



# Economic and Social Council

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## Committee on Economic, Social and Cultural Rights

### Consideration of reports submitted by States parties in accordance with articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights

Fourth periodic reports of States parties due in 2011

**Chile\***

[31 March 2012]

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\* 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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## Introduction

1. The fourth periodic report of Chile on the implementation of the International Covenant on Economic, Social and Cultural Rights, submitted in accordance with articles 16 and 17 of the Covenant, describes the progress the State has made and the difficulties it faces in the implementation of the Covenant rights, which are fully in force and gradually being realized in Chile. It contains background information covering the period from 2004 to 2011, during which no reports were submitted.

2. It should be noted that during the reporting period there was a change in the ruling political coalition in Chile. On 11 March 2010, Mr. Sebastián Piñera Echenique took office as President of the Republic, backed by the Coalition for Change, which replaced the Governments of the Democracy Coalition that had run the country from 1990 to 2010.

3. Last year, Chile was struck by an earthquake and tsunami that caused serious human and material losses in large parts of the centre-south of the country, which have since been the focus of major reconstruction efforts. The disaster left nearly 500 persons dead or missing and more than 800,000 in need of aid. It severely affected the area of Greater Concepción, which consists of 5 cities with more than 100,000 inhabitants, 45 cities with more than 5,000 inhabitants and more than 900 rural and coastal communities and towns, destroying 90 per cent of the adobe buildings in the most seriously affected regions.

4. The core document of Chile (HRI/CORE/1/Add.103) provides background information on the country's political structure and on the general legal framework for the protection of human rights. In addition to the above, and in accordance with the most recent harmonized guidelines (HRI/GEN/2/Rev.6), it is hoped that the new document being produced by Chile will provide the Committee with complete and up-to-date information prior to the consideration process being undertaken.

5. Regarding the length of the present report, an effort has been made to respect the 40-page maximum for periodic reports, as stipulated in the guidelines. Accordingly, Chile has chosen to outline the progress made with respect to the concluding observations of the Committee on Economic, Social and Cultural Rights<sup>1</sup> on the implementation of each article, under a heading identifying the relevant paragraph of the concluding observations. Tables and graphs have been avoided, as their inclusion would have meant exceeding the page limit. Nor have individual articles been analysed with the same degree of detail as in previous reports; rather, the information has been prioritized and summarized. At the same time, reference has been made to reports submitted by Chile to other human rights committees, such as the combined fifth and sixth periodic reports submitted to the Committee on the Elimination of Discrimination against Women on 6 January 2011,<sup>2</sup> the fifth periodic report to the Human Rights Committee (CCPR/C/CHL/5), the initial report on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (CRC/C/OPSC/CHL/1), the third periodic report to the Committee on the Rights of the Child (CRC/C/CHL/3), the initial report to the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, submitted on 9 February 2010 (CMW/C/CHL/1), and the report on implementation of the International Labour Organization (ILO) Indigenous and Tribal Peoples Convention, 1989 (No. 169).

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<sup>1</sup> E/C.12/1/Add.105, 26 November 2004.

<sup>2</sup> Report available at: [http://www.minrel.gov.cl/prontus\\_minrel/site/artic/20080902/asocfile/20080902204316/\ 110107\\_informe\\_nacional\\_cedaw.pdf](http://www.minrel.gov.cl/prontus_minrel/site/artic/20080902/asocfile/20080902204316/\ 110107_informe_nacional_cedaw.pdf).

6. One of the most important public policy developments of the reporting period was the 2005 reform of the health-care system, both public and private, as reflected in the entry into force of a number of laws establishing increased guarantees and rights for the system's users. In 2008, Act No. 20.255 introduced social security reforms by establishing a non-contributory pension system that, inter alia, increased old-age pension coverage for those in the lowest strata of society. Furthermore, in relation to the environment, mention should be made of the entry into force, on 26 January 2010, of Act No. 20.417 providing for the establishment of the Ministry of the Environment, the Environmental Assessment Service and the Supervisory Authority for the Environment.

7. The new Government has undertaken to maintain and improve the social protection mechanisms developed by its predecessors. It has also resolved to increase the various existing types of social benefits, through measures such as extending postnatal care from 12 to 24 weeks, increasing school allowances — which are expected to double over a period of eight years — or establishing the Ethical Family Income programme. All of these measures are aimed at achieving objectives such as eliminating extreme poverty by 2014 and poverty in general by 2018, eliminating hospital waiting lists and significantly improving educational quality and equity.

8. The new focal points of this social policy include, in addition to the expansion of social benefits, the introduction of mechanisms to make them more effective and to empower and engage the personal responsibility of recipients and providers. Examples can be seen in the development of bigger preventive health programmes, the creation of awards for high-performing teachers and students and the option of conditional cash transfers, as in the case of the Ethical Family Income programme, which will set eligibility requirements concerning the employment of adults in the family and the education and health of minors.

9. Lastly, in response to paragraphs 31 and 32 of the concluding observations, it should be noted that the National Human Rights Institute was established in accordance with the Paris Principles as an autonomous public-law corporation under Act No. 20.405, published in the Official Gazette (*Diario Oficial*) of 10 December 2009, and was formed on 20 July 2011. The National Human Rights Institute works to promote and protect the human rights of all Chileans, as set out in constitutional and legal norms and in the international treaties that Chile has signed and ratified and that are currently in force, as well as those deriving from general principles of law recognized by the international community. Its main functions include issuing an annual report on the human rights situation in Chile; ensuring that national legislation is brought into line with international treaties to which Chile is a party so that they may be effectively implemented; and bringing legal action before the courts concerning matters within its sphere of competence, such as complaints of crimes against humanity, torture or disappearances of persons. The National Human Rights Institute submitted its 2010 Annual Report on Human Rights on 9 December 2010.<sup>3</sup>

## **I. General provisions of the Covenant**

### **Article 1**

#### **Self-determination**

10. The right to self-determination is enshrined in articles 4 and 5 of the Constitution. The constitutional reform of 2005 served to surmount what were seen as obstacles to the

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<sup>3</sup> See <http://www.indh.cl>.

implementation of this right,<sup>4</sup> as they unreasonably diminished the influence of popularly elected authorities. Thus, the National Security Council was converted into an advisory body to the President, who alone has the power to convoke it; the system of appointed senators and senators for life was eliminated; changes were made to the way in which members of the Constitutional Court are appointed, putting an end to intervention by the National Security Council; and the provision under which neither the Commanders-in-Chief of the Armed Forces nor the Director-General of the Carabineros could be removed from office was abolished. Further information is available in paragraphs 45 to 54 of the third periodic report (E/1994/104/Add.26) to the Committee on Economic, Social and Cultural Rights, submitted in 2004, and paragraphs 40 to 52 of the fifth periodic report to the Human Rights Committee (CCPR/C/CHL/5), submitted in 2006.

### **Paragraphs 33 to 35 of the concluding observations**

11. Many of the current policies on indigenous matters have been developed in accordance with ILO Convention No. 169, ratified on 15 September 2009. Much of that Convention has been implemented through Chilean legislation, as indicated in the memorandum sent to the International Labour Organization on 1 September 2010, to which were appended the 103 laws, regulations, norms, etc. implementing the Convention, together with 16 court decisions at different levels of jurisdiction referring to the Convention.<sup>5</sup>

12. First of all, the norms protecting the rights of indigenous peoples include the following in particular:

(a) The Indigenous Peoples Act, No. 19.253, which establishes standards for the protection, promotion and development of indigenous peoples, based on recognition of cultural and ethnic diversity; the legal recognition granted to communities; the fostering of participation; positive discrimination; the protection and expansion of indigenous lands; the concentration of State resources on development; the establishment of the Indigenous Land and Water Fund; conciliation and arbitration; the recognition of, respect for and protection of cultures; the development of a bilingual intercultural education system; and self-identification mechanisms for urban and migrant indigenous persons. It should be emphasized that the Convention was the primary model for the promulgation and subsequent implementation of the Indigenous Peoples Act;

(b) Act No. 20.249, published on 16 February 2008, establishing the aboriginal peoples' marine and coastal zone. The Act establishes a mechanism by which indigenous peoples who have historically inhabited the coastal areas and can prove customary use of the land can be granted exclusive access to a defined area administered by the community or communities;

(c) The Environment (Framework) Act, No. 19.300 of 1994, was amended on 26 January 2010 to make it the duty of State bodies to foster the proper conservation, development and strengthening of various aspects relating to indigenous peoples, communities and persons;

(d) The constitutional reform establishing the special territories of Easter Island and the Juan Fernández Islands through Act No. 20.193, published on 30 July 2007;

<sup>4</sup> Act No. 20.050, published in the Official Gazette on 26 August 2005.

<sup>5</sup> See <http://www.conadi.cl/images/MemoriaConvenio169OIT%281%C2%B0septiembre%202010%29.pdf>.

(e) Supreme Decree No. 124 of 2009 containing the regulation establishing the provisional consultation and participation procedure for purposes of compliance with the obligations under articles 6 and 7 of the Convention.

13. Secondly, with regard to promoting indigenous cultures and identities: (a) in June 2010 urgent priority was assigned to the bill granting constitutional recognition of indigenous peoples, which is currently being reviewed by the Senate Committee on the Constitution, Legislation, Justice and Regulations; (b) Presidential Instruction No. 3 was issued on 4 August 2010, instructing regional and provincial governments to include traditional indigenous authorities in all official ceremonies; and (c) the National Indigenous Development Corporation established the Promotion of Indigenous Cultures Award through resolution No. 1226 of 27 August 2010.

14. Thirdly, the Government has reactivated the mechanisms for transferring lands to indigenous peoples under transparent and objective conditions. A key aspect of this new approach is that each transfer must now be accompanied by a production support agreement. In this connection, the mechanism providing subsidies to help indigenous peoples acquire land will be strengthened. To that end, the twelfth call for applications was issued on 16 August 2010. Between 1994 and 2010, a total of 667,457 hectares of land were acquired, transferred or reclaimed for the benefit of indigenous persons and communities through the various mechanisms established under the Indigenous Peoples Act. On 15 December 2010, the names were announced of the 762 families eligible for a total of approximately 15.2 billion Chilean pesos.<sup>6</sup> In addition, it was announced on 14 December 2010 that an agreement had been signed between the National Indigenous Development Corporation and the National Institute for Agricultural Development for the investment of 4.2 billion pesos over five years for the benefit of recipients of subsidies under the scheme.

15. Fourthly, with respect to institutions, the Council of Ministers for Indigenous Affairs was established by Supreme Decree No. 101, issued by the Ministry of Planning and Cooperation on 7 June 2010. Given the improvements that need to be made to indigenous public institutions, a new institutional model is being considered whereby different bodies would be responsible for developing indigenous policy, implementing that policy and representing indigenous peoples, all functions currently carried out by the National Indigenous Development Corporation.

16. Fifthly, with regard to participation, the Government is effectively fulfilling its obligation, as established in the Convention, to consult and ensure the participation of indigenous peoples. On 8 March 2011, the Minister of Planning and Cooperation, Mr. Felipe Kast, announced that, as a result of the panel discussions for an historic encounter, and in response to the requests made by the representatives of indigenous peoples during those discussions, the Government would launch a large-scale consultation on indigenous institutions, in accordance with the lines of approach defined by the Government in that regard and in compliance with the Convention, covering the following topics: (a) constitutional recognition: text of the draft constitutional reform recognizing indigenous peoples; (b) new institutions: content of the bills establishing the Indigenous Development Agency and the Indigenous Peoples' Council; and (c) the consultation procedure, with a view to creating a final instrument governing participation and consultation as provided for in the Convention.

17. Sixthly and lastly, mention should be made of two legal reforms, long requested by members of the Mapuche community, regulating two different situations:

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<sup>6</sup> Amounts in Chilean pesos: US\$ 1 is equivalent, on average, to 460 Chilean pesos in 2011.

(a) Civilians have been excluded from the jurisdiction and competence of the military courts under Act No. 20.477, which was published on 30 December 2010 and reforms the current military justice system, limiting the jurisdiction of military courts to military personnel exclusively. It also completely excludes minors, whether civilian or uniformed, from military jurisdiction, and provides that in cases in which both civilians and military personnel have allegedly committed or participated in an offence, the former will be dealt with by ordinary courts and the latter by military courts. It also provides that cases currently being heard by military courts in which criminal responsibility is attributed to persons not in the military are to be transferred to ordinary courts within six months from the entry into force of the Act;

(b) The provisions of the Counter-Terrorism Act, No. 18.314, which define and punish terrorist activities, have been amended by Act No. 20.467, which was adopted on 5 October and published in the Official Gazette on 8 October 2010. The Act: (i) restricts the definition of the offence of terrorism; (ii) does away with presumption and less serious injury and provides for the punishment under ordinary law of the offence of setting fire to forests, grain, pastures, hills and crops; (iii) abolishes the option of alternative sentencing; (iv) at the procedural level, establishes effective cooperation and exemption from criminal liability for voluntarily abandoning the attempt; (v) establishes the right to ask questions in order to assess the credibility of witnesses whose identity is protected; (vi) provides for counselling for victims of terrorist offences; and (vii) stipulates that only juvenile criminal law may be applied to minors charged with terrorist offences.

18. The Ministry of the Interior has indicated to the relevant courts that acts attributed to members of the Mapuche community prosecuted under the Counter-Terrorism Act should be reclassified, as to all intents and purposes they are considered by the executive to be ordinary offences and not terrorist offences.

## **Article 2**

### **Steps taken to give effect to rights**

19. Regarding steps taken to give effect to Covenant rights, reference is made to paragraphs 55 et seq. of the third periodic report. In addition to the ratification of ILO Convention No. 169 as previously mentioned, the Convention on the Rights of Persons with Disabilities was also ratified on 29 July 2008. The initial report on its implementation is currently being prepared and is expected to be submitted to the Committee on the Rights of Persons with Disabilities in 2011.

## **Article 3**

### **Gender equality**

20. With regard to paragraphs 36 and 37 of the concluding observations, over the past five years various laws have been enacted on gender equality and to regulate matters relating to direct and indirect discrimination on the ground of sex. Those norms, along with other similar public policies, are duly described in the section of this report on article 10 of the Covenant and in the report to the Committee on the Elimination of Discrimination against Women.

## **Articles 4 and 5**

### **Guarantees of protection**

21. See paragraphs 142 and 143 of the third periodic report, which refer to article 19, section 26, of the Constitution, in relation to article 4 of the Covenant, and articles 1 (paras. 1 and 4), 5, 6, 7 and 19, section 26, of the Constitution, in relation to article 5 of the Covenant.

22. Articles 39 to 45 of the Constitution govern declarations of states of emergency, indicating which rights may be restricted under such declarations. In this regard, and as a result of the earthquake and tsunami experienced by the country on 27 February 2010, it should be noted that states of emergency were declared through Supreme Decrees No. 152 and No. 153 in the regions of Maule and Bío-Bío respectively for a period of 30 days, which ended on 31 March 2010 in both regions. Through Decree No. 173, a state of emergency was also declared in the Libertador General Bernardo O'Higgins region for 20 days, from 11 March 2010 to 31 March 2010. The States parties to the International Covenant on Civil and Political Rights were informed of this situation in a timely manner through the Secretary-General of the United Nations, in accordance with article 4, paragraph 3, of that Covenant.

## **II. Specific rights**

### **Article 6**

#### **Right to work**

23. During the period 2005–2009, the workforce grew at an average annual rate of 3.6 per cent, which is the equivalent of 966,000 new entrants into the labour market. The number of new jobs created was 766,392, representing an average annual growth rate of 2.8 per cent. The rate of participation rose from 53.5 per cent in 2005 to 55.9 per cent in 2009. In 2010, more than 486,930 jobs were created and the rate of participation reached 59.7 per cent.<sup>7</sup>

24. In the period 2003–2007, employment increased in all regions of the country; however, the most notable growth occurred in the two far north regions and region IX, where rates of change reached well above the national average. In contrast, regions VIII and XII exhibited growth below the average annual rate of 3.8 per cent. There was a slowdown in annual employment growth rates nationwide in 2008 and negative annual rates of change were observed in 2009 as a result of the financial crisis faced by the world economy. In 2010, national employment rates increased by 7 per cent. An increase was seen in all regions of the country except region XV, which saw a fall of 3 per cent. The largest increases were observed in regions V and XII, where the number of employed persons rose by 10 per cent during 2010. On the other hand, regions I and X showed the lowest growth of 3 per cent and 4 per cent, respectively.

