



# Convention on the Rights of the Child

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## Committee on the Rights of the Child

### Consideration of reports submitted by States parties under article 44 of the Convention

Fourth and fifth periodic reports of States parties  
due in 2012

**Chile\***

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\* The present document is being issued without formal editing.

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## Abbreviations and acronyms

AGCI	Chilean International Cooperation Agency
CAJ	Legal Aid Corporation
CHCC	Chile Crece Contigo (Chile Grows with You)
CISC	Interagency Oversight Committees for Detention Centres
CONADI	National Indigenous Development Corporation
CREAD	Specialized Direct Administration Centres
DAM	Non-residential Diagnosis Programme
DIDEHU	Department of Human Rights
EANNA	Children's and Adolescents' Activity Survey
ENS	National Health Strategy
FONASA	National Health Fund
GES	Explicit Health Guarantee
IEF	Ethical Family Income
IND	National Sports Institute
INDH	National Human Rights Institute
INJUV	National Youth Institute
JUNAEB	National Board of Student Aid and Scholarships
JUNJI	National Nursery Schools Board
LGE	General Education Act
LOCE	Constitutional Organization Act on Education
MDS	Ministry of Social Development
MINEDUC	Ministry of Education
MINREL	Ministry of Foreign Affairs
MINSAL	Ministry of Health
MINTRAB	Ministry of Labour
OCAS	Accredited Collaborating Bodies
OIRS	Information, Complaints and Suggestions Office
OPD	Office for the Protection of Rights
PADB	Programme to Support Biopsychosocial Development
PARN	Programme to Support Newborn Babies
PIB	Short-term Action Targeted Prevention Programme
PIE	Specialized Comprehensive Programmes
PPC	Community Prevention Project
RPA	Criminal Responsibility of Adolescents
SENADIS	National Service for Disability
SENAME	National Service for Minors
SENDA	National Service for Drugs and Alcohol
SEREMI	Regional Secretary of the Ministry
SERNAM	National Service for Women

## Introduction

1. The combined fourth and fifth periodic reports on implementation of the Convention on the Rights of the Child and the Optional Protocols thereto, prepared under article 44 of the Convention and the respective Protocols and in accordance with the Committee's Guidelines (CRC/C/58/Rev.2), contain detailed information on legislation, progress and concrete measures adopted by the State of Chile to safeguard the full exercise and enjoyment of the rights recognized in those instruments. The content covers the period 2007 to 2012.
2. The present document was prepared by the Ministry of Social Development, with the assistance of the Human Rights Office of the Ministry for Foreign Affairs, based on information provided by the Ministry of the Interior and Public Security, the Ministry of Justice, the Ministry of Education, the Ministry of Health, the Ministry of Defence, the Office of the Minister and Secretary-General of the Presidency, the Ministry of Labour and Social Welfare, the Judiciary, the Public Prosecution Service, the Public Defender's Office, the National Service for Minors (SENAME), the National Nursery Schools Board (JUNJI), the National School Support and Scholarships Board (JUNAEB), the National Service for Disability (SENADIS), the National Indigenous Development Corporation (CONADI), the National Institute of Youth (INJUV), the National Sports Institute (IND), the National Service for Drugs and Alcohol (SENDA), the Office of the First Lady, the Integra Foundation, the Calle (Street) Programme, the Chile Crece Contigo (Chile Grows with You) subsystem, and the Abriendo Caminos (Pathways) Programme.
3. As recommended by the Committee in its concluding observations on the third periodic report of Chile (CRC/C/CHL/CO/3, para. 26), the preparation of this report has provided opportunities for participation of children and civil society, as detailed in the document.
4. This report will be made available to the public on the date it is sent to the Committee Secretariat, by publication on the website of the Department of Human Rights of the Ministry of Foreign Affairs.

## I. General framework for implementation

### A. General measures of implementation (arts. 4, 42 and 44 (para. 6) of the Convention)

#### Measures for harmonizing legislation during the period

5. In the reporting period 2007–2012, 27 acts directly related to children and adolescents were enacted:

(a) Act No. 20162 (February 2007), amending the Constitution to introduce mandatory upper foundation level nursery education. The State will be responsible for giving free access to and government funding for the upper foundation level, without this being a requirement for admission to primary education.

(b) Act No. 20189 (June 2007), amending the Labour Code in respect of admission of minors to employment and their completion of compulsory education. It states that minors aged 15–18 may enter into employment contracts only for light work not harmful to his health and development, provided they have express permission, and have a certificate of completion of secondary education, or are currently enrolled in secondary or primary education.

