schools, with computers.

11. **Ms. Herczog** asked how the State ensured that all children who needed the universal allowance received it.

12. **Mr. Perczyk** (Argentina) said that the universal allowance was distributed to the children of parents whose income fell below a certain threshold and who did not have access to social security through their employment. There were over a thousand social organizations that visited families to identify which children should receive the universal allowance. Those visits also served to sensitize parents to health issues such as vaccination.

13. The Government was endeavouring to adjust the education system to the needs of indigenous peoples, and bilingual teaching was being introduced. The Federal Education Council was working with the various indigenous peoples' councils to guarantee that all children in Argentina enjoyed the right to education. Emphasis had been placed on preserving the oral tradition of the indigenous peoples and ensuring that schools continued to serve as a vehicle for the transmission of culture from one generation to the next. Scholarships were awarded to indigenous children and, on 21 May 2010, the President of Argentina had ruled that grants should be awarded to all university students training to teach indigenous languages.

14. **The Chairperson** asked whether the Convention had been translated into the indigenous languages.

15. **Mr. Perczyk** (Argentina) replied that the Convention had not been translated into the indigenous languages but that the Government undertook to do so.

16. There were two types of institution providing early childhood education – child development centres, which focused on the social integration of children from birth to 4 years of age; and primary schools, which aimed to introduce children to culture and inculcate in them core values. An additional objective of the latter system, which was fast developing, was to compensate for differences in children’s social origin. In 2002 there had been 1.2 million children enrolled in initial education. That number had now risen to 1.6 million. School attendance was compulsory from the age of 5.

17. **The Chairperson** asked what percentage of the total number of children in the relevant age bracket the 1.6 million children enrolled in initial education represented.

18. **Mr. Perczyk** (Argentina) said that that figure represented 95–96 per cent of 5-year-olds, 70 per cent of 4-year-olds and 34 per cent of 3-year-olds. The Government was looking to improve the enrolment rate for children aged 3 and 4.

19. **Ms. Maurás Pérez** (Country Rapporteur) asked how the authorities ensured a smooth transition from education to employment and whether there were any differences between boys and girls in that area.

20. **Mr. Perczyk** (Argentina) said that a programme promoting equality in education which aimed, inter alia, to improve equipment in schools and increase their admission capacity had been piloted in 2,293 primary schools and was currently being extended to a further 1,000. The Argentine authorities faced two challenges: firstly, establishing a high-quality secondary education system; and, secondly, preventing school dropout. To reduce the dropout rate, mentors had been appointed to support pupils in 3,800 State secondary schools.

21. A very strict inter-ministerial policy had been developed to combat drug abuse, and a supporting educational and cultural programme was broadcast on television to alert young people to the problem.

22. The special funding for vocational training had helped to increase male and female enrolment in technical colleges over the previous four years and to improve the quality of the training, which opened up many avenues to business.

23. Art and sport courses were offered to broaden young people’s cultural horizons. In certain provinces, schools opened at weekends to allow pupils to engage in extra-curricular activities.

24. **The Chairperson** asked whether there were any mechanisms within the school system that enabled pupils to participate in decision-making.

25. **Mr. Perczyk** (Argentina) said that youth organizations had developed participatory systems as part of secondary education reform. In addition, coexistence councils provided a forum for adults and teenagers to develop coexistence guidelines.

26. **Mr. González Prieto** (Argentina) said that the implementation policies for all health-related programmes, including national mother-and-child programmes, the National Sexual Health and Responsible Parenthood Programme, and the national Programme for the Integral Care of Adolescents, were reviewed by the National Public Health Council before they were introduced across the country. Contraception information campaigns were run in schools, and contraceptives were distributed free of charge in hospitals. Leaflets about contraception and mother-and-child health were distributed in all languages. A free helpline had recently been launched under the National Sexual Health and Responsible Parenthood Programme and gave young people access to health services and information about contraception and abortion without the need to be accompanied by a parent or guardian. It was unnecessary to amend article 86 of the Criminal Code concerning lawful

termination of pregnancy, since, under recent case law, punishment was always withheld when the terminated pregnancy was the result of rape.

27. **Ms. Maurás Pérez** (Country Rapporteur) asked whether health services were equipped for that broader interpretation of article 86.

28. **Mr. González Prieto** (Argentina) acknowledged the inadequacy of the health-care provision currently available to women following a termination.

29. **Ms. Maurás Pérez** (Country Rapporteur) asked whether it was true that requests for terminations of pregnancy had sometimes been refused on the basis of article 86 and, if not, whether people were familiar with the article's new interpretation.