25. The unemployment rate declined gradually from an average of 10 per cent in 2004 to 7.1 per cent in 2007. It subsequently rose again as a result of the international economic crisis, reaching 9.6 per cent in 2009. It dropped to 8.1 per cent in 2010 and reached 7.2 per cent in the March–May quarter of 2011.

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<sup>7</sup> According to National Institute of Statistics data from the New National Employment Survey (NENE).

26. Employment growth was mainly driven by the increased rate of women's participation in the labour force, which grew by nearly 6.2 percentage points in the period 2003–2009. During that period there was a gradual decline in the unemployment rate for both men and women, with increases at the end of the period as a result of the international financial crisis. In 2010, there was a decrease in the unemployment rates for both men and women.

27. In employment practice, a number of factors constitute obstacles to equality of opportunities for women. One group of factors relates to the type of jobs they obtain; although the rate of participation of women increased to 45.3 per cent in 2010, women's employment is still highly segregated. Specifically, women are concentrated in a few areas of economic activity, receive low incomes, have to contend with worrying pay gaps for work of equal value compared to men, have lower rates of unionization, are less active in collective bargaining processes and face increased levels of underemployment, i.e. working fewer hours than they would like.

28. In drafting the national employment policy, the Ministry of Labour and Social Security devised a plan to promote and improve the quality of women's employment with a view to: (a) greater participation of women in the labour market, with a focus on the less well off; (b) enhanced participation of women (with a decrease in occupational segregation, better wages and social protection); and (c) lower levels of female unemployment.

29. With regard to young persons, the unemployment rates for 18- to 24-year-olds have traditionally been high, reaching 24 per cent in 2009. For the 22–24 age group, the rate was around 18 per cent in 2009. However, for the younger group aged between 18 and 21, the rate reached 29 per cent in 2009. In 2010, the annual average unemployment rate for young persons aged between 18 and 24 was 18 per cent.

30. In the matter of training, the State is promoting the development of workers' vocational skills through the National Training and Employment Service (SENCE) with a view to contributing to the achievement of a satisfactory level of employment, increasing the productivity of workers and companies and improving the quality of processes and products. Paragraphs 164 et seq. of the third periodic report describe the instruments used by SENCE to meet these aims. In terms of training activities, the proportion of trained workers in relation to the total number of employed persons stood at 13.19 per cent in 2010. The 2011 budget for SENCE is 123,028,474,000 Chilean pesos, which represents an increase of 34 per cent compared to 2010.

31. In the area of women's training and inclusion in the labour market, a special employment and work training programme for women, run jointly by SENCE and the National Service for Women (SERNAM), was initiated in 2007. Its main objectives are to promote employment prospects and improve working conditions for women, especially heads of household, through the provision of training tools, further education and support for entrepreneurship, thereby enabling more women to enter the labour market on better terms. The programme targets women aged 18 to 65 and between 2007 and 2009 it provided training to more than 48,000 persons.

32. Numerous higher education institutions — universities, vocational institutes and technical training centres — have a presence in all regions of the country; they provide technical or vocational training and opened the way to higher education for more than 940,000 persons in 2010. In the same year, combined enrolment in technical training centres and professional institutes, in particular, accounted for 37.5 per cent of the total number of undergraduates and 50.1 per cent of total enrolment for first year undergraduates. In 2011, there were 275,000 vacancies for technical courses and 143,000 for non-degree vocational courses, representing three times the number of vocational degree course vacancies. In the field of technical training there were also, as at April 2011,

some 2,748 registered Technical Executing Agencies (OTECs) providing technical training and having access to a considerable degree to the resources which enterprises can offset in their annual tax returns. These bodies provided training to 976,720 workers in 2010.

33. In regard to paragraph 38 of the concluding observations, which calls for the explicit repeal of provisions in labour legislation which are no longer applied, in line with the comments made by the ILO Committee of Experts on the Application of Conventions and Recommendations, article 3 of the ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111) refers to “repeal” in general terms only, without spelling it out as an explicit requirement.

## **Article 7**

### **Working conditions**

34. Article 44 of the Labour Code guarantees that the amount of monthly remuneration cannot be less than the minimum monthly wage. This amount is fixed by law and adjusted annually in order to make up for the losses in real terms in its value. In line with an explicit policy to raise the minimum wage faster than the rise in the consumer price index (CPI)<sup>8</sup> and average earnings, the minimum wage was increased in real terms by 17.9 per cent between 2000 and 2008. Over the same period, real wages grew at a cumulative rate of 13.5 per cent. Article 1 of Act No. 20.524, published in the Official Gazette on 14 July 2011, provides for a monthly minimum wage, as of 1 July 2011, of 182,000 pesos for workers of 18 to 65 years of age. For persons aged over 65 or workers under 18, the monthly minimum wage is set at 135,867 pesos and the minimum wage for non-remunerative purposes is set at 117,401 pesos.

35. In 2010, a technical advisory committee examined the minimum wage in Chile and concluded that it was not the most suitable instrument to serve as the cornerstone of a distributive policy, as instead of increasing income it could lead to unemployment for the most vulnerable persons. It should therefore be combined with other publicly funded, social policies.

36. As regards working hours, the general limit stands at 45 hours per week since having been reduced from 48 hours in January 2005. The working week is divided into no more than 6 and no fewer than 5 days, with a maximum of 10 hours per day. However, there are also special working hours for some workers, as in the case of fishing vessels, public transport, land freight and railway staff, private household workers and some restaurant, club and hotel employees. Public sector workers have an ordinary working week of 44 hours from Monday to Friday, not exceeding 9 hours per day.

37. The Labour Code also recognizes part-time work. Part-time work means contracts of up to two thirds of the maximum working week (30 hours since 2005). The differences compared to full-time work are that: the working week must be continuous and not exceed 10 hours per day; various alternatives may be agreed for the distribution of the working week; the employer may change the working week one week in advance; and the calculation of compensation for years of service must take into account the average earnings from the last 11 months or the duration of the contract duly adjusted in accordance with the consumer price index.

38. Article 35 of the Labour Code provides that Sundays and national holidays are mandatory rest days. However, some activities are legally exempt from Sunday rest, including work or services which require continuity because of the way in which they

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<sup>8</sup> Consumer Price Index (CPI): official index for the measurement of inflation.

operate or for technical reasons, and businesses or services that directly serve the public. Under no circumstances may workers be required to work for more than six days consecutively. Recently, however, new rest day rights for Sundays and some national holidays have been granted, particularly for commercial activities. Further information regarding rest periods, leisure time, limitation of working hours and paid holidays can be found in paragraphs 245 et seq. of the third periodic report.

39. Mention may be made of the bill on distance work or telecommuting (Bulletin No. 7199-13), which governs new income sources and opportunities for persons who, for whatever reason, cannot or prefer not to leave their homes. It is currently at the first constitutional procedure stage in the Chamber of Deputies.

40. It should also be noted that Act No. 20.348 establishing the principle of equal pay for men and women for work of equal value was adopted in 2009; objective differences in pay that are based, inter alia, on ability, qualifications, suitability, responsibility or productivity are not considered arbitrary. Companies with 200 employees or more must keep a written record of the posts and functions of their workers, including the number and names of the persons concerned. In April 2011, the minimum level of earnings for domestic workers, most of whom are women, was aligned with the minimum wage.

41. Act No. 20.005 of 8 March 2005 deals with sexual harassment, which not only seriously affects the dignity of women workers and the working environment, but often causes them to lose or leave their jobs. The Act defines sexual harassment, makes it a punishable offence, establishes procedures and criteria for referral to the courts in response to complaints of sexual harassment and designates the officials responsible for enforcement. For further information, see the report to the Committee on the Elimination of Discrimination against Women.

42. With regard to job safety and health, Act No. 20.123, adopted in 2007, regulates subcontracted work, the operation of temporary employment agencies and temporary employment contracts. The Act ensures equal health and safety conditions in the workplace inasmuch as it regulates the extent of liability of principal companies, contractors, temporary employment agencies and user companies. It establishes, in particular, that the principal company has subsidiary or joint liability for obligations under individual and collective labour agreements, social security obligations and legal compensation. The principal company must also maintain appropriate sanitary and environmental conditions in the workplace and implement a system for managing company workplace or worksite health and safety, together with a workplace, worksite or service register. The Labour Directorate has a team of 580 inspectors around the country, all of whom have basic training in workplace health and safety and perform on-site inspections. In 2006, 52 per cent of inspections in the country covered matters of health and safety.

43. Recently, the country has witnessed a downward trend in the work accident rate,<sup>9</sup> which compares favourably to that of developed countries. In 2008, the rate dropped to less than 6 per cent.<sup>10</sup> The economic activities which have consistently kept work accident rates higher than the average for each year up to 2008 are, in the first place, construction, followed by industry, agriculture and transport.

44. Occupational disease is defined in Chilean legislation as “that directly caused by a person’s exercise of a profession or job and resulting in incapacity or death”. The

<sup>9</sup> See paragraph 234 of the third periodic report for the legal definition of a work accident.

<sup>10</sup> Applies to workers in enterprises affiliated to mutual insurance companies, i.e. 3,612,000 persons in 2008. Accidents on the way to and from work are excluded. *Source:* Supervisory Authority for Social Security.

occupational disease rate has declined steadily, reaching 0.96 per 1,000 workers in 2007. For men, this rate reduced to 0.62, while for women, it rose to 1.55. When interpreting these figures, it is also important to bear in mind that the calculations are based on the entire working population, rather than the population exposed to the specific risk which causes a disease; thus the rate indicates a lower level of risk than is actually the case. In first place in 2007 were “osteo-muscular disorders”, accounting for 54.3 per cent of cases, followed by “laryngopathy”, with 12.5 per cent. In third place was “dermatitis” at 11.2 per cent.

45. The mortality rate of workers affiliated to mutual insurance companies declined significantly to 5.7 per 100,000 in 2007. In the case of commuting accidents, the figures fell to 12 and 7.8, respectively. These deaths are most commonly caused by traffic accidents.

46. The Presidential Advisory Commission for Safety at Work, consisting of a multidisciplinary group of specialists, was established in 2010 to evaluate occupational safety conditions in the country. On 7 December 2010, the Commission presented its final report to the President of the Republic, proposing a series of occupational safety measures to be implemented in 2011.

#### **Paragraph 39 of the concluding observations**

47. The value of the basic consumer basket per person stood at 47,099 pesos in urban areas and 31,756 pesos in rural areas in 2006. The poverty line in 2011 was 64,134 pesos in urban areas and 43,242 pesos in rural areas in line with the increase in the consumer price index. The head of household of a typical family in Chile, consisting of 4.2 persons, should therefore be able to provide for his or her family with a monthly income of 225,000 pesos in 2009, in the event that no other person in the household is able to work. Chile has pursued an active minimum wage policy, which has allowed the minimum wage to rise above the poverty line and/or the consumer price index. In fact, the ratio of the minimum wage to the poverty line was 1:4 in 1990 and 2:57 in 2009. Other social policies to combat poverty will be given priority over the minimum wage in the future so as not to harm the employability of the most vulnerable sector of the population. For further information, please consult the 2010 report of the Work and Minimum Wage Advisory Commission.<sup>11</sup>

#### **Paragraph 40 of the concluding observations**

48. Chile ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families on 25 March 2005 and its initial report, submitted on 9 February 2010, will be considered on 13 and 14 September of the current year.

### **Article 8**

#### **Trade union rights**

49. Article 19, section 19, of the Constitution guarantees the right of private and public sector workers to form trade unions in the cases and manner prescribed by law, without prior authorization. In addition, Chile has ratified the ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) and the Workers’ Representatives Convention, 1971 (No. 135).

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<sup>11</sup> See: <http://www.sindicalchile.cl/Informe%20Final%20Comision%20Asesora%20Laboral%20y%20de%20Salario%20Minimo.pdf>.

50. Article 216 of the Labour Code provides, by way of example, for the potential formation of the following types of trade union (others being possible): (a) enterprise unions, consisting of workers of a single enterprise; (b) multi-enterprise unions, consisting of workers who work for two or more employers; (c) independent workers' unions, consisting of workers who do not depend on any single employer or themselves have workers who depend on them; and (d) casual or temporary workers' unions, consisting of workers who perform services on a dependent or subordinate basis for either cyclical or intermittent periods of time.

51. It may be added that, under Chilean law, the following quorum requirements apply for the formation of a single enterprise trade union: (a) a minimum quorum of 8 is required for enterprises with 50 or fewer workers, without any requirements regarding the percentage of representation; (b) for enterprises with more than 50 workers, a minimum quorum of 25 is required, representing at least 10 per cent of all the workers in the enterprise; (c) it is always possible for 250 or more workers of an enterprise to form a trade union, regardless of the percentage they represent; and (d) in enterprises with more than one establishment, a union may be formed by 25 workers representing at least 30 per cent of the workers of that establishment.

52. By law collective bargaining may take two forms: one formal, giving rise to a collective contract and the other semi-formal, resulting in a collective agreement. The worker shall only be protected by a collective contract entered into with each individual employer; an individual work contract cannot diminish the remuneration, benefits and rights afforded to workers under the collective contract. Collective contracts have a period of validity ranging from a minimum of two years to a maximum of four, and their terms are incorporated into individual contracts. As far as collective agreements are concerned, current legislation provides for safeguards, such as charters, quorums and the requirement that draft collective agreements be approved by an assembly, to ensure that collective agreements are not imposed unilaterally and individually.

53. For more information, see the third periodic report with respect to Act No. 19.759 of 2001, which establishes a series of protection measures to safeguard the right to form trade unions and the free exercise of the right to collective bargaining. The report also contains information on: the requirements for the formation of a trade union (para. 250); the election of union representatives (para. 251); the quorum required for the formation of different types of trade union (paras. 252 to 254); the special legal provisions governing different categories of trade unions (paras. 255 to 256); legal restrictions on forming a trade union (paras. 257 to 258); the right to join federations and international trade union organizations (paras. 260 and 261); freedom of association and the right to collective bargaining (paras. 262 to 265); and the number, composition and structure of trade unions (para. 266).

54. In regard to paragraph 42 of the concluding observations, article 384, paragraph 5, of the Labour Code empowers the Ministries of Labour and Social Security, Defence and the Economy to establish, by regulation, which enterprises cannot legally declare a strike, thus giving certainty and clarity to the relevant legal concepts.

## **Article 9**

### **Social security**

55. Article 19, section 18, of the Constitution guarantees the right to social security to all the country's inhabitants, without any distinction. It stipulates that the State shall guarantee access to standardized basic services provided by public or private institutions and ensure the effective exercise of the right to social security. The current system covers

the nine conventional components of social security. The reform, described below, meets the points made in paragraph 43 of the concluding observations.

#### A. Medical care

56. Pursuant to the constitutional right to the protection of health, the State is responsible for ensuring free and equal access to actions for the promotion, protection and recovery of health and for individual rehabilitation. It has the further duty to coordinate and oversee actions relating to health and, in particular, to ensure that they are carried out, through public or private institutions, in the manner and under the conditions provided for by the law, which may prescribe compulsory contributions. The Constitution also provides that every one shall have the right to choose which health-care insurance scheme, whether State-run or private, they wish to join.<sup>12</sup> In 2009, 73.5 per cent of the population was covered by the public scheme and 16.3 per cent by private insurance.

57. The public health-care system consists of the Ministry of Health (MINSAL)<sup>13</sup> and the following subsidiary public entities: the Health Services,<sup>14</sup> in the area of service provision; the National Health Fund (FONASA),<sup>15</sup> in the area of finance; and the Health Supervisory Authority, the Public Health Institute (ISP)<sup>16</sup> and the National Supply Centre (CENABAST).<sup>17</sup> The private system consists primarily of health insurance institutions (ISAPRES) and mutual health insurance schemes, on the insurance financing side, and the professionals, assistance centres and private entities that provide health services. Subject to certain exceptions, insurance subscribers must contribute by direct payment to the cost of the services and care that they and their respective beneficiaries receive from the system. The various schemes are described in paragraph 282 of the third periodic report.