(c) Act No. 20207 (August 2007), by which the period of limitation for sex offences against minors will run from the day on which the minors in question attain their majority. This has brought Chilean law into line with the Optional Protocol on the sale of children, child prostitution and child pornography.

(d) Act No. 20230 (December 2007), which raises the age limit for victims of rape from 12 to 14 years, below which the rapist may not be granted parole until he has served at least two thirds of the sentence.

(e) Act No. 20248 (January 2008), which establishes a preferential school subsidy to improve the quality of education of subsidized educational establishments, for priority students in the lower or upper foundation level of nursery education, primary and secondary education.

(f) Act No. 20286 (September 2008), introducing organizational and procedural changes to the Family Courts Act No. 19968, prohibiting corporal and psychological punishment of children.

(g) Act No. 20357 (July 2009), defining crimes against humanity, genocide and war crimes. It also lays down the penalties applicable to anyone committing such crimes, which are not subject to prescription according to article 40.

(h) Act No. 20370 (September 2009), establishing the General Education Act (LGE), which seeks to provide a new institutional framework for education in Chile, repealing the Constitutional Organization Act on Education (LOCE), of March 1990, regarding primary and secondary education (retaining the regulations for higher education). It lays down new principles and obligations, and aims to foster changes in the way Chilean children are to be educated.

(i) Act No. 20379 (September 2009), which provides for the establishment of the Intersectoral Social Protection System and grants institutional status to the Chile Crece Contigo (Chile Grows with You) comprehensive child protection subsystem. The Intersectoral System is a public governance model consisting of the social measures and services provided and coordinated by various State agencies to help the country's most vulnerable population, while the Chile Grows with You subsystem supports the process of children's development from their gestation. The system is composed of a number of subsystems and the Ministry of Social Development (former Ministry of Planning) is responsible for administering, coordinating, monitoring and assessing its implementation. The social protection system, especially the Chile Grows with You subsystem, is described in more detail elsewhere in this document.

(j) Act No. 20405 (December 2009), which provides for the establishment of the National Human Rights Institute (INDH) and a temporary Advisory Commission on recognition of the status of political prisoners who disappeared and were executed and the victims of political imprisonment and torture.

(k) Act No. 20418 (January 2010), which lays down regulations for information, guidance and services relating to birth control, establishes the right to education, information and guidance on birth control, that is clear, understandable complete and, where appropriate, confidential. The content and scope of the information provided must be in keeping with the age and psychological maturity of the person concerned. This Act states that, regardless of how the competent bodies implement the exercise of this right, educational institutions recognized by the State are to include a sex education programme in the secondary school cycle that gives full information about the various permitted contraceptive methods that are available.

(l) Act No. 20422 (February 2010), laying down rules governing equal opportunities and social inclusion for persons with disabilities. This Act requires the State

to take the necessary steps to ensure that children with disabilities can fully enjoy and exercise their rights, in particular respect for their dignity, the right to be part of a family and to retain their fertility on an equal basis to others, and to ensure their inclusion in education, among other obligations. The publication of this corpus of law meets one of the obligations under the Convention on the Rights of Persons with Disabilities, with a view to bringing the regulations into line with the principles set out therein.

(m) Act No. 20430 (April 2010), which provides for protection for refugees, including provisions for the protection of children and adolescents. This Act applies to refugees who are in Chile and who are being processed for recognition of refugee status in the country. It states that the protection of refugees and asylum-seekers shall be governed by the principles of non-return, including the prohibition of refusal of entry at the border; no penalty for illegal entry; confidentiality; treatment as favourable as possible; and family unity. Refugees and asylum-seekers shall enjoy the rights and freedoms recognized to anyone in the Constitution, laws and regulations; and in the international instruments on human rights and refugees to which Chile is a party. Refugees are bound to abide by the Constitution, laws and regulations, and measures of public order and national security. Refugees and their families are also entitled to access to health, education, housing and employment, a permanent residence permit and identity papers and travel documents issued by the Civil Registry.

(n) Act No. 20501 (February 2011), which amends various legal texts in order to introduce new personnel management mechanisms in State and subsidized private educational institutions, aimed at improving the quality of teachers.

(o) Act No. 20507 (April 2011), which criminalizes smuggling of migrants and trafficking in persons and provides for prevention and more effective criminal prosecution. It also amends other legislation to introduce rules for the protection of victims, including the right to apply for a temporary residence permit for at least six months either to settle legal action in their favour or to regularize their stay in Chile.

(p) Act No. 20519 (June 2011), which excludes minors from the provisions of Act No. 18314, on terrorist offences. It provides that the Act does not apply to children under 18 years of age, and repeals another article that subjected such persons to the provisions of the Juvenile Criminal Responsibility Act.