30. **Mr. González Prieto** (Argentina) said that article 86 was no longer invoked to refuse a request for termination and that the population was familiar with the relevant case law because the issue had been the subject of frequent public debate, which should thenceforth focus on the two abortion decriminalization texts currently under consideration.

31. The *Plan Nacer* (Childbirth Plan) enabled health-care authorities to identify teenage pregnancies before the twentieth week of gestation and to provide appropriate care. A pilot scheme to support pregnant teenagers and prevent them from dropping out of school had also been launched in 11 Buenos Aires municipalities.

32. Maternal mortality was mainly due to inadequate obstetric care. In conjunction with the provincial health-care authorities, the Ministry of Health had established a perinatal care network to redress that situation.

33. To combat neonatal mortality, the Argentine Government was focusing on preventive health, and health promotion programmes. Neonatal deaths currently accounted for 66 per cent of all infant deaths, with premature babies weighing less than 1,500 grams accounting for 45 per cent. If the infant mortality rate was to be reduced, it would therefore first be necessary to reduce deaths among premature babies. A programme launched in Tucumán province had reduced the mortality rate for premature babies weighing under 1,500 grams from 93 per cent to 9 per cent.

34. Fortified milk was distributed to children without access to social welfare in order to reduce chronic malnutrition. Breastfeeding was also strongly encouraged, specifically through the *Fortissimo* programme developed in conjunction with UNICEF. In addition, formula milk manufacturers were prohibited from marketing their products as a sole form of nutrition needed. Currently, 40 per cent of children aged under 6 months were exclusively breastfed.

35. The Government drew on statistics provided by the provincial authorities and data from *Plan Nacer* to develop its health-care policies.

36. **The Chairperson** requested information about the assistance available for children who dropped out of education because of pregnancy or alcohol or drug abuse.

37. **Mr. González Prieto** (Argentina) said that the recently established programme for the comprehensive care of teenagers had three priority focuses: teen pregnancies, suicides and alcohol abuse. The programme had been introduced in 18 provinces, but it was still in its infancy and posed enormous challenges.

38. **Ms. Vessevessian** (Argentina) said that the National Council for the Coordination of Social Policies, a body composed of representatives of the various agencies concerned, developed social policies that reflected the objectives set and the reality on the ground. It had, inter alia, developed a plan to assist those most destitute segments of the population. The Council took decisions on health and education investment and infrastructure

development in order to ensure social security coverage for all children. It also monitored progress achieved in the implementation of social programmes.

39. **Ms. Maurás Pérez** (Country Rapporteur) asked how the National Council provided social services on the ground and whether it was able to identify the locations with gaps in service provision. She would also like to know whether responsibility for filling any such gaps and ensuring universal access to all services fell to the Council or the provincial authorities.

40. **Mr. González Prieto** (Argentina) said that targets were set at the provincial level.

41. **Ms. Vessevessian** (Argentina) said that Community Integration Centres had been established throughout the country and that their responsibilities included coordinating health-care and education policies.

42. **Mr. González Prieto** (Argentina) explained that different models had been implemented and depended on the number of people living in the municipality in question, which could be as few as a dozen or as many as 2.5 million. What mattered most was that all public- and private-sector stakeholders in the different fields involved cooperated and undertook to protect human rights as well as to provide services.

The meeting was suspended at 4.30 p.m. and resumed at 4.50 p.m.

43. **Ms. Graham** (Argentina) said that Act No. 26.061 on Comprehensive Protection of the Rights of Children and Adolescents established a range of rights that were guaranteed to children and adolescents throughout the country, but that each province had its own system for child rights protection and its own procedures for adopting exceptional measures, which was done only once all other possible courses of action that would allow the children concerned to remain with their families or close relatives had been exhausted. The measures were adopted by the provincial authorities and monitored by a family court judge. Provincial differences made it difficult to specify the number of existing family court judges.

44. Considerable efforts had been made to standardize the protocols to be followed before the adoption of exceptional measures. Minimum measures had been established to guarantee protection of the rights of the child, including their right to be heard, and of protection of the rights of their families. The need to monitor, supervise and train the staff responsible for implementing exceptional measures had also been identified.

45. Significant efforts had also been made to assess the situation of children without parental care who had been placed either in public or private institutions or in foster families. After an initial survey, carried out in 2005 in association with UNICEF, had failed to produce uniform results, a second quantitative survey carried out in 2007 had revealed a decline in the number of children in institutional care and an increase in the number in foster care. Since the best solution would be for children to remain with their own families, the aim was to reduce both figures further. Certain provinces had adopted best practices aimed at strengthening the family and community environment.