58. Regarding the private system, on 16 March 2011, a bill was submitted to Congress introducing reasonableness and solidarity as criteria for factor tables and the determination of baseline prices for health insurance contracts. Known as the Short Act on Health Insurance Institutions (Bulletin No. 7539-11), the bill is in the first constitutional procedure stage in the Chamber of Deputies. An overhaul of the financing of the Chilean health-care system is being considered; in the interim, the bill aims immediately to address the mechanisms governing the rise in health insurance premiums with a view to taking swift action on both the imperative of protecting the right to health and the factors that should guide price adjustments, in accordance with the findings of the Chilean courts. Parliament will be debating changes to the rules governing the structure of factor tables and the establishment of mechanisms to compare baseline price adjustments on the basis of objective and proven indicators.

59. In 2002, the Government undertook to reform both the public and the private health-care system. As a result, the following laws came into effect in 2005: Act No. 19.937, on health authorities and management procedures, amending Decree-Law No. 2.763 of 1979; Act No. 19.966, establishing a system of explicit health guarantees for the population; Act No. 20.015, amending Act No. 18.933, on health insurance institutions; and Law-Ranking Decree No. 1 of the Ministry of Health, which sets out the recast, consolidated and

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<sup>12</sup> Political Constitution of the Republic of Chile, article 19, section 9.

<sup>13</sup> Act No. 19.937, published in the Official Gazette of 24 February 2004.

<sup>14</sup> Ibid.

<sup>15</sup> Law-Ranking Decree No. 1 of the Ministry of Health, which sets out the recast, consolidated and systematized text of Decree No. 2.763 of 1979 and Acts Nos. 18.933 and 18.469, published in the Official Gazette of 24 April 2006.

<sup>16</sup> Act No. 19.937, published in the Official Gazette of 24 February 2004.

<sup>17</sup> Ibid.

systematized text of Decree-Law No. 2.763 of 1979 and Acts Nos. 18.933 and 18.469 (published in the Official Gazette of 24 April 2006).

60. A central component of the reform was the establishment of the general health guarantees regime as a regulatory health instrument forming an integral part of the health-care services system. The instrument, designed in accordance with the National Health Plan and the resources at the country's disposal, establishes the promotional, preventive, curative, rehabilitative and palliative services and programmes for which the respective beneficiaries must be given coverage by the National Health Fund under its institutional care component.

61. The regime also establishes Explicit Health Guarantees (GES), which constitute beneficiary rights and can be claimed from the National Health Fund, private health insurance institutions, the Health Supervisory Authority or any other relevant entities. The guarantees relate to matters of access, quality, financial protection and timeliness of services associated with a set of priority programmes, diseases and health conditions covered in the relevant decree. The guarantees regime came into effect for members of the National Health Fund and private health insurance institutions on 1 July 2005. It initially covered 25 health problems, or pathologies, rising to 40 in 2006 and 56 in 2007. More pathologies were added to the regime in 2010, bringing the number to 69. Between July 2005 and December 2010, a total of 11,307,145 cases were treated under the guarantees regime, 10,714,829 of them through the National Health Fund and 592,316 through private health insurance institutions.

## **B. Cash benefits in case of illness**

62. The work incapacity benefit (SIL) enables employees or self-employed workers with an approved medical certificate to take leave of absence or work fewer hours, and to receive an amount of money in lieu of their remuneration or income during the period of validity of the certificate. In 2010, 3,536,339 certificates were approved and 114,763 million pesos were spent on incapacity benefits. The average annual rate of certificates processed and approved, per 100 active contributors, was 94.2 and 82.8, respectively, while the average number of days requested, days authorized and days paid out per contributor was 11.8, 9.4 and 8.1, respectively.

## **C. Maternity benefits**

63. As mentioned earlier, the general health guarantees regime stipulates that all pregnant women are entitled to State-provided health protection and check-ups during pregnancy and up to six months after the child's birth. In accordance with current legislation,<sup>18</sup> employers may not make pregnancy a criterion for deciding whether to hire, retain or promote female employees, or require a certificate or pregnancy test for such purposes.

64. In 2010, 274,955 certificates were approved for seriously ill children under 1 year of age and 6,084,235 days of benefits were paid out, at a cost of 89,016 million pesos. Some 38,370 pre- or postnatal certificates were approved and a total of 9,697,161 days were paid out, at a cost of 130,718 million pesos.

<sup>18</sup> Labour Code, Book II (Worker protection), Title I (Maternity protection).

## D. Old-age benefits

65. Act No. 20.255, published on 17 March 2008, contained a reform of the social security system, which has been progressively implemented since its entry into force in 2011 and provides for the following: (a) establishment of a non-contributory pension system for lower income groups; (b) introduction of rules to increase gender equality in the social security system; (c) inclusion of rules to extend social security coverage to different sectors of society, such as women, youth and self-employed workers; (d) establishment of mechanisms to foster greater market competition; (e) inclusion of measures to encourage voluntary retirement savings; and (f) modification of the institutional structure of the public social insurance system.

66. The beneficiaries of the basic non-contributory old-age pension (PBS) provided by the State are persons who are not entitled to a pension under any social security scheme and who meet certain criteria, such as age, being from a poor family and residence in Chile. They receive 75,000 pesos a month. Implementation of the scheme curtails a gradual expansion of coverage, from the poorest 40 per cent of the population, on 1 July 2008, to the poorest 60 per cent from 1 July 2011. In December 2010, 407,118 such old-age pensions were paid out nationwide, 287,654 to women and 119,464 to men (for a total of 31,472,596 pesos).<sup>19</sup>

67. For contributors who meet the eligibility criteria and receive a pension below a set amount, the State provides a non-contributory provident benefit payment (APS) to top up their pensions. Persons entitled to a pension who meet criteria similar to those mentioned above may receive the State provident benefit payment. The implementation of this scheme also entails a gradual expansion of coverage, from the poorest 40 per cent of the population, on 1 July 2008, to the poorest 60 per cent from 1 July 2011. The poorest 50 per cent have been covered since 1 September 2009. This benefit has been available since July 2008, when the maximum guaranteed pension with a non-contributory component was 70,000 pesos. The maximum rose to 150,000 pesos in September 2009, then to 200,000 pesos in July 2010, and will continue to increase gradually to 255,000 pesos by July 2011. In December 2010, 370,216 non-contributory old-age provident benefits were paid out nationwide, 215,860 to women and 154,356 to men (for a total of 14,319,627,586 pesos).<sup>20</sup>

68. The reform also introduced changes to the compulsory or contributory system. The system consists of pension fund management companies (AFP), operating since November 1980 pursuant to Decree-Law No. 3.500, where pensions are financed through funds accumulated in the individual capitalization accounts of each member, as well as through continued reliance on the old pay-as-you-go insurance scheme which, unlike the individual capitalization system, finances pensions with the contributions of active depositors as opposed to the savings of each contributor. In March 2011, 8,854,861 people were affiliated to the pension fund management companies. In April of that year, there were a total of 4,834,412 contributors (made up of active, inactive and deferred members, who made contributions in respect of earnings from any previous month) while the number of contributors for that month was 4,595,036 (corresponding to the number of active members who contributed in respect of earnings from the previous month).<sup>21</sup>

69. One of the gender equality measures introduced by the social security reform is a bonus given to women for each live birth in recognition of maternity. The bonus increases women's social security funds by topping up their pensions and is equivalent to 18 months

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<sup>19</sup> Pensions Authority, Statistics Centre, December 2010.

<sup>20</sup> Pensions Authority, Statistics Centre, December 2010.

<sup>21</sup> Pensions Authority, Monthly Statistical Report of Members and Contributors.

of the minimum wage, calculated as of the child's birth. For children born before 1 July 2008, the bonus will earn interest from that date, whereas the bonus for children born afterwards will earn interest from their date of birth. Those entitled to the live birth bonus are: women who became members pursuant to Decree-Law No. 3.500 and do not belong to any other scheme; female beneficiaries of basic non-contributory old-age pensions or non-contributory provident benefit payments; and women who do not belong to a social security scheme but receive a survivor's pension, are entitled to the non-contributory provident benefit payment and meet the statutory requirements.

70. Furthermore, the contribution to women's capitalization accounts is increased as a result of the gender differentiation under disability and survivor's insurance (SIS).<sup>22</sup> Given women's greater life expectancy compared to men, they currently pay more into this insurance than their accident rate would justify. This higher amount is returned to them in the form of contributions deposited in their individual accounts, thus increasing the final amount of their pensions. The maximum age of coverage under disability and survivor's insurance has been set at 65 for both men and women, whereas women had previously been covered only up to age 60 despite continuing to work. Lastly, a woman's spouse can now receive a survivor's pension — without having to be disabled — as can the father of children born outside the marriage who lives at her expense.

71. In addition, all female domestic workers are entitled to a taxable minimum of no less than the monthly minimum wage for full-time work. This means that under no circumstances can employers contribute less than an amount corresponding to the minimum wage, a situation which prior to the reform was legally possible and very common. This measure has taken gradual effect since March 2009 when the minimum wage of these workers was equivalent to 83 per cent of the monthly minimum wage. It stood at 92 per cent on 1 March 2010 and reached 100 per cent, or 172,000 pesos, on 1 March 2011. As of 1 July of this year, it was 182,000 pesos.

72. The reform introduced compulsory membership in the self-employed workers' pension system, thereby removing any distinctions between employees and the self-employed regarding access to the benefits of the social security system. However, this obligation does not apply to men who are 55 or older or women who are 50 or older on the date contributions become compulsory. Compulsory membership in the self-employed workers' pension system will be implemented gradually up to 2018, at which point it will be mandatory to contribute 7 per cent of total taxable income, without any possibility of exceptions.

73. The State encourages the formal hiring of young workers by subsidizing up to 50 per cent of minimum wage contributions, either through payments from the tax authority to the employer or directly from the tax authority to the worker's account. These subsidies are received in relation to the first 24 contributions, whether or not continuous, and apply to workers aged 18 to 35 whose earnings are equal to, or lower than, 1.5 times the minimum wage. They will take effect on 1 July 2011.

74. As of July 2009, the burden of contributing to disability and survivor's insurance will gradually shift from workers to employers, who will have to shoulder the payments for all their employees. Transferring the premiums to the employers gives claimants greater negotiating power with regard to the setting of insurance premiums. Moreover, once the measure takes effect, the amount workers used to pay will be "saved", thus increasing the

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<sup>22</sup> SIS generally serves to generate a disability pension for workers who, because of an illness or accident, are declared unfit for work or, in the event of their death, to generate a survivor's pension for their spouse.

liquidity of their earnings. This obligation is being phased in, starting on 1 July 2009 for enterprises with more than 100 workers and 1 July 2011 for those with fewer than 100.

75. The new law encourages voluntary provident savings (APV) by: (a) setting up a collective voluntary provident savings mechanism whereby the savings achieved by workers are supplemented by their employers, through agreements between enterprises and their employees; (b) changing the tax treatment of voluntary provident savings; (c) establishing a State bonus for workers who join such schemes; (d) modifying the commissions that pension fund management companies can charge for the management of voluntary savings accounts; and (e) establishing the category of voluntary member, thereby making it possible for any natural person not in paid employment to make social security contributions.

76. Regarding the financial viability of the social security reform, Act No. 20.128, on fiscal responsibility (published in the Official Gazette of September 2006), established the Pension Reserve Fund, as a depository for any savings resulting from fiscal surpluses, in order to help finance fiscal obligations with regard to State backing of minimum old-age, disability and survivor's pensions.

77. Finally, it should be noted that the entry into force of Act No. 20.459 has made it easier to access basic non-contributory disability or old-age pensions; for example, by allowing early declaration of disability for persons under the age of 18 with a mental impairment so that they may benefit from the basic non-contributory disability pension in a timely manner. This initiative will also facilitate the transition from a basic non-contributory disability pension scheme to an old-age scheme or from a non-contributory provident disability benefit to an old-age provident benefit.

## **E. Disability benefits**

78. Disability pensions are awarded to members of the contributory, voluntary or non-contributory schemes whose disability has been certified by medical commissions that report to the pension fund management companies or by preventive medicine and disability commissions, in the case of members of pay-as-you-go insurance schemes managed by the Social Security Institute. In the case of persons affiliated to the pension fund management system, disability pensions are financed from the individual capitalization account balance and the disability and survivor's insurance or, in the case of disability pensions under the former social security system, from pay-as-you-go funds. Non-contributory pensions are financed through taxes. Disability pensions are available to persons not affiliated to the pension fund management system who are not eligible for an old-age pension but who, as a result of illness or weakened physical or intellectual capacities, suffer from a permanent impairment of their ability to work. The impairment may be total or partial, depending on the degree of incapacitation.

79. As mentioned previously, the non-contributory pension system introduced under the social security reform awards basic non-contributory pensions and non-contributory provident benefit payments for old age and disability. The basic non-contributory disability pension is a State-funded benefit available to persons who have been declared disabled, have no pension entitlement under any insurance scheme — as either insurance holders or beneficiaries of a survivor's pension — and meet the age, targeting and residency criteria defined under Act No. 20.255. The implementation of the scheme entails a gradual expansion of coverage, from the poorest 40 per cent of the population, on 1 July 2008, to the poorest 60 per cent from 1 July 2011. The poorest 50 per cent have been covered since 1 September 2009. The amount of the basic non-contributory disability pension rose from 60,000 pesos, on 1 July 2008, to 75,000 pesos from 1 July 2009. As of that date, the basic non-contributory pension will be adjusted every 12 months in line with the consumer price

index; if the index rises by more than 10 per cent, the pension will be adjusted immediately. Recipients will receive the basic non-contributory disability pension until the last day of the month in which they turn 65. From that date onwards, they will be entitled to the basic non-contributory old-age pension. In December 2010, 216,390 basic non-contributory disability pensions were paid out nationwide (totalling 16,979,629,481 pesos), 126,415 to women and 89,975 to men.<sup>23</sup>

80. The non-contributory provident disability benefit is a State-provided monthly financial contribution for all persons with a certified disability who, having contributed to a pension scheme, receive less than the basic non-contributory old-age pension and meet other statutory requirements. Its implementation also entails a gradual expansion of coverage, from the poorest 40 per cent of the population, on 1 July 2008, to the poorest 60 per cent from 1 July 2011. As of 1 September 2009, it covered the poorest 50 per cent and topped up disability pensions to 75,000 pesos a month. Recipients will receive the non-contributory provident disability benefit until the last day of the month in which they turn 65. From that date onwards, they will be entitled to the non-contributory provident old-age benefit. In December 2010, 17,371 non-contributory provident disability benefits were paid out nationwide (totalling 1,409,862,108 pesos), 10,094 to women and 7,277 to men.<sup>24</sup>

## F. Survivor's benefits

81. The members of a deceased insurance holder's family who meet the following requirements are entitled to a survivor's pension: (a) the surviving spouse must have married the holder at least six months prior to the latter's death, or three years if the deceased was receiving an old-age or disability pension;<sup>25</sup> (b) unmarried children must be under age 18; or be aged between 18 and 24 if attending basic, secondary, technical or advanced education courses, on a regular basis, and have student status at the time of the holder's death or acquire such status before the age of 24; or be disabled, regardless of age, provided that they were certified as disabled by the relevant regional medical commission and that the disability occurred before age 18 or 24, as the case may be; (c) the mother — or father — of any children born outside the marriage must, at the time of the holder's death, be unmarried or widowed and be financially dependent on the holder; and (d) the holder's parents can only receive the pension in the absence of any of the persons referred to above and if, at the time of the holder's death, they are recognized dependants.

82. The percentage of a holder's pension to which each beneficiary of the survivor's pension is entitled varies as follows: 60 per cent for the spouse; 50 per cent for the spouse when there are children of the marriage who are entitled to a pension (the percentage rises to 60 per cent once the children are no longer entitled to a pension); 36 per cent for the mother — or father — of children born outside the marriage and recognized by the deceased; 30 per cent for the mother — or father — of children born outside the marriage and recognized by the deceased when there are children from within the marriage who are also entitled to a pension (the percentage rises to 36 per cent once these children are no longer entitled to a pension); 15 per cent for each child up to age 18 or each child aged between 18 and 24, if they are unmarried and studying (the percentage drops to 11 per cent for children declared as partially disabled upon turning 24); 50 per cent for the parents provided that, at the time of the holder's death, their entitlement to a family allowance is recognized by the competent body and none of the persons referred to above exists.