(q) Act No. 20526 (August 2011), which introduces amendments to various legal texts with a view to combating sexual harassment against children, child pornography and possession of pornographic material. It establishes penalties for anyone sending, delivering or displaying sexually explicit images or recordings of themselves or of minors under 14 years of age to cause arousal, via any medium, including remotely, using electronic methods. If the victim is a minor but aged over 14, this penalty may be applied if force or intimidation has been used; or if the victim has taken advantage of. If the offender also falsified his identity or age, the punishment is to be increased by one degree, with up to 20 years' imprisonment. It also requires telecommunications companies and Internet providers to keep an up-to-date list of their authorized IP address ranges and a record of the IP numbers of connections made by their subscribers. This register must be kept for at least one year and must be confidential. It is to be used to assist in police investigations requiring interception of communications.

(r) Act No. 20529 (August 2011), which provides for the introduction of a national system of quality assurance and inspection for nursery, primary and secondary education. The system will be designed to ensure that all students have access to equal opportunities to acquire a quality education. To that end, it sets up the Quality Agency, which will be the body responsible for setting minimum quality standards, and the Office of the Quality Superintendent, the inspection body.

(s) Act No. 20533 (September 2011), which amends the Health Code to empower midwives to prescribe contraceptives. This initiative seeks to improve access by adolescents and young people to reproductive-health and sex education services.

(t) Act No. 20536 (September 2011), on school violence, amending LGE, defines school socialization, and requires parents, guardians, professional teams and heads of schools to report and take action against violence at school. It also lays down penalties, and procedures for dealing with such situations. Managers, teaching staff and education assistants are to receive training to enable them to comply with their obligations under the Act. It also requires educational institutions to have internal regulations on school socialization and a socialization officer, and schools that are not legally required to have a school council are to set up a committee on healthy socialization.

(u) Act No. 20539 (October 2011), which prohibits anyone under 18 years of age from working at night in industrial and commercial establishments. They may not work at night for eleven consecutive hours, to include at least the period between 10 p.m. and 7 a.m.

(v) Act No. 20530 (October 2011), which provides for the establishment of the Ministry of Social Development to replace the Ministry of Planning. The Ministry's mission is to contribute to policy-making and implementation, social development plans and programmes, especially those aimed at eradicating poverty and providing social protection to vulnerable persons or groups, promoting social mobility and integration. It also has to ensure the coordination, consistency and coherence of social development policies, plans and programmes at national and regional levels and assess pre-investment studies of investment projects seeking State funding to determine their social benefit in a way that responds to the strategies and policies for growth and economic and social development that are adopted for the country. The Ministry of Social Development is to be responsible for administering, coordinating, monitoring and assessing the implementation of the Intersectoral Social Protection System introduced by Act No. 20379, ensuring that the preferential or guaranteed access facilities provided for by the subsystems promote greater social equity and development for people under the policies, plans and programmes established.

(w) Act No. 20545 (October 2011), which amends the rules on maternity protection and incorporates postnatal parental leave. It extends postnatal leave by 12 weeks, up to 24 full weeks, in the form of postnatal parental leave granted to working mothers. It also establishes an allowance equivalent to the remuneration, with a limit of 66 gross development units (UF), with a choice between an additional 12 weeks of full leave, a 100 per cent allowance with a ceiling of 66 UF or 18 weeks at half-time, with a 50 per cent allowance. If the woman chooses to take 12 weeks full-time, she can transfer up to six weeks full-time to the father and if she opts for 18 weeks half-time, she can transfer up to 12 weeks at half-time.

(x) Act No. 20595 (May 2012), which establishes the Ethical Family Income (IEF), introducing allowances and conditional transfers to families living in extreme poverty, and a job allowance for women. It creates the social protection and promotion subsystem entitled "Security and Opportunities", part of the social protection system. This subsystem is intended for persons and families in extreme poverty, and aims to provide security and opportunities to individuals and families taking part in the subsystem, so as to foster access to better living standards.

(y) Act No. 20605 (June 2012), which grants a one-off solidarity food allowance, to lessen the impact of rising food prices on the most vulnerable families. The allowance is \$40,000 per family and an additional \$7,500 for each child under 18 years of age in the family.

(z) Act No. 20594 (June 2012), which introduces disqualifications for persons convicted of sexual offences against children and establishes a registry of such disqualifications. In practice, where the victim is under 14 years old, it permanently disqualifies offenders from holding offices or carrying out professions involving a direct and habitual relationship with minors. In crimes where the victims are aged 14 years or over but under 18, the disqualification is temporary. The new legislation allows anyone wishing to employ a person to know whether he is banned from working directly with minors. This system does not reveal the reason or conviction for which a person is disqualified, but only whether they are banned from working directly with minors on a regular basis. To check this, the applicant has only to give the name and identity number of the person at the offices of the Civil Registry.