46. It had been decided that further quantitative and qualitative research would be conducted in 2010, again in conjunction with UNICEF, to assess, firstly, children's situation and the reasons for their being placed in care, and, secondly, public and private institutions, foster families and the care each type of service provider offered. As part of that assessment, the authorities would visit various institutions and families and assess the available protection mechanisms.

47. **Ms. Herczog** asked whether the decline in the number of children placed in institutional care meant that foster care was now the preferred option and whether foster families received training. She wished to know the average age of children entering and

leaving alternative care facilities, and the average length of placements. She would also like to know whether children were prepared for leaving the care system and whether they were offered professional or financial support.

48. **Ms. Graham** (Argentina) replied that some of the provincial authorities that used foster care had set specific family selection criteria and offered training for the families selected. Foster families were entitled to receive State benefits, especially if the child had a severe disability.

49. The length of placements varied from one province to another. In provinces that favoured foster care, placements in institutional care were very brief. The length of a placement also depended on the child's situation; children with disabilities generally remained in institutional care or with a foster family throughout their lives.

50. Particular attention was paid to preparing children for leaving the care system. There were also programmes to prevent children being separated from their families, and programmes to facilitate their reintegration.

51. The challenge now was to extend family and community strengthening programmes to the entire country. Although most children lived with two parents, an increasing number lived in one-parent families usually headed by a woman and in unstable conditions.

52. **The Chairperson** asked whether foster families received the universal allowance.

53. **Ms. Graham** (Argentina) replied that all Argentine children received the universal allowance, which gave them access to social welfare.

54. **Ms. Herczog** asked at what age children were considered old enough to leave the care system and whether they were then offered preparation, allowances and follow-up. She would like to know what percentage of children were placed in institutions and foster care, respectively, and the difference between correctional homes and alternative care facilities. Lastly, she would appreciate learning whether care institutions were generally large-scale facilities offering traditional services, or small homes better suited to children in terms of infrastructure and programmes.

55. **Ms. Maurás Pérez** (Country Rapporteur) asked whether all children were entitled to the universal allowance and to whom exactly it was paid.

56. **Ms. Graham** (Argentina) explained that children left the care system when they reached the age of 18. If they were not able to return to their original family, at the age of 14 or 15 they would join a life preparation programme that formed part of the family and community strengthening programme.

57. She reiterated the results of the survey of children placed in institutional care (11,939 in 2007 and 10,342 in 2010) and foster homes (2,405 in 2007 and 11,126 in 2010) appearing on page 103 of the State party's written replies to the list of issues.

58. **Ms. Herczog** asked for the reasons for the sharp rise in the number of children placed in foster care, given that the number of children placed in institutional care had remained relatively stable.

59. **Ms. Graham** (Argentina) said that the reason for the sharp rise in the number of children placed in foster homes was that the authorities in the province of Chaco had included in the figure for children living in foster homes, children living in their extended family, and children whose families were receiving benefits under the family and community strengthening programme.

60. There were no longer any institutions in Argentina caring for more than a hundred children. The current institutions, whether public or private, cared for between 12 and 15 children.

61. It was the head of the child's household or his or her legal representative who received the universal allowance. Children placed in public or private institutions did not yet receive the allowance because it was difficult to determine to whom it should be paid. Several possibilities were being considered, including the erstwhile practice of paying the allowances into savings accounts opened in the children's name, which they could access only after leaving the care system.

62. There had been 2,429 national adoptions between 2000 and 2010. The Argentine Government maintained the reservations that it had entered in respect of article 21 of the Convention on Protection of Children and Co-operation in respect of Intercountry Adoption.

63. Since violence against women and violence against children were closely related, the fight to ensure respect for women's rights, in which Argentine women had been engaged for the previous 30 years, had led to a significant increase in complaints of violence against children. Such complaints could be lodged in any province with any of a number of national and regional bodies, including the comprehensive childcare services established in each district and the referral centres run by the Ministry of Social Development.

64. Considerable progress had been made towards eliminating child labour since the adoption of Act No. 26.390, which prohibited child labour and regulated the adolescents' work. The Ministry of Labour and the National Commission for the Eradication of Child Labour were working closely with industry and had established a network of more than 60 large companies ready to fight the phenomenon. Initiatives undertaken as a result of that cooperation included the establishment of facilities where agricultural workers could leave their children during the day to prevent them being made to work as well. A bill prohibiting piecework, which was the main form of child labour in rural areas, was also currently being drafted.