<sup>23</sup> Pensions Authority, Statistics Centre, December 2010.

<sup>24</sup> Pensions Authority, Statistics Centre, December 2010.

<sup>25</sup> Under the pay-as-you-go scheme of the former insurance providers, male spouses are only entitled to a survivor's pension if they are disabled.

## **G. Unemployment benefits**

83. Redundancy insurance<sup>26</sup> is the unemployment protection instrument of the social security system. It consists of compulsory redundancy insurance for employees covered by the Labour Code who began, or resumed, occupational activities after 1 October 2002. Workers with contracts that entered into force before that date may join the scheme voluntarily by their own free decision.

84. For those who choose the non-contributory redundancy fund, the amount of the monthly benefit is determined as a replacement rate in relation to the average remuneration over the previous 12 months, with lower and upper limits. The replacement rates range from 50 per cent in the first month to 30 per cent in the fifth month. As of 1 May 2009, the minimum amounts range from 88,000 to 48,000 pesos and the maximum amounts from 190,000 to 114,000 pesos.

85. In December 2010, 6,706,752 workers were affiliated to the redundancy insurance scheme, which was a 9.3 per cent increase over the same month of the previous year and a 0.5 per cent increase over November 2010. Regarding the breakdown of contributors by contract type, workers with contracts of indefinite duration accounted for 57.9 per cent of the total in December 2010. As for the breakdown by gender, in the month under consideration, 32 per cent of contributors were women. The scheme's coverage, measured as the ratio between the number of contributors and the number of private-sector wage earners over 18, was 78.5 per cent, compared to 74 per cent in the same month of the previous year. The number of affiliates who received a redundancy payout in December 2010 was 123,696. Of the reported total, 58.1 per cent were workers under contracts of indefinite duration.

86. Workers may not take out redundancy insurance and at the same time receive the redundancy benefit established under Decree-Law No. 150 of 1982, which is financed through taxes channelled into the Single Fund for Family Benefits and Redundancy Benefits.<sup>27</sup> Between January and July 2009, 9,943 monthly redundancy benefits were paid for an average total of 814,897 pesos.

87. The aforementioned Act on Fiscal Responsibility provides for the establishment of the Unemployment Contingency Programme, a cyclical adjustment mechanism for public finances that aims to guarantee the State's ability to respond to unemployment trends.

## **H. Benefits for workplace accidents and occupational illnesses**

88. The administration of social security for workplace accidents and occupational illnesses is the responsibility of the Occupational Safety Institute, as the public administrator, and the mutual benefit societies, which are not-for-profit private-law corporations whose objective is to protect workers through preventive and training programmes, provide medical benefits and grant compensation, subsidies or pensions to victims of accidents or occupational illness at work. There are currently three mutual benefit societies: the Chilean Safety Association, the Occupational Safety Institute and the Mutual Social Security Association of the Chilean Chamber of Construction Enterprises. This system is financed by employers' contributions, as the insurance covers risks that are primarily their responsibility.

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<sup>26</sup> Established pursuant to Act No. 19.728, published in the Official Gazette of 1 October 2002, and amended by Act No. 20.328, published in the Official Gazette of 1 May 2009.

<sup>27</sup> See the third periodic report (E/1994/104/Add.26).

89. Act No. 16.744 of 1968 makes social security protection against workplace accidents and occupational illnesses compulsory for, among others, self-employed workers, civil servants, students carrying out work for their own school or who suffer an accident, and those working in the home (in cases determined by the President of the Republic). In April 2009, 4,718,510 workers were protected by the social security provided under Act No. 16.744, and in August 2010 that figure was 4,797,628.<sup>28</sup>

90. With regard to the prevention of occupational hazards, the National Health Service has general competence for monitoring and supervising risk prevention and health and safety in all workplaces, as well as for inspecting the medical facilities of the administrative entities, the manner and conditions under which those entities award medical benefits, and the quality of the prevention activities they carry out.

## I. Family benefits

91. The social security system covers various family benefits: family allowances, family subsidies,<sup>29</sup> family welfare vouchers and graduation vouchers.

92. The persons entitled to receive the family allowance, and the grounds and requirements for receiving this benefit, are established by law.<sup>30</sup> The monthly amount of the allowance for each dependant varies according to the worker's earnings. As at December 2010, this amount was: (a) 6,776 pesos per dependant for recipients whose monthly income did not exceed 177,212 pesos; (b) 4,902 pesos per dependant for recipients whose monthly income was not less than 177,212 pesos and not more than 298,028 pesos; (c) 1,549 pesos per dependant for recipients whose monthly income was not less than 298,028 pesos and not more than 464,823 pesos; (d) persons with a monthly income of more than 464,823 pesos were not entitled to this allowance; (e) persons eligible for the allowance on the grounds of disability, regardless of age, were entitled to double the corresponding allowance. In the first half of 2009, an average of 1,781,518 family allowances were paid every month, for a total value of 51,216,846,000 pesos, or a monthly average of 8,536,141<sup>31</sup> pesos.

93. In the period from January to September 2010, an average of 2,068,235 family subsidies were paid every month, of which 1,359,232 were for minors, 1,510 for newborns, 6,600 for pregnant women, 696,345 for mothers, 3,261 for persons with disabilities and 1,287 for persons with mental disabilities. In the same period, the average number of monthly recipients was 837,445.<sup>32</sup>

94. In addition, the *Chile Solidario*<sup>33</sup> social protection system, aimed at families in extreme poverty with a view to promoting their involvement in social networks and access to better living conditions, includes the payment of monthly monetary support — a family welfare voucher — to families that are members of the Bridge Programme, a comprehensive support programme for extremely poor indigenous families run by the Solidarity and Social Investment Fund and paid for by the State.

<sup>28</sup> Social Security Authority, Monthly Statistics for 2010, December 2010.

<sup>29</sup> See paragraphs 354 to 362 of the third periodic report (E/1994/104/Add.26).

<sup>30</sup> Law-Ranking Decree No. 150 of 1982 of the Ministry of Labour and Social Security. Date of publication: 25 March 1982.

<sup>31</sup> Social Security Authority, Monthly Statistical Information for 2009.

<sup>32</sup> Social Security Authority, Monthly Statistical Information for 2010.

<sup>33</sup> Act No. 19.949. Published in the Official Gazette of 5 June 2004.

95. The maximum duration for receipt of benefits is 24 months; benefits are granted only once and are terminated if the families or individuals do not fulfil the conditions to which they have agreed, duly certified by the corresponding family support. The amounts are as follows:<sup>34</sup> (a) first six months: 13,591 pesos per month, six instalments; (b) second six months: 10,355 pesos per month, six instalments; (c) third six months: 7,119 pesos per month, six instalments; (d) fourth six months: 6,776 pesos, equivalent to the value of the monthly family subsidy, six instalments. In 2010, an average of 216,483 persons received vouchers.

96. Families and individuals who have received the family welfare voucher for a continuous period of 24 months and who have fulfilled the conditions of the system receive a graduation voucher on completion of that period, which is granted for three years and is equivalent in value to the family subsidy provided for in Act No. 18.020.

97. Lastly, it should be noted that the budget allocation for social security in 2009 amounted to 30.3 per cent of the national budget for social protection, which is equivalent to 7.4 per cent of the gross domestic product (GDP). Spending in this area increased by 55.9 per cent between 2000 and 2009.<sup>35</sup> In 2011, two thirds of the central Government's budget will be allocated to social spending, 43 per cent of which will go specifically to social protection.<sup>36</sup>

## Article 10 Family

98. With respect to the principle of the free consent of the contracting parties and the right to found a family, reference should be made to paragraphs 389 and 390 of the third periodic report. The report to the Committee on the Elimination of Discrimination against Women describes the draft legislation and public policy in the area of women and the family in the last period, which are relevant to paragraphs 44 to 46 of the concluding observations. Similarly, the State party's report on the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography may be consulted in relation to paragraphs 47 and 48 of the concluding observations.

99. According to the results of the National Social and Economic Survey (CASEN) for 2009, 17.1 per cent of households are nuclear families while 82.9 per cent are extended households. Single-person households make up 13.8 per cent of the total. Of households headed by women, 61.1 per cent are single-parent households, which is mostly the case in poor and extremely poor households. In total, almost 27.6 per cent of households are single-parent families. According to statistics from the Civil Registry, the number of marriages has decreased and cohabitation has increased. The proportion of children born out of wedlock increased from 16 per cent in 1960 to 66.6 per cent in 2009.<sup>37</sup> In Chile, 11.6 per cent of live births are children born to mothers under the age of 19.<sup>38</sup>

100. The new Civil Marriage Act, No. 19.947, known as the law on divorce, entered into force in 2004, repealing the previous law which dated from 1884. This legislation allows for the dissolution of all civil marriages and for remarriage. In addition, this legislation changes the procedure for the celebration of marriages, enabling the couple to marry in a

<sup>34</sup> As at May 2011.

<sup>35</sup> *Source:* Budget Directorate, 2010 Public Finances Report.

<sup>36</sup> *Source:* Budget Directorate, 2011 draft budget.

<sup>37</sup> *Source:* Civil Registry, Gender Statistics, 2009.

<sup>38</sup> *Source:* Ministry of Health, Department of Health Statistics and Information, in the third report on progress towards achieving the Millennium Development Goals, 2010.

church before the civil marriage and to have the union confirmed in the Civil Registry, and eliminating the responsibility of the civil official in respect of grounds for annulment.

101. Legislation in favour of women and their families is described in paragraph 8 of the report to the Committee on the Elimination of Discrimination against Women, which also mentions the bill amending the rules on community of property, which was sent to Congress on 5 April of this year (Bulletin 7567-07) and is based on three principles: (a) equality before the law of husband and wife, (b) full capacity of both spouses, and (c) financial protection of spouses that have devoted themselves to taking care of the children or the home or have worked less than they could have or would have liked to for those reasons. This was also mentioned in the report to the Committee on the Elimination of Discrimination against Women (paras. 109 and 110). This bill is at the first constitutional procedure stage in the Chamber of Deputies.

102. The current legislation on minors, with its emphasis on personal care for the upbringing and education of children within the family, allows ample opportunities for the State to intervene through the specialized courts, which are empowered to remove children from the care of their parents in specific cases provided for by law. In order to meet the requirements of the Convention on the Rights of the Child and the reform of the childcare system currently being framed, the Ministry of Justice, the Ministry of Planning and Cooperation and the National Service for Minors (SENAME) are engaged in preparing draft legislation for the protection of the rights of children and young persons as well as on reforms of the institutional rules governing the two bodies. The aim is to arrive at modern, protective legislation, in order to promote and secure the rights of children and young persons already recognized through the ratification of the Convention on the Rights of the Child.

103. Maternity leave is discussed in paragraphs 408 and 409 of the third periodic report. The health benefits to which pregnant women are entitled, either those in groups A and B (free care) of the National Health Fund (FONASA), or those in FONASA groups C and D (subject to a co-payment of between 10 and 20 per cent) are as follows: prenatal checks, childbirth care, puerperal checks and supply of food (through the Supplementary Feeding Programme, which supplies food to children under the age of 6 and pregnant women). The categories are defined according to the recipient's earnings:<sup>39</sup> category A applies to persons without resources or in extreme poverty and category B is for those with a monthly income equal to or less than the minimum wage. Category C applies to persons whose taxable monthly income is more than the minimum wage but less than or equal to 251,120 pesos. Persons with more than three dependants are moved to category B. Lastly, category D applies to persons with a taxable monthly income of more than 251,120 pesos; if they have more than three family dependants they move to group C.

104. The new Act No. 20.047, published in the Official Gazette in 2005, introduces paternity leave into the Labour Code. Fathers are entitled to paid leave, at the employer's expense, of five days for the birth of one or more children. This is without prejudice to the leave of one day already granted under article 66 of the Labour Code. Consequently, fathers are entitled to a total of five days of paid leave. This leave is unwaivable and must be paid for by the employer, which means that it cannot be converted into a monetary or holiday equivalent, and must be used within one month of the birth. This provision also applies to fathers who adopt children, in which case the leave must be taken within one month of the final decision granting the adoption.

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<sup>39</sup> Amounts correct as at July 2010. *Source:* FONASA.

105. Child labour is defined as “the participation of children and young persons in economic activities without them necessarily receiving any remuneration”.<sup>40</sup> The Government, in cooperation with the International Labour Organization (ILO), is in the process of designing and implementing a second national survey to obtain an up-to-date picture of the child labour situation in the country. The sample will comprise households with children aged between 5 and 17. With respect to the prevention of child labour, one of the most significant reforms was the 2003 constitutional reform that established compulsory free secondary education. As a result, Chilean children and young people are guaranteed 12 years of compulsory education.

106. Act No. 20.069, amending the Labour Code, which was published in 2005, provides that any individual may report offences related to child labour to the competent authorities, thus allowing a public right of action on this issue. In addition, a series of reforms have been introduced in the area of child protection, such as the setting up of family courts with a view to establishing more rapid oral, informal procedures for the application of protection measures in respect of children and young persons whose rights have been violated. Similarly, Act No. 20.032 was also approved in 2005, establishing a new system of care for children and young persons within the National Service for Minors (SENAME) network and its system of subsidies, which promotes deinstitutionalization and care in a family environment.

107. Although this matter was dealt with in the report to the Committee on the Elimination of Discrimination against Women, it should be noted that Act No. 20.066 on domestic violence was adopted in 2005 and introduces changes in the following areas: (a) for the first time, there is a clear and precise definition of what is understood by domestic violence, with penalties for any abuse of either the physical or the mental integrity of women and children; (b) two sets of jurisdiction are created for different courts: cases of domestic violence where there is no physical injury of any kind are heard by the new family courts, and there is a new court for cases involving physical assault, physical harm, injuries and other more serious cases, dealt with under the criminal justice system; (c) victims now have the possibility of bringing these cases before the criminal courts and the relevant penalties have been increased; and (d) the “evaluation of consent” has been introduced, whereby the judge must carefully study criminal cases in which an agreement is sought to establish the real wishes of the victim.

108. Paragraphs 419 et seq. of the third periodic report may be consulted with regard to protection under labour law for parents. The protection, rehabilitation and prevention systems in respect of minors are dealt with in paragraphs 444 et seq. of that report and, in general, special protection measures for minors are discussed in paragraphs 132 et seq. of the report to the Committee on the Rights of the Child. Penalties and custodial measures are administered by the National Service for Minors (SENAME) and are enforced in centres specially equipped for that purpose.<sup>41</sup>

#### **Paragraph 50 of the concluding observations**

109. Act No. 20.379 of 2009 created the intersectoral social protection system, which was designed on the basis of the principles of comprehensiveness; intersectoral and efficient public administration, and also recognition of cultural and territorial differences and the different needs of families living in the country. This law institutionalizes the comprehensive child protection system *Chile crece contigo* (“Chile grows with you”) as an

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<sup>40</sup> *Child labour: cause and effect of the perpetuation of poverty*, International Programme for the Eradication of Child Labour (IPEC), San José, ILO, 2007, p. 13.

<sup>41</sup> Juvenile Criminal Responsibility Act, No. 20.084, arts. 16 to 20.

element in the construction of a social protection system. The system's objective is to support the development process of children who are dealt with in the public health system, from their first antenatal check to their entry into the school system, at the first level of transition or its equivalent.

110. This programme currently provides health checks for approximately 694,752 children up to the age of 4 and 197,898 pregnant women,<sup>42</sup> guaranteeing them preferential access to social programmes and financial subsidies.

111. The intersectoral social protection system also currently includes the *Chile Solidario* system, which dealt with almost 392,000 extremely vulnerable families in 2010 through the aforementioned Bridge Programme and a further 18,000 persons in the same situation through the Links, Street and Opening the Way programmes.