(aa) Act No. 20609 (July 2012), which introduces measures against discrimination by establishing a statutory mechanism that makes it possible to effectively restore the rule of law whenever an act of arbitrary discrimination is committed.

6. In August 2008, Chile ratified the International Convention on the Rights of Persons with Disabilities and the Optional Protocol. In September 2008, Chile ratified International Labour Organization (ILO) Convention 169 which entered into force in September 2009.

7. Regarding the Committee's recommendation No. 8 on establishing a clear distinction between children in need of protection and children in conflict with the law, in procedural and other actions, in July 2012 the President announced that a bill would go before the legislature providing for the recasting of the National Service for Minors and the establishment of the National Child Protection Service and the National Juvenile Criminal Responsibility Service, separating the two functions (Bulletin No. 8487-07).

#### **National strategy on childhood: Intersectoral Social Protection System**

8. In its third report, Chile presented the National Policy and Integrated Plan of Action in favour of Children and Adolescents 2001–2010. This Plan provided for a body to monitor the National Policy, which resulted in the establishment of the Council of Ministers for Children and Adolescents, tasked with informing the President on progress made in the field of protection and implementation of the rights of children and adolescents. In May 2003 this Council of Ministers was set up under the authority of the Minister of Planning and Cooperation, and that same year the Council drafted its first and only report.

9. In March 2006, the Presidential Advisory Council for the Reform of Child Policy was set up, with the mission of advising the President on the identification and formulation of plans, programmes and other requirements for establishing a system of child protection. The Council prepared a diagnosis of the current situation and shortcomings in the protection of this segment of the population, and devised and proposed a set of appropriate policies and measures for implementing a system of full protection of early childhood. The work was published in the report "Children's future is always today", in June 2006, in which a set of measures was proposed for the implementation of a comprehensive child protection system. It laid the foundations for Chile Grows with You, the initial implementation of which was formalized in September 2009 by the Act providing for the establishment of the Intersectoral Social Protection System and granting institutional status to the Comprehensive Child Protection Subsystem.

10. Chile Grows with You is designed to strengthen the development of children from birth until they enter the school system. It has four components:

(a) The Mass Education Programme. For all children up to age 4 and their families. Through awareness-raising, advocacy, information and education about appropriate care and stimulation of children, it seeks to create a social environment in a



supportive family and community context that helps to achieve the maximum development potential of children at this stage of life.

(b) The Programme to Support Biopsychosocial Development (PADB). This is the gateway to the subsystem, and is aimed at all children up to 4 years of age served by the public health system (80.6 per cent of all children in that age group). It consists of provision of intensive psychosocial support for the monitoring, supervision and promotion of child health, supplementing the regular activities under the Ministry of Health pregnancy and child health monitoring programme. In other words, the Chile Grows with You measures set out in a list of benefits that are agreed annually with the Ministry of Health, are added to the regular health check, either as a new measure or providing universal coverage for some measures that were intended for only part of the target population. Every year, the benefits associated with PADB are set out in a list, with a description of their components and subcomponents, together with the associated activities. The benefits offered by PADB are divided into the following groups: strengthening of prenatal development; personal service at the delivery and comprehensive care in the postpartum period; catering for the comprehensive development of hospitalized children; strengthening comprehensive child development; and care for children in vulnerable situations.

(c) Programme to Support Newborn Babies (PARN). This provides a set of practical and educational facilities for families who have been assisted with a birth in an institution of the country's Health-Care Service Network.

11. It also delivers differentiated Chile Grows with You benefits in line with the particular circumstances of children in vulnerable situations. These benefits are organized and coordinated through the Chile Grows with You community network:

(a) Guaranteed benefits through JUNJI and INTEGRA Foundation: For households among the most vulnerable 60 per cent of the population (access to technical aid for children with disabilities; free access to crèche or equivalent arrangements for children whose mother, father or caregiver is working, studying or seeking a job; free access to extended day-care nurseries or equivalent arrangements for children whose father, mother or guardian is working, studying or seeking a job), and for the entire population (access to part-time nursery or equivalent arrangements for children whose father, mother or caregiver does not work outside the home, and guaranteed access to Chile Solidario for eligible families);

(b) preferential access to benefits for families with children under 4 years old and belonging to the most vulnerable 40 per cent of the population: Family allowance (SUF) that is guaranteed from the fifth month of pregnancy until the child attains the age of 18, provided that he or she meets the statutory requirements; and the other benefits stipulated in article 13 of Act No. 20379 (remedial education, employment, improving housing and living standards, mental health care, family life, legal aid, and prevention and support in cases of violence in the family or child abuse).