65. **Ms. Vessevessian** (Argentina) said that the delegation would like to express its profound disagreement with the life sentences imposed on minors between 1996 and 2002. No sentences of that severity had since been handed down and the authorities would continue their efforts to redress that situation.

66. **Ms. Beloff** (Argentina) said that the Supreme Court of Justice ruling of 2 December 2008 had in no way authorized the use of custodial sentences as a form of protection for minors and that the best interests of the child remained the guiding principle in all judicial decisions concerning minors. However, she acknowledged that domestic legislation concerning minors contained gaps and, in particular, that it did not enable members of the judiciary and administrative bodies to interpret precisely what was meant by the principle of the best interests of the child.

67. Although domestic legislation concerning minors dated back 30 years and bore the marks of certain historical events, over the previous 10 years it had been reinterpreted by case law, with the result that the principles enshrined in the Convention and those established in general comment No. 10 were respected at both the national and provincial levels. Irrespective of the competent jurisdiction, minors charged with an offence enjoyed all the due process guarantees established in article 40 of the Convention, including, the right to legal representation. All decisions adopted in the course of a criminal suit could be taken to appeal before the competent jurisdiction, including, if necessary, the Supreme Court of Justice. However, other than the guarantees established for minors who had committed an offence, there was no specific procedure tailored to juveniles' needs.

68. There were still a number of legal obstacles, and a sort of cultural resistance, to the use of alternative measures to deal with juvenile crime, which did not involve judicial proceedings. However, a recently passed law considerably extended the range of mediation

options available in many cases, which was expected to have a positive impact on the administration of juvenile justice.

69. Life imprisonment of minors was prohibited, in accordance with article 37 (a) of the Convention. The main issue was the excessive length of the custodial sentences handed down. To address that situation, the Supreme Court had established guidelines stipulating that, in cases involving minors, the sentence handed down should be that applied to adults who attempted to commit the offence of which the minor had been convicted, rather than the sentence applied to adults who had actually committed the offence. That guideline, which was applied in all the country's courts, went some way towards explaining why, in Argentina, stiffer sentencing was not on the increase, as was the case in other countries in the region.

70. **Mr. Filali** asked the delegation to clarify whether Act No. 22.278 on the criminal regime for minors, which gave judges the power to deprive minors of their liberty, was still in force. As he understood it, Act No. 13.634 also authorized judges to adopt such measures at their discretion.

71. **Ms. Beloff** (Argentina) said that Act No. 22.278 was still in force but had been reinterpreted by the Supreme Court of Justice. Pursuant to that reinterpretation, judges did not have discretionary powers. Act 13.634 was a law of the province of Buenos Aires, not a national law. It was based on the set of principles and guarantees established in the Convention and did not authorize judges to exercise discretionary powers.

72. **Mr. Lerner** (Argentina) said that the delegation did not deny that, while the principles of the Convention were in some respects reflected in Argentine law, domestic legislation ran counter to some of the recommendations set forth by the Committee in its general comment No. 10. He would, however, like to remind the Committee of recent developments in case law.

73. In 2007, in conjunction with UNICEF, the National Secretariat for Children, Adolescents and the Family had carried out an in-depth national survey of juvenile criminal justice, which had revealed an average of 1,800 minors in detention or semi-detention. That figure had not changed since 2007 and, compared with equivalent data for other countries in the region, indicated that deprivation of liberty was not more frequent in Argentina than in neighbouring countries. By 2010, 17 out of 24 provinces were using alternatives to deprivation of liberty, compared with just 8 in 2007. Those programmes had helped reduce from 1,500 on average in 2003 to a mere 200 at present, the number of children in detention centres in the city of Buenos Aires that were under the direct supervision of the National Secretariat. A growing number of custodial sentences were being served in specialist centres not under the control of the security forces or prison service.

74. The province of Buenos Aires, where 40 per cent of the national population lived, faced especially severe problems, foremost among them the problem of violence against minors. Reforms had been undertaken, and a number of advances had been made. As a result, after extensive legislative debate, the province had adopted a new system of criminal procedure which had been praised by child rights advocates. A resolution adopted by the provincial Government in 2004 had put a definitive end to young people being held in police custody for long periods. In application of the Committee's 2002 recommendation, the authorities were directly tackling the phenomenon of *gatillo fácil* (easy trigger syndrome). Mechanisms for supervising law enforcement officers had been considerably enhanced, and any violation of the rights of a detained minor would give rise to investigations and prosecutions. Argentina had turned its back on its violent past, and the Government was making every effort to further entrench respect for human rights and ensure that no person enjoyed impunity.

The meeting rose at 6 p.m.