112. In addition, the legislation criminalizing child pornography, which is described in paragraph 28 of the report on the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, was amended in 2004. Among other things, this legislation fixes the minimum age for sexual consent at 14 – two years higher than in the previous legislation. In addition, it provides for sanctions against anyone involved in the production of child pornographic material using minors and anyone who sells, distributes, disseminates or stores such material.

## **Article 11**

### **Adequate standard of living**

113. Between 1990 and 2008, the average annual growth rate was 5.4 per cent, resulting in a total increase of 157 per cent. This growth enabled Chile in 2008 to achieve a per capita GDP of US\$ 10,109 and resulted in the creation of 2,192,000 new jobs. Public social spending increased significantly and continuously in all social sectors, at a rate of 215 per cent between 1990 and 2008, that is, an average of 6.6 per cent per year. An average annual growth rate of 5.2 per cent was recorded in 2010, returning to the levels of 2005 (5.6 per cent), 2006 and 2007 (4.6 per cent in both years), following the drop in 2008 (3.7 per cent) and 2009 (-1.7 per cent).

114. It should be noted that legislative consideration is currently given to the bill (Bulletin 7196-06) providing for the establishment of the Ministry of Social Development to replace the current Ministry of Planning and Cooperation (MIDEPLAN). The aim of this bill, which is currently at the second constitutional procedure stage in the Chamber of Deputies, is to improve the effectiveness of social policies in Chile, and it provides for the establishment of two undersecretariats: one for social evaluation and the other for social services. The proposed duties of the first undersecretariat are interministerial coordination in the area of social development; designing policies, plans and programmes in its areas of responsibility; and supervising the national investment system. The second undersecretariat will be responsible for the coordination and integration of social services and benefits provided by the Ministry.

115. Implementation of the first phase of the Ethical Family Income social benefit<sup>43</sup> will begin in 2011; it will help overcome the basic difficulties of the most vulnerable families in the country and reward the efforts of families and mothers who seek to improve their situation through work, ensuring a high standard of education and health for their children.

<sup>42</sup> Source: Department of Health Statistics and Information — *Chile Crece Contigo* (Chile grows with you) team — 2010.

<sup>43</sup> There is a basic unconditional allowance plus additional benefits for compliance with commitments.

This benefit is composed of a basic allowance and additional payments to reward the efforts of each recipient family. The allowance is payable monthly as of April and throughout 2011 for each member of the family. In the first year of operation, almost 130,000 families will receive this social benefit. It is hoped that after a year of implementation more than 500,000 persons will no longer be living in extreme poverty.

116. With regard to the evolution of poverty in the country, according to the estimates produced by the Ministry of Planning and Cooperation (MIDEPLAN) on the basis of the National Social and Economic Survey (CASEN), there has been a substantial reduction in the level of poverty and extreme poverty<sup>44</sup> taking account of the statistics from 1990 to 2006. However, the latest figures from 2009 show a retrograde movement. The proportion of the population living in poverty dropped from 38.6 per cent in 1990 to 13.7 per cent in 2006, but then rose to 15.1 per cent in 2009. In particular, the proportion of the population living in extreme poverty fell from 13 per cent to 3.2 per cent in 2006, and then rose to 3.7 per cent in 2009, while the proportion living in poverty, but not extreme poverty, increased from 10.5 per cent in 2006 to 11.4 per cent in 2009.

117. The level of poverty and extreme poverty varies significantly depending on the age group, with a higher rate among children than among the population aged over 18: 24.5 per cent of children up to the age of 3 and 21.5 per cent of children and young persons between the ages of 4 and 17 are living in poverty, while the rate among young people is 14.5 per cent and among persons over the age of 60 it is 8.9 per cent. Adults are split into two groups: adults aged between 45 and 59, for whom the poverty rate is 9.3 per cent, and adults aged between 30 and 44, for whom it is 14.2 per cent, practically the same as the national average. Between 1990 and 2009, poverty declined significantly across all groups, from 52.7 per cent to 24.5 per cent among children up to the age of 3 and from 50 per cent to 21.5 per cent among children and young persons aged between 4 and 17. However, as mentioned above, these percentages rose between 2006 and 2009.

118. Furthermore, at the end of 2009, the poverty rate among the indigenous population, at 19.9 per cent, was 5.1 percentage points higher than among the non-indigenous population, at 14.8 per cent. That is the smallest difference between the two groups since 1996.

119. Progress in the area of nutrition has been due to substantial government investment, for example in the Supplementary Feeding Programme, implemented in the health sector, and the School Meals Programme, operated through the National School Support and Scholarships Board (JUNAEB), which distributed approximately 1,930,245 daily meals in 2009. The National Council for the Promotion of Health, coordinated by the Ministry of Health, Vida Chile, has established impact targets through expert consultations and technical meetings.

120. The following targets were set with respect to obesity: reduce the obesity rate from 10 per cent to 7 per cent among preschool children, from 16 per cent to 12 per cent among schoolchildren and from 32 per cent to 28 per cent among pregnant women by 2010. In order to achieve those objectives, the Ministry of Health has systematically implemented health promotion plans in all regions, consisting of community interventions at the local

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<sup>44</sup> The estimated indicators use the revenue method that defines the limits between persons who are living in poverty or extreme poverty and those who are not in relation to minimum thresholds for the satisfaction of basic needs in the case of poverty, or for the satisfaction of food requirements in the case of extreme poverty, and establishes these minimum thresholds in terms of a certain level of revenue. Thus, the poverty line is the minimum per capita income required to meet basic needs and the extreme poverty line is the minimum per capita income required to meet food requirements.

level and national support activities for the development of human resources, communication, social participation and the reorganization of health services.

121. The Nutritional Intervention Strategy for all stages of life involves the prevention of obesity and chronic non-communicable diseases, with a focus, among other things, on the development of institutional capacity to promote healthy lifestyles for pregnant women and children, from newborns up to the age of 6.

122. Chile acceded to the World Health Organization/Pan American Health Organization Global Strategy on Diet, Physical Activity and Health in July 2006 and designed its own project, entitled the Global Strategy against Obesity (EGO CHILE). This national strategy has served as a platform to include and drive policies that contribute to promoting a healthy lifestyle and have the fundamental objective of reducing the obesity rate in Chile, promoting lifelong healthy diet and physical activity. One example of progress in this area was the introduction of compulsory nutritional labelling of packaged food in November 2006. In this connection, the “Choose a healthy life” programme was launched in 2010 with the aim of informing the public about the benefits of the outdoors, exercise and a healthy diet.<sup>45</sup>

123. With regard to rural areas, the Office of the Under-Secretary for Regional Development of the Ministry of the Interior is implementing the Rural Infrastructure Programme for territorial development, through which it seeks to support poor rural communities to strengthen their sustainable productive and social development through participatory territorial administration and improved access, quality and use of infrastructure services in the regions of Coquimbo, Maule, Bío-Bío, Araucanía and Los Lagos. The infrastructure services covered by the programme are potable water (water for drinking and productive processes); sanitation (disposal and treatment of domestic waste water); electrification (domestic and productive); connectivity (paths, walkways and bridges) and telecommunications (information and communication infrastructure and technology).

124. The Ministry of Housing and Town Planning has based its urban housing policy on a strategic vision in which the three elements of home, neighbourhood and city are considered to form an indivisible continuum and social integration is the main focus. The Government’s housing policy aims to drastically reduce the continuing deficit, particularly among the poorest 40 per cent of the population, with a special emphasis on quality and social integration. Between 1990 and 2008, the Ministry of Housing and Town Planning produced a total of 1,444,793 housing solutions. This is equivalent to an annual average of 76,000 solutions, which is significantly more than the 54,000 average annual solutions produced in the six-year period 1984–1989.

125. The three basic components of Chilean housing policy are savings, State-subsidized demand and mortgage credit. The balance between the three varies according to the target groups and the main thrusts of the policy. A major change introduced in the current housing policy, particularly with respect to the most disadvantaged sectors, is the elimination of the credit element, on the basis that these families have low borrowing capacity. Despite this limitation, it is assumed that, as there is no repayment obligation, resources are freed up to be used for completion of the housing unit. The concept is known as “dynamic, debt-free social housing” and applies to housing provided through the Housing Solidarity Fund, explained below. The financing structure involves a percentage of savings plus a direct subsidy, which provides the sum available for the site, site development and construction of the property. The eliminated credit is offset by an increase in the amount of the subsidy

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<sup>45</sup> See [www.eligevivirsano.cl](http://www.eligevivirsano.cl).

compared to what was previously made available for housing of the same category. The Housing Solidarity Fund was designed to improve targeting, specifically for the poorest 30 per cent of the population, and incorporates innovative management through applications from organized groups of beneficiaries. The concept of financing and surface areas remains the same, while extension, in the case of construction, is left to the user. Through the Housing Solidarity Fund, the responsibilities of the Housing and Urbanization Service (SERVIU) are delegated to private actors or local governments and there is greater public participation.

126. Applications for housing subsidies must be made through a social housing management entity (EGIS) or a technical assistance service provider (PSAT), depending on the programme applied for. Neither of these institutions can charge for the advice they give, as the State pays them for providing this service to applicants and beneficiaries of the housing programmes of the Ministry of Housing and Town Planning. The main tasks of these institutions are to provide advice free of charge and take the necessary steps to enable the families to which they provide technical assistance to obtain and make use of a housing subsidy. To that end, they are required to provide advice to stakeholders in the Housing Solidarity Fund I and II and those wishing to engage in collective housing construction, using the subsidies for the middle classes provided for in Supreme Decree No. 40. The technical assistance service providers support those who opt for the rural housing subsidy and the Programme for the Protection of Family Assets.

127. The fact that the State partly or fully absorbs market fluctuations is considered a form of implicit subsidization or interest rate subsidization. A large proportion of the credit granted is funded through the issuance of mortgage letters of credit, which are traded on the secondary market, the securities market or the stock exchange. A stable interest rate is guaranteed by these systems. If mortgage letters of credit taken out by beneficiaries of State programmes are traded and sold for less than their value, the State reimburses all or part of this difference. The implicit subsidy will apply to all operations in which the price of the housing unit does not exceed the equivalent of 600 development units (UF) or 700 development units in the case of homes in regions XI or XII or the provinces of Palena and Chiloé; or 800 development units in the case of homes in the Easter Island or Juan Fernández communes. This subsidy will cover, in full or in part, the difference between the yield and the par value of the letters issued to finance the credit, up to a maximum of 80 development units per operation.

128. Households without a home constitute the housing deficit. According to the results of the 1990 National Social and Economic Survey in relation to extended families living in overcrowded conditions, poor quality of housing and external clustered households (several households sharing the same housing), 949,245 households were affected by the housing shortage. In 2006, this number fell to 412,349, representing a reduction of 56.6 per cent. This was followed by a slight increase to 420,587 in 2009, and a figure of 646,049 this year following the 2010 earthquake.

129. The situation regarding the number of persons living in inadequate housing may be estimated from two indices: (a) from the perspective of material deficiency, in 2006, 41,000 households were living in unrepairable housing; compared with 1990, the number of households has been reduced by almost 7 percentage points; (b) from the perspective of deficient sanitation, in 1990 1 million households, or 32 per cent of the total, had deficient sanitation, while in 2006 that figure was reduced to 8.7 per cent and in 2009 to 6.5 per cent of the total.

130. With regard to overcrowded housing, cases of overcrowding are reported in the publications of the National Social and Economic Survey. In 2006, 36,026 households were critically overcrowded, representing 0.8 per cent of the national total, and in 2009 that

figure was 0.7 per cent, a reduction of almost 3 percentage points with respect to the number of households in that situation in 1990.

131. In order to overcome the problem of poverty and residential marginalization, the *Chile Barrio* programme, referred to in the third periodic report (para. 618), was launched in 1997. The programme served to regularize and improve the housing and neighbourhood situation in the settlements identified in the 1996 survey, benefiting 93,560 families by the end of 2005. However, the programme did not eliminate all of the precarious settlements in the country because taking action on the current stock does not prevent the formation of new settlements. There are currently between three and four calls for applications a year and the results are made known in the month following the submission of applications. In 2007, 7,919 families were moved out of precarious settlements, bringing to 108,168 the total number of families that have received a housing solution, thus exceeding the target of dealing with the 105,888 families identified in the 1996 survey of precarious settlements and encampments.

132. Reference should also be made to post-earthquake reconstruction, when the Ministry of Housing and Town Planning announced the two stages of the National Housing Reconstruction Programme. The first stage of emergency measures, carried out by the Ministry of the Interior and the Ministry of Planning and Cooperation, in cooperation with the municipalities and public and private bodies, consisted of providing affected families with temporary housing until June 2010. The second stage of permanent housing solutions, under the responsibility of the Ministry of Housing and Town Planning, has as its objectives to provide a permanent solution to affected families, maintain all previously allocated subsidies, ensure the continuity of the Ministry's regular subsidy programmes, and reconstruct towns, villages and coastal communities. In total, 323,185 families will benefit from the 2010–2011 subsidies. In 2010, the State granted 124,018 subsidies for reconstruction (28,478,425 development units)<sup>46</sup> in addition to the 88,580 regular subsidies (24,221,462 development units).

133. Lastly, two new housing subsidies were introduced in 2011 for emerging groups and the middle class. A housing subsidy of between 600 and 1,000 development units was introduced for emerging groups, which on average will cover 50 per cent of the cost of housing. A housing subsidy of between 1,000 and 2,000 development units was introduced for the middle class. Both subsidies will decrease as the price of the housing rises. The new subsidies are targeted at households in the emerging and middle classes, with average incomes of between 250,000 and 900,000 pesos. These subsidies increase flexibility and choice for beneficiaries, enabling them to apply individually for property from plans without having to go through a social housing management entity. The composition of the family group is also taken into account, with additional points granted according to the number of members in the household and their characteristics (members with disabilities, minors or older persons). It is expected that 30,000 of these subsidies will be granted in 2011 and 45,000 in 2012.

#### **Paragraphs 51 and 52 of the concluding observations**

134. According to the building permit statistics from the National Institute of Statistics, the housing stock reached 5,152,140 units in 2008, for a projected population of 16,763,470 inhabitants. In 2010, public spending on housing amounted to US\$ 1,740 million equivalent to 0.9 per cent of GDP. Housing production facilitated by the direct programmes and subsidies of the Ministry of Housing and Town Planning is a key component of the

<sup>46</sup> Development unit (UF): accounting unit adjusted in line with inflation, equivalent to 21,822 pesos as at 6 June 2011.

developments described in the previous paragraph. Between 1990 and 2008, adding together the housing works completed by the Housing and Urbanization Service — basic and progressive housing — and the subsidies granted, State-supported housing production reached 1,444,793 units.

## **Article 12**

### **Health**

135. The national policy on health established the objectives and targets<sup>47</sup> that have served as an essential guideline for developing interventions and priority actions to be carried out by the health system and as a starting point for the sweeping reform of both the public and private health systems, launched in 2002. In fact, the four major health objectives identified for the 2000–2010 period were: to improve health outcomes; to respond to the challenges created by the progressively ageing population and major social changes; to reduce inequalities in the population's health status; and to provide services that meet people's expectations.

136. The State budget allocated to health in 2000 was 1,561,224 million pesos, representing 19 per cent of social expenditure. This amount was increased to 3,911,194 million pesos of the national budget in 2011, equivalent to 24 per cent of social expenditure and 14.6 per cent of the budget.<sup>48</sup>

137. Maternal and neonatal health are intrinsically linked; hence, similar interventions are required to prevent deaths in these two categories. These include preconception health checks — coverage of 1.7 per cent of women in the public system<sup>49</sup> — antenatal care, attendance at delivery by skilled staff, access to emergency obstetric care when necessary, postnatal care, neonatal care and the integration of newborns into the health system.

138. In the public health system, antenatal education in the preparation for childbirth and child-rearing has been incorporated in antenatal care, with an intercultural perspective, by providing the Guide to Pregnancy and Birth in a generic version and in other versions designed for Aymara, Mapuche and Rapa Nui families. In 2009, 80 per cent of pregnant women took advantage of antenatal education.