12. The Chile Grows with You assessment strategy, implemented by the Ministry of Social Development, comprises the following components:

(a) Assessment of the implementation and operation of the Chile Grows with You system (2008): The main assessments carried out in this area have been focused on health, specifically the implementation and operation of PADB. A study was also conducted of how the Chile Grows with You community networks are configured, how they operate and are coordinated, among other aspects. These studies concluded that the benefits associated with PADB are highly valued by providers and users alike. There is also an assessment of the integration of family values into the process of pregnancy and parenting; since PADB was introduced, there has been an improvement in attendance at health checks and participation in workshops; the variables indicating that community

networks are being coordinated and making appropriate linkages, suggest that the measures to improve their functioning can be easily implemented (transfer of best practices and knowledge management).

(b) PADB impact assessment. The objective is to assess the effect of the benefits provided under the programme during pregnancy and the early life of the child. The assessment involves a comparison of two non-concurrent groups of children handled by the public health sector. Information on the children in the comparison group was gathered in 2010. The gathering of information on the children in the treatment group, and the assessment of the programme's effectiveness, are currently in progress. The main results for the control group include the finding that there is a high risk for child development on account of the psychosocial circumstances of the main caregivers, and highlight a high frequency of depressive symptoms and psychosocial risk factors. Regarding child development, communication and language were found to be significantly retarded.

(c) Monitoring of child development and associated determining factors (2011): For this component, a study was conducted on a sample of children in the Metropolitan Region who are patients of the UC private health network and the results were compared with those obtained for children in the public health sector. The main finding is that there are significant gaps in almost all areas of development. Notable issues in the public health sector group are that primary caregivers tend to have a lower level of education and little work outside the home, and that carers suffer more ill-health.

13. In addition, under the protection system, and as mentioned in the third periodic report, Chile Solidario (Act No. 19949) is responsible for promoting the integration of families and individuals living in extreme poverty into social networks, and their access to better living conditions to help them to overcome poverty. Chile Solidario runs its own outreach and training programmes, which also operate as counselling, support and intermediation services, namely:

(a) Bridge programme: Aimed at families living in extreme poverty. It offers personalized assistance to the family for 24 months, providing psychosocial support that allows them to connect with the public and private social promotion networks in the areas of identification, health, education, family dynamics, housing, employment and income.

(b) Outreach programme: Aims to support older persons who are vulnerable or live alone.

(c) Street programme: Its aim is to provide personalized support to people living on the street, to help them restore their functional and relational capabilities. As discussed below (chap. III, sect. E), during 2012 a pilot project specially designed for street children will be implemented.

(d) Pathways programme: This has the main aim of supporting children in families that have to deal with an enforced separation because one member has been sent to prison. The programme is executed by NGOs, but was designed by, and receives methodological support from, the Ministry of Social Development. This programme is discussed in more detail below (chap. II, sect. C).

14. Finally, in May 2012, the "Security and Opportunities" subsystem, known as the Ethical Family Income (Act No. 20595), was set up, which establishes conditional grants and transfers for families in extreme poverty, with the aim of providing security and creating opportunities for participating individuals and families, so as to promote access to better living standards. An employment allowance for women was also introduced. The Ethical Family Income is based on three fundamental pillars: dignity, duties and achievements. An unconditional amount will be allocated for dignity, to anyone living in extreme poverty. Regarding duties, a grant will be awarded to families in extreme poverty

who carry out the Child Health Check for children under 6 years of age and an assistance grant for those with a 85 per cent school attendance record. The third pillar is the Achievements Allowance, consisting of two additional grants that may be allocated to families among the 30 per cent most vulnerable who have attained goals that are crucial to overcoming poverty, such as those relating to education and work. The School Achievement Grant will be awarded to families whose children are among the top 30 per cent of students in their class. An estimated 200,000 children will receive this benefit. The other Achievements Allowance is granted to working women in the 1,380,000 most vulnerable Chilean families; it is a women's employment allowance that amounts to a contribution of 20 per cent of the woman's wages by the State, while employers receive a 10 per cent allowance to promote jobs for women.

### **Coordination and government budget for the implementation of the Convention**

15. Act No. 20530 (2011) provided for the establishment of the Interministerial Committee for Social Development, which has the role of advising the President of the Republic on social policy-making. This body replaced the Committee of Ministers on Disability (Act No. 20422), the Interministerial Committee for Social Protection (Act No. 20379), and the Council of Ministers for Children and Adolescents (MIDEPLAN Decree No. 114, 17 July 2002).