139. Regarding the quality of obstetric care, notable progress has been made in recent years through the implementation of the Explicit Health Guarantees (GES) on the prevention of premature birth (2005) and pain relief in labour (2007). In addition, the Handbook on Personalized Care in the Reproductive Process was distributed throughout the health-care network in 2008 under the early childhood protection system. In the public system, the father, or another person, are now present during labour and delivery in 61 per cent of all births.

140. The improvement in child indicators is linked to strategies implemented over almost half a century by the sector and the gradual improvement in the population's quality of life. Ongoing public policies on child health include supplementary feeding programmes, the development of the national immunization programme and the high coverage this has achieved, coverage of the primary care network and access to hospital inpatient services, family planning programmes, mandatory child death auditing, extensive coverage of professional assistance during childbirth, strategies to reduce deaths from acute respiratory infections (acute respiratory infection wards, winter campaigns) and improved neonatal

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<sup>47</sup> Ministry of Health (MINSAL), Health objectives for the decade 2000–2010, October 2002.

<sup>48</sup> *Source:* Budget Directorate (DIPRES), Report on Public Finances, 2011.

<sup>49</sup> Department for Health Statistics and Information, Ministry of Health (DEIS), 2009.

care. The strengthening of the health-care network, particularly as regards primary care, is worthy of special mention. It is particularly noteworthy that in early 2010 there were 432 establishments certified as family health centres and enhanced specialized training was provided for primary care staff.

141. The infant mortality rate was thus reduced by 51.2 per cent between 1990 and 2008, from a rate of 16 to 7.8 per thousand live births. The neonatal mortality rate fell by 35.3 per cent in the same period, while the infant mortality rate fell by 69.3 per cent. The mortality rate for children aged between 1 and 4 fell by 62 per cent during the period 1990–2008, from 0.79 to 0.3 per thousand children of that age. In this age group, 37.2 per cent of deaths are linked to external causes, including injury and violence, 16.1 per cent to congenital defects and 9.9 per cent to tumours.

142. The importance of including more complex neonatal problems in the Explicit Health Guarantees (GES) system should be emphasized, especially retinopathy, hypoacusis, bronchopulmonary dysplasia in premature babies and respiratory distress syndrome in newborns, as access, timeliness, quality of care and financial protection are guaranteed for such problems. Equally important has been the inclusion of the treatment of congenital heart disease, spinal dysraphisms and cleft lip and palate in the GES system and neonatal screening for phenylketonuria and congenital hypothyroidism in the preventive medical examination.

143. Life expectancy at birth in the period 2005–2010 was 78.45 years. For men it was 75.49 years and for women 81.53 years. Projections for 2010–2015 show an increase to 79.1 years for both sexes combined: 76.12 years for men and 82.2 years for women.

144. One of the measures implemented recently seeks to reduce waiting lists in public health clinics. An in-depth analysis of each health service and pathology was made to ascertain the true size of waiting lists and the computerized registration system was revised for this purpose, allowing all GES cases to be recorded within hospitals and health services. The information generated was subsequently made public by posting the updated lists on the National Health Fund (FONASA) website, and the portal <http://augeenlinea.fonasa.cl/> was created so that FONASA beneficiaries can keep track of the status of their guarantees in real time. A mechanism was established to align transfers to health services and hospitals with the setting and achievement of waiting list reduction targets under the plan for universal access with explicit guarantees (AUGE). The private sector was also invited to tender for services, including all 69 GES pathologies, so as to have a framework agreement with a broad supplier base, which led to competitive prices for the various services. This means that health services with waiting lists can turn to the private sector and purchase clinical services. In addition to this, the AUGE voucher scheme was devised and put into effect, offering a prompt solution in respect of overdue guarantees claimed by injured persons, that cannot be resolved by the health services. In addition to the financial incentive, the publication of waiting lists gave rise to a degree of competition between the health services, which helped to reduce the AUGE waiting lists. These waiting lists were reduced from 246,742 interventions in June 2010 to 41,752 in June 2011.

145. With regard to children immunized against diphtheria, whooping cough, tetanus, measles, poliomyelitis and tuberculosis, Chile has a long and successful immunization track record, and smallpox vaccination was introduced as early as the first half of the last century. The Expanded Programme on Immunization was subsequently launched in 1978 and included vaccines against tuberculosis, diphtheria, whooping cough, tetanus, poliomyelitis and measles. Vaccines are now offered free of charge against 10 diseases (tuberculosis, diphtheria, whooping cough, tetanus, poliomyelitis, measles, *Haemophilus influenzae* b, rubella, mumps and hepatitis B) to all children under 8 years of age through primary health-care facilities. The influenza vaccine is also offered to high-risk groups through targeted vaccination campaigns. Following the international health alert, in 2009 and 2010

vaccination against influenza A (H1N1) was carried out and last year around 4 million people benefited nationwide. Immunization coverage in 2009 was 97.3 per cent for the BCG vaccine<sup>50</sup> (newborns), 94.1 per cent for the pentavalent vaccine<sup>51</sup> (third dose) and 91.6 per cent for the triple virus (MMR) vaccine<sup>52</sup> (12 months).<sup>53</sup> In 2008, 95.7 per cent of 1-year-olds had been vaccinated against measles.<sup>54</sup>

146. Furthermore, the following considerations apply to diseases currently deemed to require priority monitoring, as described in the third report (paras. 668 et seq.):<sup>55</sup>

(a) Case-by-case compulsory notification and monitoring of the following pathologies:

- Immediate notification: suspected cases of botulism, brucellosis, carbunculosis, cholera, dengue fever, diphtheria, invasive haemophilus influenzae, meningococcal disease, yellow fever, West Nile fever, leptospirosis, malaria, plague, poliomyelitis, human rabies, measles, severe acute respiratory syndrome (SARS), hantavirus pulmonary syndrome, trichinosis, Creutzfeldt-Jakob disease and rubella; the occurrence of any cluster of cases related in time and space, where a transmissible infectious cause is suspected, including outbreaks of food-transmitted diseases; the occurrence of unexplained deaths in previously healthy persons, when the presence of a transmissible infectious agent is suspected;
- Daily notification: Whooping cough, Chagas disease (Trypanosomiasis Americana), typhoid and paratyphoid fever, gonorrhoea, viral hepatitis (A, B, C and E), hydatidosis, leprosy, mumps, psittacosis, rubella, congenital rubella, syphilis in all its forms and locations, acquired immunodeficiency syndrome (HIV/AIDS), tetanus, neonatal tetanus, tuberculosis in all its forms and locations, exanthematic epidemic typhus.

(b) Monitoring and notification, exclusively through sentinel points designated by the health authority,<sup>56</sup> of the number of weekly cases, by sex and age group, of the following high-frequency pathologies: influenza, acute respiratory infections, diarrhoeal diseases, sexually transmitted diseases (except gonorrhoea, syphilis and HIV/AIDS), chickenpox;

(c) Compulsory monitoring and weekly notification to the Institute of Public Health (ISP) by public and private clinical laboratories and blood banks of the identification of the following disease-causing microbiological agents: Shiga toxin-producing *Escherichia coli* (O157 and others), *Chlamydia psittaci*, *Leptospira* spp., *Coxiella burnetii*, *Trypanosoma cruzi*, *Treponema pallidum*, *Streptococcus pyogenes* (group A, invasive), *Streptococcus pneumoniae* (invasive), enteropathogens (*Vibrio parahaemolyticus*, *Vibrio cholerae*, *Campylobacter* spp., *Yersinia* spp., *Salmonella* spp., *Shigella* spp.), hepatitis B virus (surface antigen), hepatitis C virus, HIV, *Legionella* spp., *Ehrlichia* spp., *Listeria monocytogenes* (invasive), *Streptococcus agalactiae* (invasive);

<sup>50</sup> *Sources*: Ministry of Health, Department for Health Statistics and Information, 2010 Basic Indicators, Access to Health Indicators.

<sup>51</sup> Diphtheria, tetanus, whooping cough, *Haemophilus influenzae* type b and hepatitis B.

<sup>52</sup> Measles, mumps, rubella.

<sup>53</sup> Ministry of Health, Basic Health Indicators, Chile 2007.

<sup>54</sup> *Source*: Ministry of Health, Immunizations Unit, Transmissible Diseases Programme.

<sup>55</sup> Ministry of Health Decree No. 158, adopting regulations on the notification of diseases subject to compulsory declaration; date of publication: 10 May 2005.

<sup>56</sup> Monitoring through sentinel points involves laboratory assistance for diagnostic purposes.

(d) Monitoring in all national hospitals for resistance to antimicrobial treatments of the following agents: *Streptococcus pneumoniae*, *Mycobacterium tuberculosis*, *Shigella* spp., *Salmonella* spp., *Haemophilus influenzae* type b, *Staphylococcus aureus* (VISA-VRSA), *Neisseria meningitidis*, *Neisseria gonorrhoeae*.

147. *Access by the population, pregnant women and children to qualified health practitioners:* In 2006, 96 per cent of pregnant women were monitored by qualified staff during pregnancy and 99.8 per cent received professional care during childbirth, in public and private facilities. The maternal mortality rate fell significantly during the period 1990–2008, from 39.9 to 16.9 per 100,000 live births. For more information, see the report to the Committee on the Elimination of All Forms of Discrimination against Women (paras. 89 et seq.).

148. *Access by the population to adequate water supply:* In 2006, 98.1 per cent of households were connected to the public drinking water supply.<sup>57</sup>

149. *Access by the population to adequate sewerage services:* In 2009, 84.1 per cent of households were connected to the public sewer system and 9.4 per cent to a septic tank system;<sup>58</sup> thus, 93.5 per cent of households have access to an adequate service.

150. Regarding antiretroviral treatment (ARV) and screening tests to assess immunological and virological factors and ARV resistance, these have been guaranteed under the GES Act for both the public and private health sectors since enactment of the 2005 Ministry of Finance/Ministry of Health Decree No. 170. The programme gives technical input for the provision of antiretroviral treatment, and to that end takes charge of executing a purchasing plan, determining distribution and keeping track of stock.

151. With respect to non-communicable diseases, cancer is the second leading cause of death in Chile, constituting a major public health problem. Steps taken to prevent and monitor this disease include the creation of the Population-based Cancer Registries in 2002<sup>59</sup> to assess the risk of developing cancer among the target population and contribute to a better understanding of this disease and its risk factors and to the evaluation of prevention and treatment methods. The purpose of the foregoing is to assist in resource planning for the diagnosis, treatment and care of cancer cases. These registries<sup>60</sup> collect information on all new cancer cases occurring in a given population and in a defined geographical area (with administrative and demographic delimitation).

152. Agricultural workers are one of the groups most at risk of pesticide poisoning because of the widespread use of pesticides in this sector. Agricultural workers represent 13 per cent of the country's total working population and the inhabitants of rural areas represent 13 per cent of the total population. The domestic use of pesticides, especially insecticides and rodenticides, also exposes a considerable number of persons to a risk of poisoning, including vulnerable groups such as children and the elderly. The Network for the Epidemiological Surveillance of Pesticides has provided information that has led to an understanding of the scale of this problem and to the timely implementation of control measures. In fact, the Ministry of Health strengthened these surveillance activities by establishing compulsory and immediate notification<sup>61</sup> in 2004 and developing the Technical

<sup>57</sup> Ministry of Health, Basic Health Indicators, Chile 2007.

<sup>58</sup> *Source:* Ministry of Planning and Cooperation, 2009 National Survey and Economic Survey (CASEN survey).

<sup>59</sup> Exempt Resolution No. 05 of 23 January 2002.

<sup>60</sup> Exempt Resolution No. 1121, Ministry of Health, 7 December 2004, approving technical standard No. 72 on population-based cancer registries.

<sup>61</sup> Ministry of Health Supreme Decree No. 88, approving regulations on the compulsory notification of

Standard for Surveillance of Acute Pesticide Poisoning in 2007, to standardize monitoring activities and ensure timely information for follow-up action.

153. Depressive disorders are a particularly common public health problem in Chile, which is why there is a national screening and treatment programme for depressive disorders. Major depression affects 6 per cent of women and 3 per cent of men over 15 years of age. If mild depressive episodes and dysthymia are taken into account, the prevalence rises to 10.7 per cent among women and 4.9 per cent in men.<sup>62</sup> The frequency of depressive episodes and their impact on the quality of life of sufferers was the reason for including this pathology in the GES scheme from 1 July 2006. As a result, both the public and the private health system must provide 100 per cent coverage to persons aged 15 and over diagnosed with depression from the moment they seek health care.

#### **Paragraphs 53 and 54 of the concluding observations**

154. The sexual and reproductive health counselling service is a resource for persons who find themselves having to make difficult decisions on matters such as onset of sexual activity, an active sex life, changing partners, exposure to sexually transmitted infections (STIs), HIV/AIDS, sexual violence, sexual identity and orientation and the need to avoid pregnancy. The counselling service's coverage is very low in the public system, reaching 0.24 per cent of women of childbearing age in 2009.

155. The maternal mortality rate in 2000 was 18.7 per 100,000 live births, showing an increase between 2005 and 2006. It reached a rate of 16.5 per 100,000 live births in 2008 (Department for Health Statistics and Information – DEIS). General Technical Standard No. 100 on procedures for recording the auditing of maternal, foetal and infant deaths was adopted in 2007 with the aim of defining the epidemiological profile of maternal, foetal and infant mortality at local, regional and central level so as to put strategies in place to improve the quality of care and reduce preventable deaths. Mortality linked to abortion has been subject to variations since 2000, falling sharply in 2001 and reaching a rate of 2 per 100,000 live births in 2008 (DEIS, 2008).

156. The fall in maternal mortality due to abortion complications is the result of including family planning in the regular maternal and infant care programmes of the public health system since 1966. Since their introduction, birth control services have been available nationally, without restriction, to all legally eligible persons, under Act No. 18.469 on health care and have been provided in National Health Service facilities, replaced after 1979 by the current National Health Service System.

157. The national birth control standards, which regulate the access to and quality of the above services, were published and distributed within the public health-care system network in 2007. They contribute to the achievement of the health objectives for the decade and the continued decline in maternal mortality through the reduction of unwanted and high-risk pregnancies, as well as to correcting existing inequities in sexual and reproductive health and meeting the expectations of the population.

158. The percentage of the population provided with contraceptive services in the public health system has remained stable over the last two years, reaching 36.7 per cent in 2009 (DEIS). The number of people registered for birth control in 2009 reached a total of 1,196,581 out of an eligible population of 3,258,068 women of childbearing age. The

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acute pesticide poisoning; published in the Official Gazette of 5 October 2004.

<sup>62</sup> Vicente, B., Rioseco, P., Saldivia, S., Kohn, R. & Torres, S., 2002, "Estudio chileno de prevalencia de patología psiquiátrica" [Chilean study on the prevalence of psychiatric illness], *Revista Médica de Chile*.

highest figures are 39 per cent for the intrauterine device (IUD) (479,024 women), and 37 per cent for the combined oral contraceptive (451,619 women), followed by 7 per cent for the progestogen pill (78,807 women), 8 per cent for injectable birth control (99,206 women), 5 per cent for condoms (49,140 women and 9,206 men), and 2 per cent for the contraceptive implant (29,579).

159. In order to improve the quality of contraceptive services offered to users, the range of methods available in the public health system has been expanded, the most recent being the progestogen-only implant and emergency birth control for persons requiring emergency contraception.

160. The strategy for accessible teen-friendly areas was launched in December 2008, on the basis of agreements signed between the health services and the Ministry of Health, and implementation commenced during 2009. The teen-friendly areas programme aims to offer adolescents in the 10- to 19-year-old age bracket easier access to the health system. Teen-friendly health services are covered by the legal framework underpinned by a series of international instruments on the rights of adolescents and young people, which derive their authority primarily from the Universal Declaration of Human Rights (1948), the International Covenant on Economic, Social and Cultural Rights (1966), the Convention on the Rights of the Child (1989) and the Convention on the Elimination of All Forms of Discrimination against Women (1979), adopted by the United Nations General Assembly and ratified by Chile.

161. These teen-friendly areas are designed to serve as a model for an effective initiative to meet adolescent health needs. They initially focused on sexual and reproductive, mental and nutritional health among adolescents (10- to 19-year-olds) in 60 of the national communes, which were chosen because they have high adolescent fertility rates. This programme covers 60 teen-friendly areas in 54 communes and the number of beneficiaries is 5 per cent of the eligible population between 10 and 19 years of age. According to a 2010 descriptive study, the services most frequently provided in the 60 teen-friendly areas of 27 health services are: (a) preconception counselling, 44.4 per cent (12 health services); (b) counselling on sexually transmitted infections, 40.7 per cent (11 health services); (c) gynaecological checks, 25.9 per cent (7 health services); (d) antenatal checks, 25.9 per cent (7 health services); (e) social services 25.9 per cent (7 health services); and (f) mental health checks, 25.9 per cent (7 health services). In March 2011, the Ministry of Education (MINEDUC), in conjunction with the National Service for Women (SERNAM), launched seven educational programmes on sexuality and emotional health, allowing each educational establishment to select the most appropriate programme for their particular education project.<sup>63</sup>

#### **Paragraph 55 of the concluding observations**

162. The national AIDS prevention and control programme was established in 1990 to provide an effective response from the Chilean Government and society to the emergence of the HIV/AIDS epidemic and its spread through the population. The purpose of the programme is to develop coordinated, intersectoral government policies on HIV/AIDS.

163. The programme has the following functions: (a) to design, evaluate and update standards, protocols, clinical guides and procedures, on the basis of available scientific data, in order to give the population access to care, monitoring, psychosocial support, and timely, satisfactory treatment; (b) to manage the sectoral and intersectoral implementation of the national strategy to prevent the transmission of HIV/AIDS and sexually transmitted

<sup>63</sup> More information available on the website [www.mineduc.cl](http://www.mineduc.cl).

infections, with a view to reducing the spread of these diseases by strengthening people's ability to manage personal risk and lessening their vulnerability; (c) to arrange for the training of public sector health-care teams, so as to improve technical capacities for both clinical care and prevention; and (d) to administer studies and research to measure changes in Chilean society in relation to HIV/AIDS and to evaluate the policies and interventions implemented. Up-to-date information on HIV/AIDS is also assembled and distributed, in an effort to match up social determinants with the characteristics of these health problems.

164. The epidemiological record shows that the first six diagnosed cases of HIV/AIDS were reported in 1984. The total number of reported cases came to 22,115 by the end of 2009. Data gathered in Chile show that sexual activity is still the predominant means of exposure to the virus, accounting for 95 per cent of all reported cases. In all five-year periods, heterosexual activity was the principal mode of transmission for women (more than 90 per cent), whereas for men, homosexual or bisexual activity was the most commonly stated mode, both for AIDS (70.7 per cent) and for HIV (76.4 per cent). The epidemic predominantly affects men (at 85 per cent), with the incidence of both HIV and AIDS outstripping that of women over all years. The male to female transmission indicator has shown a significant decline, and is still declining. The rates were 3.6 for HIV and 5.6 for AIDS, in the most recent five-year period.

165. An analysis of reported cases of HIV and AIDS by age group shows the highest rates among persons aged 20 to 49. For HIV in both men and women, the greatest concentration of cases is between the ages of 20 and 29, a decade younger than for AIDS. Reporting rates for HIV rose across all age groups until the five-year period from 1999 to 2003; however, in the most recent five-year period studied, from 2004 to 2008, a gradual decline began to be seen in the number of reported cases, except in the 20- to 29-year-old age group, which has shown a continuous increase. As regards AIDS, there has been a steady rise in reported cases among persons older than 40.

166. In the period from 2000 to 2009, there were 4,309 AIDS deaths in the country, 86 per cent of them among men. By age group, the highest death rates are among 40- to 49-year-olds, and the next highest among 30- to 39-year-olds.

167. The national strategy for the prevention of AIDS and Other Sexually transmitted diseases is structured on four levels of intervention, in keeping with the objectives pursued and the intended target population. These levels are: (a) the broad societal level, where the objective is to maintain social awareness and risk perception in the general public; (b) the community group level, where the objectives are to teach preventive methods to couples and to promote social environments that attach importance to prevention; (c) the individual level, where direct support is provided for risk management through information and personalized guidance via telephone and face-to-face counselling, as well as the detection, treatment and prevention of HIV and sexually transmitted infections; and (d) the intersectoral level, where the objective is to raise awareness and identify ways in which different Government bodies can work together to strengthen and broaden the national response to HIV/AIDS and sexually transmitted infections.

168. Citizens participate in the development of prevention strategies on the following basis: (a) AIDS Act No. 19.779, article 2 of which provides that "the Ministry of Health shall be responsible for management and technical guidance in respect of public policies in this field. These policies shall be devised, carried out and evaluated using an intersectoral approach, with community participation, and shall reflect the advances in scientific research and the epidemiological state of affairs at the national level"; (b) Government policy on participation, decentralization, equity, intersectoral cooperation, and a person-centred culture; (c) current health policies and the standards and recommendations of international technical agencies (WHO, the Joint United Nations Programme on HIV/AIDS, UNAIDS, etc.); (d) the Declaration of Commitment on HIV/AIDS adopted by the United Nations

General Assembly (A/RES/S-26/2) on 2 August 2001, which explicitly acknowledges the particular role and significant contribution of people living with HIV/AIDS, young people and civil society actors in addressing the problem of HIV/AIDS in all its aspects, recognizing that “their full involvement and participation in the design, planning, implementation and evaluation of programmes is crucial to the development of effective responses to the HIV/AIDS epidemic”.

169. Key concepts of the prevention strategy: (a) vulnerability; personal situation characterized by inadequate or non-existent control over the risk of contracting HIV or sexually transmitted infections or by the deterioration of health while living with HIV. This is related to social inequity and inequality, and in general to other determinants of the health-illness transition. This concept is crucial to the focus on prevention activities. Priority vulnerable populations are defined as men who have sex with other men, male and female sex workers, and persons deprived of liberty; (b) risk management, taking into account a set of emotional and intellectual factors involved in personal decision-making and the implementation of self-care strategies. “Risk” refers to a likelihood determined by personal conduct.

170. Finally, it should be pointed out that since 1991 the National AIDS Commission (CONASIDA) of the Ministry of Health has conducted 12 national social media campaigns for the prevention of HIV/AIDS. Their main objective has been to contribute to reduced HIV transmission, by enhancing social awareness and people’s ability to adopt forms of behaviour that enable them to lower the risk of contracting or transmitting HIV, and to lessen their personal, economic, social and political vulnerabilities with respect to the nationwide epidemic. These campaigns have been carried out with Government funding, supplemented in some years (2004 to 2007) by support from the Global Fund to Fight Aids, Tuberculosis and Malaria (GFATM). The campaign strategies have been based on the epidemiological status of HIV/AIDS, the socio-behavioural history of the national population in terms of sexuality and prevention, and the results of previous campaign assessments.

171. For the 2004 campaign, an associative management model was launched by the Ministry of Health and two civil society organizational networks working on the subject (the Assembly of Social Organizations Working on AIDS (ASOSIDA), which groups together social organizations and non-governmental organizations working on HIV prevention, and *Vivo Positivo* (“Live Positive”), which brings together groups of persons living with HIV). This management model, which was in use until 2007, provided for joint efforts to design and produce each of the four campaigns carried out during that period. A decentralization component was also introduced, with a view to broadening the coverage of the national campaign through auxiliary regional campaigns, in each of the regions of Chile.

172. Post-campaign evaluations focused on whether the campaign messages were memorable and understandable, how they influenced decisions on HIV prevention, access to the services promoted, and the building of a non-discriminatory social environment. The most recent AIDS campaign was carried out in 2010 and was called *Quien Tiene SIDA* (“Who Has AIDS”); see <http://www.quientienesida.cl>.

173. The progress made can be summed up as follows: (a) implementation, by all regions, of an annual prevention plan on a participatory basis with other sectors of Government and social organizations, incorporating projects aimed at the general population and target groups such as men who have sex with men, male and female sex workers, and persons deprived of their liberty; (b) the design and implementation of annual social media campaigns, carried out nationwide through the communications media, on public transportation, and on public roads, with the following objectives: to raise awareness of the mechanisms available to support people’s decisions to prevent HIV; to promote HIV/AIDS

counselling services; to instil social awareness of the need for early diagnostic testing for HIV (the Elisa test), and of the need for care and treatment, in accordance with the Explicit Health Guarantees (GES), to prevent the progress of the infection and deterioration in the quality of life; and to strengthen the sharing of responsibility between the health system, its users and society with regard to access to treatment and the social support required by people living with HIV; (c) the continuing provision of face-to-face counselling through the public assistance network and telephone counselling (Fonosida); (d) the nationwide distribution of condoms to population groups accorded priority in terms of prevention: adolescents, young people, persons living with HIV, persons seeking treatment for sexually transmitted infections, sex workers, and persons deprived of their liberty; (e) regional plans for the elimination of congenital syphilis in the country's 15 regions; and (f) cooperation between CONASIDA, other Government bodies and civil society in implementing strategies for the prevention of HIV and sexually transmitted infections.

174. The achievements and overall impact of the prevention strategy are as follows: (a) an increase in informed knowledge about HIV/AIDS: from 43 per cent in 1998 to 82 per cent in 2009; (b) an increase in the use of condoms at the onset of sexual activity: from 18 per cent in 1998 to 48.4 per cent in 2009; (c) an increase in the number of imported condoms: from 11 million in 2000 to 27 million in 2007; (d) a decrease in the HIV-positive stigma index: from 20 per cent in 1998 to 7.6 per cent in 2003; and (e) a rise in the number of men who state that they have had sex with men in the previous 12 months: from 0.4 per cent in 1998 to 5.3 per cent in 2009.

#### **Paragraph 58 of the concluding observations**

175. In the area of recycling and reduction of waste, the following are the actions carried out by the Ministry of the Environment and the former National Commission on the Environment (CONAMA):

(a) From 2005, a comprehensive solid waste management policy, which has as its aim to "manage solid waste with the least possible risk to the health of the population and the environment, fostering a comprehensive vision of waste so as to ensure the sustainable, efficient development of the sector". Other projects developed under this policy include: (i) management plans for household waste; (ii) preliminary draft comprehensive waste legislation, for the purpose of "preventing waste generation and promoting the optimum use of waste, so as to protect the environment"; this draft legislation envisages the creation of mechanisms to promote waste prevention and the optimum use of waste, such as extended producer liability; it also provides for a change in the subsidy system to pay for trash collection; and (iii) assessment of the environmental, economic and social impact of extended producer liability;

(b) Municipal and private waste recycling projects. A number of municipalities have now set up recycling points (*puntos limpios*) and promote waste upgrading, reuse and recycling.

176. With regard to the new institutional framework, the preliminary draft legislation amending the 1994 Environment (Framework) Act, No. 19.300, was drafted in the period from 2005 to 2009. Act No. 20.417, published in 2010, established the Ministry of the Environment, the Environmental Assessment Service, and the Supervisory Authority for the Environment. The Ministry of the Environment began operations on 1 October 2010.

#### **Paragraph 60 of the concluding observations**

177. On 10 October 2010, draft legislation was introduced in the Chamber of Deputies by presidential message to authorize the sale of non-prescription medicines in commercial enterprises that fulfil the stipulated requirements (Bulletin No. 7274-11). This draft

legislation has the following main objectives: (a) to give consumers direct access to non-prescription pharmaceutical products, so as to prevent the intervention of salespersons who might interfere with their decisions; (b) to promote competition and possibly provide a basis for a decline in the price of non-prescription medicines, by authorizing their sale in commercial enterprises that fulfil the requirements set out in the legislation; and (c) to make such pharmaceutical products available in a greater number of sales outlets.

## **Article 13**

### **Education**

178. The Ministry of Education (MINEDUC) set itself the following strategic objectives for 2010–2014:<sup>64</sup> (a) to develop an education system that attracts the best staff (teachers, principals, etc.), delivers quality education and is geared towards improved performance; (b) to generate information to support decision-making in the education sector; (c) to carry out support activities for the education system, such as curriculum development and improvement on an ongoing basis, provision of pedagogical resources and implementation of programmes to strengthen specific strategic areas and increase social mobility; and (d) to expand the stock of advanced human capital in Chile by promoting innovation, research and development.

179. To achieve those objectives, Act No. 20.501, on quality and equity in education, was passed into law on 26 February 2011. In concise terms, the Act introduced the following changes: (a) principals are now appointed by high-level public education authorities and their salaries have been increased; they may choose their own senior management teams and dismiss up to 5 per cent of staff each year; their performance is assessed on the basis of clear targets; (b) teachers are now rewarded for good performance, especially those working in difficult situations; and those who retired before December 2010 are eligible for a bonus of up to 2 million pesos; (c) students in the first to fourth years of secondary education will gradually be incorporated into the preferential school subsidy scheme; and the funding provided under the scheme at all levels will increase with the scheduled 20 per cent rise in the subsidy that schools receive according to the concentration of high-priority students; and (d) municipalities: between 2011 and 2013, 45 billion pesos will be allocated to a temporary support fund to improve the quality of the education provided by the municipalities. In addition, 60 billion pesos will be given to the municipalities to fund the early retirement plan for teachers.

180. Other important actions taken during the reporting period include, most notably: (a) the educational quality evaluation system, applied to physical education for the first time in September–October 2010, in a pilot programme involving 16,000 eighth-grade students from 170 communes; (b) the educational quality evaluation system in respect of the teaching of English, applied for the first time to more than 237,000 third-grade secondary-school students from 2,600 schools in October 2010; the results are due to be published in the first half of 2011; (c) anti-bullying law: the Ministry of Education is working on a bill (Bulletin No. 7123-04) that penalizes bullying in schools; (d) the bill on the establishment of a national system of quality assurance in education has been approved by Congress and sent forward for enactment; (e) “bicentenary” high schools: classes have started at the first 30 of these flagship high schools that have been opened for children from low-income families in every region of the country. There will be 60 such schools by 2014; (f) teacher training scholarship programme: this programme seeks to encourage high-achieving

<sup>64</sup> Source: *Objetivos de Desarrollo del Milenio: Tercer Informe del Gobierno de Chile* (Millennium Development Goals: third report of the Government of Chile), 2010.

students to pursue a career in teaching; in 2011, over 3,000 students who had scored more than 600 points in the university selection test (*Prueba de Selección Universitaria* – PSU) applied for the scholarship, far more than the 1,824 who had obtained that score in 2010.

181. Primary schooling is compulsory and covers the first six grades of the eight-year basic general education programme. Normally children attend primary school between the ages of 6 and 13. By constitutional mandate, the Government finances a free basic education system, which makes it possible for school attendance to be compulsory and to ensure that the whole population has access to basic education. According to Ministry of Education figures for 2007,<sup>65</sup> the Government provides funding, as well as technical and material support, to a network of 8,395 schools, which are run by the country's 345 municipalities or private sponsoring entities. In the basic education sector, 48.2 per cent of pupils are enrolled in municipal schools and 45.3 per cent in State-subsidized private schools. The remaining 6.5 per cent are enrolled in the 445 private schools that are financed by pupils' parents.

182. In 1990, the net enrolment rate in basic general education was 91.3 per cent of the population aged between 6 and 13; in 2008, it was 94.6 per cent. In 2008, 93.3 per cent of the primary-school population attended State-funded schools.<sup>66</sup> The schools that provide education free of charge are, in the main, financed through a State subsidy that is calculated on a per-child basis. They also receive free textbooks and technical assistance from the State, as well as assistance for school meals, boarding arrangements, scholarships, examinations, health care and other benefits and resources to ensure that people in Chile can commence, continue and complete the basic education programme. Under the current funding scheme, private schools that receive State funding can charge parents and guardians. The amounts they can charge are capped by the Ministry of Education and give rise to a proportional reduction in the State subsidy received. A scholarship scheme has been set up to offset the effects of any economic fragmentation of the system. In addition, municipal schools have been placed under an obligation to award spaces to all students who need them.

183. There are two streams of secondary-school education (known as middle-school education in Chile): the humanities-sciences or general stream, and the technical-vocational stream. Both consist of four grades that follow on from the basic general education programme. The right of young people to 12 years of schooling is enshrined in the Constitution. In 1990, the net enrolment rate in secondary-school education was 55 per cent of the population aged between 14 and 17; in 2008, it had risen to 80.5 per cent. The Government supports free or low-cost secondary-school education with mechanisms and resources similar to those used to support basic education. In 2009, State-funded secondary-school education was being offered by 722 municipal schools, 1,502 State-subsidized private schools and 70 technical-vocational schools run by corporations and funded by business associations. In addition, there were 284 private schools that are financed by the students' families.