16. In the area of special protection, SENAME is the public body responsible for making and implementing the special policy on restoration of rights and the responsibility and social reintegration of juvenile offenders.

17. Regarding the Committee's recommendation No. 21, the Ministry of Social Development took part on behalf of Chile, as a representative of mid-income countries, in a pilot programme to set up an instrument to help countries that have signed the Convention to monitor and report the state of compliance with the rights of infants. To implement it a working agreement was signed by the Ministry, the Secretariat of the Early Childhood Rights Indicators Group (HELP) and the UNICEF office in Chile. The project started in January 2011 and ended in November of the same year, delivering the requested indicators. The next step is for HELP to deliver a report of findings on the instrument. Meanwhile, UNICEF and the Ministry of Social Development are working to draft a document containing the indicators delivered.

18. The Ministry's Undersecretariat for Social Assessment has the specific function of designing, coordinating and assessing the Government's social policies, with a view to improving the targeting of social spending through the ongoing assessment of programmes implemented by the State. In this context, a new process is being put in place of continuous monitoring and tracking of all social programmes, including those involving children and adolescents, which will enable the costs associated with them to be determined.

19. Finally, the Public Finance Budget and Statistics Act, prepared by the Budget Directorate, allows annual social spending on children to be tracked by sector, not directly related to the implementation of the Convention and its Protocols.

### **International cooperation**

20. For the period 2005–2011 the country signed a cooperation programme with UNICEF, which, among other initiatives, has led to the provision of technical assistance for the setting-up of Chile Grows with You, in the form of consultancy to the Presidential Council that designed it; support for the Ministry of Education in the field of indigenous languages; strengthening of the intercultural perspective in institutional programmes and practices for children in the Araucanía Region; cooperation with Carabineros (police) to incorporate the issues of child rights, indigenous rights and the promotion of an

intercultural approach into the ongoing training of its officers; and technical support during the parliamentary review of Act No. 20084. UNICEF also contributed to child protection during the emergency caused by the earthquake in February 2010.

21. Two programme components were included in the structure of the new five-year programme 2012–2016 that UNICEF is to implement in Chile: equity and inclusion, and child protection. UNICEF is committed to supporting the following, among other measures: strengthening national capacities to reduce social inequities; changes in inspections to safeguard early childhood services; promotion of experiences to strengthen the participation of adolescents, in cooperation with government and civil society; strengthening the family and its functions in terms of enhancing child development; support for partnerships with the private sector to incorporate respect for children's rights; promotion of the operation of systems for monitoring respect for children's rights; support in the field of institutional reforms to create two different institutions, one for child protection and another on juvenile criminal justice, and contribute to the development of a new law on the comprehensive protection of rights, to increasing public provision of child protection and promotion, and to the consolidation of the specialized juvenile criminal justice system. UNICEF will also assist with the analysis and implementation of the Committee's recommendation No. 41 on the enforcement of legislation prohibiting and sanctioning all forms of corporal punishment, and recommendation No. 15 on the establishment of an independent institution protecting the rights of the child.

22. SENAME has intensified coordination and cooperation as follows:

(a) With the Inter-American Children's Institute (IIN), on issues of participation and commercial sexual exploitation, and with UNICEF on issues of residential care and foster families. This has provided greater resources for developing studies, seminars, conferences and training courses for professionals in the SENAME network and other sectors carrying out these tasks. These include Chile's participation in the IIN Inter-American Online Training Programme for 2008–2011, which trained more than 500 Chilean professionals specializing in childhood issues, who took part in courses on updating the rights of the child, child participation, and commercial sexual exploitation, among others.

(b) With the International Labour Organization (ILO): It has continued to strengthen the alliance referred to in the previous report, which has allowed action to be taken to combat child labour and its worst forms, including commercial sexual exploitation (for more information, see section III.B.).

(c) With regard to adoption, support was obtained from the German Development Service (GIZ), which provided 50,000 euros of funding for a project presented by SENAME, to draft a proposal for the reform of the existing adoption legislation, with a view to optimizing its positive aspects and correcting certain gaps and shortcomings that have come to light during the practical application of the system. Among other things, a study of comparative law was carried out under the project by specialists in each of the seven countries selected for their good practices in the field, and specialist advice was also provided during implementation. In this way, a preliminary proposal for reform was prepared, which is currently under discussion with other stakeholders prior to the initiation of the legislative procedure.

(d) "Project for strengthening the technical and administrative management of SENAME and its network of accredited collaborating bodies, for the social inclusion of juveniles accused and/or convicted under the Juvenile Criminal Responsibility Act", with funding from GTZ. This project was conducted between 2008 and 2010 with the aim of substantially improving the management processes in the implementation of the Juvenile Criminal Responsibility Act.

(e) “Project for institutional strengthening and capacity building to combat human trafficking with civil society organizations”, funded by the International Organization for Migration (IOM), under which a training programme was conducted in 2010 to train counter-trafficking trainers, for officials of SENAME and its network of collaborating institutions.

23. The following bilateral cooperation activities are worthy of note:

(a) Haiti and Guatemala: specialist technical consultancy on the process of implementing the newly adopted legislation.

(b) Ibero-American Child Development Fund: contribution of US\$1 million. Set up in the context of the Twenty-Seventh Ibero-American Summit of Heads of State and Government held in Chile (November 2007), with the goal of strengthening institutional and programmatic capacity in Latin American countries to foster the installation and/or consolidation of comprehensive protection systems or programmes through technical cooperation initiatives between Latin American countries. The approved projects were submitted by Argentina, Bolivia, Chile, Costa Rica, Ecuador, El Salvador, the Dominican Republic and Uruguay. We would highlight one of these projects submitted by SENAME in cooperation with partner institutions from Paraguay and Ecuador: “Promoting strategies by public institutions for substantive child and adolescent participation for the strengthening of National Rights Protection Systems (SNPD).” The contribution of the Ibero-American Fund for this project was US\$113,133, and the contribution of the institution was US\$74,260, bringing the total project cost to US\$187,393.

(c) SENAME participated in two other projects submitted for financial support from the Fund by the Dominican Republic and Bolivia: “Strengthening the ability of the protection system to reduce the incidence of street children and adolescents at risk in the Dominican Republic” submitted by the National Council for Children and Adolescents of the Dominican Republic, to be implemented in that country and in Chile, with the participation of SENAME. Contribution of the Ibero-American Fund: US\$75,956; local contribution: US\$18,989; project total: US\$94,945; and “Strengthening borders with Bolivia, to reduce trafficking and smuggling of children and adolescents”, submitted by the Vice-Minister for Equal Opportunities of Bolivia, to be implemented in that country, Chile and Argentina. Contribution of the Ibero-American Fund: US\$108,000; local contribution: US\$27,000; project total: US\$135,000.

24. The Chilean International Cooperation Agency (AGCI) is currently funding the following cooperation projects being implemented by SENAME with partner institutions in countries of the region:

(a) Panama: “Project to Improve Care for Children and Adolescents”, implementing a foster families programme in Panama, as an alternative to institutionalization of children whose rights have been violated;

(b) Paraguay: “Paraguay all together, organized development in the country”; SENAME is providing technical assistance to the National Secretariat for Children and Adolescents (SNNA) of that country;

(c) Uruguay: implementation of a mutual cooperation project with the Uruguayan Institute for Children and Adolescents (INAU), for institutional strengthening and technology transfer in the field of monitoring of management and comprehensive family action programmes, building a more efficient and effective institutional structure, and foster family programmes;

(d) Ecuador: technical assistance project to introduce a system for implementing non-custodial socioeducational measures in the country.

**National Human Rights Institute**

25. In December 2009 (Act No. 20405) the National Human Rights Institute (INDH) was set up, an autonomous body under public law to promote and protect the human rights of all Chileans enshrined in the Constitution and legislation; in international treaties signed and ratified by Chile that are in force as well as those deriving from the general principles of law recognized by the international community. According to the Act providing for its establishment, the functions of INDH are to: prepare an annual report on its work and on the human rights situation in the country and to make recommendations on ways to safeguard and respect those rights. The report is submitted to the President of the Republic, the National Congress and the President of the Supreme Court. It may also be sent to the United Nations, the Organization of American States and human rights organizations; convey to the Government and State organs its views regarding human rights situations in the country. To that end it may request reports from the relevant body; recommend measures to State bodies to encourage the promotion and protection of human rights; ensure that domestic human rights legislation is compatible with the international treaties signed by Chile so that they can be effectively implemented; initiate, within its area of competence, legal proceedings that may include actions for crimes against humanity, torture and enforced disappearance; apply for remedies of protection and of amparo; serve as repository for the records collected by the National Commission on Truth and Reconciliation (the Rettig Commission), the National Commission on Political Prisoners and Torture (the Valech Commission), the National Compensation and Reconciliation Board, the Human Rights Programme and those being collected by the new Valech Commission, established in 2010 pursuant to Act No. 20405; cooperate with the Ministry of Foreign Affairs and other public bodies on the preparation of reports to be submitted to the United Nations or the Organization of American States; cooperate with the United Nations and other related organizations in and outside the region on the promotion and protection of human rights; and disseminate information on human rights, encourage the teaching of human rights at all educational levels, including the training given to members of the Armed Forces, conduct research, issue publications, award prizes and foster a culture of respect for human rights in the country.