184. In order to be admitted to higher education, students must hold a secondary-school diploma and satisfy the admissions requirements of the higher education institution concerned. For 25 of the country's 62 universities, the oldest and most prestigious ones, there is a single admissions test known as the university selection test (*Prueba de Selección Universitaria* – PSU), which is a de facto point of reference for the whole system. Access to higher education has increased considerably since 1990: net attendance among 18–24-

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<sup>65</sup> Henceforth, unless otherwise stated, the figures presented in this section are taken from the 2007 economic indicators for the Chilean education system reported by MINEDUC.

<sup>66</sup> Ministry of Education, Department of Studies and Development, 2008 figures.

year-olds rose from 12.8 per cent in 1990 to approximately 29.1 per cent in 2009. In terms of the number of students in higher education, enrolment rose from 249,482 in 1990 to 799,082 in 2008 and 876,243 in 2009 (total number of undergraduate and postgraduate students enrolled). Higher education is not free of charge: students and/or their families have to pay the annual tuition fees. The State has therefore made a number of different types of scholarships and loans available for those who cannot cover those fees themselves.

185. A US\$ 4,000 plan to improve access and financing for higher education, largely through the provision of grants and loans at lower interest rates than the current ones, was announced at the beginning of July 2011. The grants will guarantee access to higher education for all students who come from the lowest 40 per cent of the population in income terms and have good academic records. As for the loans, the interest rate on Government-backed loans will be lowered from about 6 per cent to 4 per cent. In addition, State funds will be released to inject new life into public universities. Also, the transparency and monitoring of the sector will be improved with the introduction of a more rigorous accreditation system and the establishment of an undersecretariat and a supervisory authority for higher education. In addition, three new competitive funds will be set up: (a) one for training teachers and directors; (b) one for creating centres of excellence in innovation, science and technology; and (c) one for increasing the regional universities' contributions to the development of their respective regions.

186. A subsystem of adult education has been established to offer young persons and adults who never completed their basic general education at school the opportunity to do so later in life. The courses are usually offered as evening or night classes in the schools and high schools mentioned above. The State provides a subsidy for each student enrolled, as well as support in the form of textbooks and technical assistance, etc. In 2009, the number of persons attending basic education courses for adults was 22,421. There is also an open examination system that allows people to receive credit for skills and knowledge that have been self-taught or acquired through life or work experience. Equivalences with regular studies are established to enable people to meet requirements in the labour market.

187. In 2011, public spending on education amounted to 5,082,047 million pesos, which represented 19 per cent of total public spending and 29 per cent of social spending.<sup>67</sup>

188. To guarantee equity in education, primary and secondary education are compulsory, and the State is obliged by law both to fund a free education system ensuring access for the entire population and to create the conditions required for students to remain in the system. Notwithstanding its other duties, the State must ensure that the State-owned school system provides quality education that is free, public, secular (in other words, respectful of all religions), pluralistic and accessible to all and promotes social inclusion and equity. As a result of the State's efforts to maintain subsidies for schools, 93.6 per cent of primary schoolchildren and 87.7 per cent of secondary students receive education free of charge or at little cost. The number of students enrolled in State-subsidized schools grew by 759,291 between 1990 and 2009, an increase of 78.8 per cent.

189. The Ministry of Education has also maximized its efforts in another aspect of its pursuit of equity: the fight against discrimination and practices that lead to exclusion and fragmentation. Although they often lack the necessary legal powers, regional and local officials of the Ministry often have to intervene when such situations arise; and unfortunately they arise with increasing frequency in the day-to-day operations of educational establishments and in the relations between the owners of State-subsidized

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<sup>67</sup> Budget Directorate of the Ministry of Finance: *Informe de Finanzas Públicas* (Report on public finances), 2011.

schools, administrators, teachers, families and students. At the Government's initiative, a provision was included in Act No. 19.523, on the full schoolday, that prohibits the expulsion of a student on socioeconomic grounds, such as the failure to pay monthly fees. Also, to end discrimination against school-age girls who get pregnant or have children, regulations were issued on schoolgirl pregnancy and maternity. These regulations establish the right of girls in those situations to enrol and remain in primary and secondary education and stipulate the academic facilities that schools must provide for them in the context of the compulsory 12 years of schooling.

190. The Full School Day Act extends the schoolday of students in primary and secondary school from a half day of schoolwork to a full day. Between 2004 and 2011, the number of children in the full-day systems increased by 39.7 per cent, from 1,807,055 to 2,524,134.

191. The education subsidy given to the free State-funded schools for each student they enrol guarantees that the schools' operating expenses are covered. This benefits the majority of the Chilean population, who cannot afford to pay for education. Between 1999 and 2008, school subsidies grew by 88.8 per cent. However, enrolment during the same period is estimated to have risen by only 6.4 per cent. It should also be noted that, in dollar terms, the average monthly subsidy per student rose by 50.3 per cent, from US\$ 38.9 (24,700 pesos) in 2001 to US\$ 58.5 (30,577 pesos in 2008 pesos). The increase in peso terms was 23.8 per cent.

192. In 2008, Act No. 20.248 on the preferential school subsidy scheme was passed into law. The goal of the scheme is to improve learning opportunities for the most vulnerable pupils by giving more resources and support to the schools that enrol them and to promote better education in those schools by establishing basic quality standards and monitoring compliance with them. To achieve that goal, the amount of the subsidy granted for each priority student was increased by approximately 50 per cent. The schools have to sign an agreement (renewable every four years) on equal opportunities and educational excellence that sets out the conditions for admission and continuation in the system and covers matters such as the involvement of the school community and the development of education improvement plans, resource-allocation plans and plans to ensure that technical and pedagogical requirements are met.

193. At the end of 2008, of the 9,075 establishments that were eligible for this additional subsidy, 7,131 (79 per cent) had already signed the corresponding agreement and 165 were in the process of doing so. This means that of the 466,178 priority students identified, 411,504 (88 per cent) were benefiting from the subsidy. Among municipal schools, of the 5,072 eligible for the subsidy, 98 per cent were already receiving it. In other words, of the 291,504 priority students in the public education system, 289,905 were in schools receiving the preferential subsidy. A subsidy based on the concentration of priority students was also introduced. Under this scheme, more resources are allocated per student to schools where the proportion of vulnerable students is high.<sup>68</sup>

194. According to Act No. 20.248, on the preferential school subsidy scheme, addressing the needs of rural schools that are run by just one, two or three teachers, full-grade schools offering combined courses, or isolated full schools in rural areas, is one of the priorities as far as delivering basic education is concerned. These schools now receive direct guidance from the supervisory bodies, largely through general and regional technical meetings of the heads of the networks (also referred to as "microcentres") to which they belong. The

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<sup>68</sup> *Balace de gestión integral año 2008* (Report on activities in 2008). Undersecretariat for Education, Ministry of Education, 2009.

guidance provided is largely on the design, implementation and development of plans to improve education, and schools grouped into microcentres are recommended to carry out joint strategies, diagnoses and actions to that end.

195. The National School Support and Scholarships Board (JUNAEB) has expanded, diversified and improved the targeting of the assistance it provides. The Board's main programme is the school meals programme: on average, 1,935,729 school meals were provided every day in 2009. Meanwhile, the number of recipients of the scholarships that the Board provides to help high-school students from vulnerable backgrounds to continue their schooling rose from 3,125 in 2000 to 19,017 in 2009.

196. The net nursery school attendance rate among children aged under 6 increased from 29.9 per cent in 2003 to 37.4 per cent in 2009. State agencies have focused on addressing the needs of low-income families, whose children now have greater access to nursery school education. According to the National Social and Economic Survey (CASEN survey), nursery school attendance for the first and second lowest income quintiles grew from 25.4 per cent and 28.4 per cent, respectively, in 2003 to 32.3 per cent and 35.1 per cent in 2009.

197. The educational requirements of children with special needs are met in four ways: (a) integration: in 2008, 22,341 children with special educational needs, such as specific speech, hearing and/or visual impairments, mental disabilities, dysphasia, motor disorders, or seriously impaired capacity to communicate or interact with others, were integrated into the ordinary school system; (b) increasing the subsidy for 4,913 children in the country who have severe disabilities and attend special schools, where there are no more than eight students in a class; (c) texts in Braille: in 2008 textbooks in Braille were made available for all first to fourth grade subjects of the basic general education curriculum, as well as for fifth to sixth grade English, and the demand for Braille versions of the textbooks for those courses was thus met, with 444 course textbooks being given to 328 students from 67 schools; and (d) various actions to improve the education of deaf children in ordinary and special schools: these benefit 60 special schools and educational establishments that have special integration programmes, as well as 300 teachers, 5,000 deaf and hearing students, 100 parents and guardians, 100 experts in educating the deaf and 70 deaf persons from various institutions.

198. The bilingual intercultural education programme was implemented in 302 targeted schools in regions I, II, VIII, IX, X, XIV and XV in 2009.<sup>69</sup> The programme promotes teaching that is specifically geared towards the cultural and linguistic reality of indigenous students. Its main lines of action are the introduction of bilingual textbooks that address intercultural issues from the pedagogical viewpoint and the distribution of software about the country's indigenous languages and cultures, in the schools targeted by the Ministry of Education; the training of bilingual Mapuche and Aymara teachers; a Rapa Nui language immersion programme on Easter Island;<sup>70</sup> the adaptation of curricula to the cultural and linguistic reality of the students; the involvement of indigenous communities in the development of institutional education projects; the participation of indigenous authorities in the educational activities of schools; and the development of teaching models in schools

<sup>69</sup> See paragraph 764 of the third periodic report.

<sup>70</sup> The Ministry of Education, represented by its Ministers, signed an agreement that will lead to the implementation of the "Rapa Nui language immersion programme". This means that first to fourth grade students and some preschoolers from the Lorenzo Baeza Vega school on Easter Island will have all their classes taught in Rapa Nui by native Easter Islanders. Rapa Nui will be incorporated into the syllabus for students in the higher grades as well, with four hours of classes a week. This was one of the agreements signed in October 2010 by the Minister of the Interior after a series of consultations, in particular the consultations on the plan for development and lands. The agreements represent more than 130 billion pesos in investment over a period of three years.

with indigenous students that make use of the latest technologies (television and computer-based learning). The number of educational projects under the programme grew from 9 in 2000 to 179 in 2007. The number of teachers given training also grew, from 95 in 2000 to 482 in 2007. The schools receiving assistance under the programme increased from 65 in 2000 to 274 in 2008.

#### **Paragraph 61 of the concluding observations**

199. In 2009 Act No. 20.370 on education was passed into law. The Act was inspired by the principles set forth in human rights instruments. Article 2 of the Act states that it “is based on the observance and recognition of human rights and fundamental freedoms”, and article 30 states that the aim is for “pupils to develop the knowledge, skills and attitudes that will permit them to [...] (d) know and appreciate the basic principles of democratic life and institutions and human rights, and to value the active, solidarity-based and responsible participation of citizens, to be aware of their rights and duties and to respect the diversity of ideas, lifestyles and interests”.

#### **Paragraph 59 of the concluding observations**

200. See the report submitted to the Committee on the Elimination of Discrimination against Women, paragraphs 95 to 98.

### **Article 14 Free education**

201. Primary education is compulsory and free in Chile, as provided in the Act on compulsory primary education of 1920.

### **Article 15 Culture**

202. One of the underlying principles of Chile’s cultural policy is the express affirmation of the country’s identity and cultural diversity.<sup>71</sup> Cultural diversity is considered an asset for Chilean society that should be viewed as the way in which members of a democratic and plural society express themselves.

203. One of the lines of action of the National Culture and Arts Council’s cultural policy during the reporting period has been its heritage, identity and diversity strategy, which aims to: (a) preserve, enrich and disseminate the country’s cultural heritage by increasing investment and implementing modern and creative forms of community participation; and (b) acknowledge and protect the country’s cultural diversity by increasing the participation of the various groups that make up the nation. A list of the various initiatives associated with the Council’s national cultural policy for 2005–2010, as well as other ongoing activities of the Council related to the International Covenant on Economic, Social and Cultural Rights, are presented below:

(a) The National Handicrafts Registration System (SIRENA) was established in 2008 to guarantee the authenticity and quality of national handicrafts by issuing certificates of origin and registering the characteristics of handicraft items. The purpose of the system is to recognize handicraft producers, their output and their place of origin; emphasize the identity and improve the quality of national handicrafts; boost the sales and production of

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<sup>71</sup> National Culture and Arts Council, *Chile quiere más Cultura. Definiciones de Política Cultural 2005–2010* (Chile wants more culture. Cultural policy definitions for 2005–2010), Valparaíso, 2005.

handicrafts, and the management of handicraft activities; and strengthen the organization of the handicrafts sector. SIRENA is currently conducting a baseline study to pave the way for the establishment, in the medium term, of mechanisms for evaluating the system. In this connection, it should be noted that tools for registering handicraft specialists and their trades have been developed and are already in use, as is a specific tool for registering and recognizing living human treasures. SIRENA was essentially conceived as a mechanism for registering expressions of the country's intangible cultural heritage;

(b) In 2008 a study was conducted to identify and characterize resources to be used for the development of measures that could make it possible, via plans that build on the good practices already found in the country, as well as the experiences of other countries, to pursue a model of sustainable tourism that is linked to the appreciation of historical, archaeological and natural heritage sites. In this regard, a national cultural tourism plan is being prepared for implementation as from 2011;

(c) In 2010, the Gabriela Mistral Cultural Centre was inaugurated in the building that once hosted the Third session of the United Nations Conference on Trade and Development (UNCTAD III). The building has been refurbished and now functions as a national centre for archiving and promoting the performing arts. The Centre contributes to the efforts under way to research, record, preserve and disseminate the country's artistic memory and heritage and serves as a platform for promoting and increasing knowledge of the performing arts. It should be noted that the establishment of the Gabriela Mistral Cultural Centre was a joint project undertaken by the Ministries of Public Works, National Assets and Defence, and the National Culture and Arts Council;

(d) In March 2006, the National Film Archive was inaugurated as part of the Cultural Centre of the Palacio la Moneda (the presidential palace). The Archive is another initiative of the Culture and Arts Council and is devoted to the recovery, research and conservation of the country's cinematic, audiovisual and multimedia heritage. It serves as a repository of knowledge about the history of cinema and the memory and cultural identity of Chileans, while stimulating creativity among the younger generations. It became an associate member of the International Federation of Film Archives in April 2006 and a full member in 2009;

(e) It should be noted that a cultural development plan for native peoples is also being implemented. The first stage includes specific actions for the Mapuche, Rapa Nui and Colla peoples. The aim is to assess the situation of their cultures with a view to guiding the thrust of cultural policy for 2011–2016. The Council has promoted the establishment of academies of the indigenous languages spoken in the country, so that they can serve as authorities in their respective areas of responsibility. This has led to improved coordination with the State agencies that deal exclusively with indigenous affairs (such as the National Indigenous Development Corporation) and the indigenous organizations that have such academies (the Academy for the Rapa Nui language was founded in 2005; the one for Aymara in 2008 and the one for Mapuche in 2009);

(f) In addition, at the fourth session of the Intergovernmental Committee for the Safeguarding of the Intangible Cultural Heritage, held in Abu Dhabi from 28 September to 2 October 2009, three programmes, projects or activities were recognized as relevant to the purpose of raising public awareness of the importance of the intangible cultural heritage and the need to safeguard that heritage. One of these was an initiative undertaken by the Plurinational State of Bolivia, Chile and Peru, called the "Aymara Cultural Universe", which advocates measures to safeguard the oral and musical expressions, as well as the traditional knowledge (e.g. of textile arts and farming techniques) of the Aymara communities in the Plurinational State of Bolivia (in La Paz, Oruro, Potosí), Chile (in Tarapacá, Arica-Parinacota and Antofagasta) and Peru (in Tacna, Puno and Moquegua).