26. In 2012 Chile signed the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, to enable children and adolescents (or their representatives) to report any violation of their rights and file a complaint with the Committee.

27. As noted above, in relation to the Committee's recommendation No. 15, in the Plan of Action of the Country Programme 2012–2016 that the Government of Chile signed with UNICEF, technical advice was requested from the agency to set up an autonomous institution defending the rights of the child.

**Dissemination and promotion of the Convention and its optional protocols**

28. SENAME has taken initiatives relating to promotion, dissemination and training in response to the Committee's recommendations Nos. 23 and 24, among others: over the reporting period, child rights were disseminated and promoted among users in the 1,010 protection projects in the SENAME network, in particular from the 115 rights protection offices and the 55 community prevention projects, through the training of rights promoters, training for local players, and awareness-raising, among other initiatives.

29. Other noteworthy activities in this area are:

(a) Between 2010 and 2011, SENAME ran four seminars on specific rights (participation of children, protection of rights in residential systems and foster families) for both children and adults.

(b) Sixteen technical transfer workshops for the New Life Programme teams, which included issues of ill-treatment, abuse and domestic violence and a second cycle on child labour and the worst forms of child labour. More than 300 professionals were trained on both topics.

(c) Technical transfer from SENAME to two professional teams (10 professionals in total) the “Safe Reporting Programme” under the Ministry of the Interior, related to reception and referral of cases.

(d) Among the above-mentioned courses, taught by IIN, we would highlight the “Child Rights Update” course, and two courses — partly classroom-based — on sexual exploitation, run jointly by SENAME and the Institute. On these two courses, 429 people were trained in both versions (2010 and 2011). In addition, these professionals shared what they learnt with other professional participants from the various local networks in which they participate. The course will be run again in 2012 to train some 190 participants.

(e) As mentioned earlier, in 2010, SENAME, in conjunction with the International Organization for Migration (IOM), ran a training programme consisting of five days of workshops on the detection and treatment of children and adolescents at risk or in actual trafficking situations, targeting 116 representatives of teams in the SENAME network of over 40 sectoral players from the 15 regions of the country.

(f) In 2009, in conjunction with UNICEF and the Ministry for Social Development, a national training course was run for 98 representatives of OPDs and 409 family support officers from the Bridge Programme, on child labour and intervention in families.

(g) In 2010 SENAME, together with the Ministry of the Interior, trained 27 representatives of child abuse rehabilitation programmes, from the Metropolitan Region, to enhance their technical skills in comprehensive intersectoral intervention in victimization.

(h) Training of professionals and technicians of the Specialized Direct Administration Centres (CREAD), between 2007 and 2011, with the aim of enhancing their technical intervention skills.<sup>1</sup>

(i) In 2010 two technical transfer workshops were run on the New Life Programme and the organization of networks, with the participation of 340 professionals from the programme and other sectors of the country. Some 40 professionals were also trained from case management teams, who are responsible for their communes on the Carabineros “24-hour” list. This list is used as the first filter for determining the most appropriate option for dealing with a violation of child rights or a child who is in breach of the law. Meanwhile, 70 professionals were trained from communes where the New Life Programme is being implemented, in connection with the application of the POSIT diagnostic screening tool.

(j) Also under the New Life Programme, four annual assessment workshops were conducted in 2011, with professional teams from the Specialized Comprehensive Programmes (PIE), Specialized Drugs Programmes (PDC), Educational Rehabilitation Programmes (PDE) and Short-term Action Targeted Prevention Programmes (PIB). Some 290 people attended. Meanwhile, technical transfer workshops were conducted on the worst forms of child labour, with 400 participants.

(k) During 2012, two training courses on mental health and motivational interviewing were run for 390 professionals of the New Life Programme, and a workshop

<sup>1</sup> For details of these and other training initiatives, see Annex “SENAME training programmes”.

for the eight Offices for the Protection of Rights of the communities where the New Life Programme is operating, which involved 40 professionals.

30. In terms of dissemination, in 2007 a poster on the main rights enshrined in the Convention, in the languages of the main indigenous peoples (Aymara, Rapa Nui and Mapuche) plus Spanish, was printed in 6,000 copies. These posters were distributed to public offices and schools throughout the country. This year there are plans to reprint a new version of the poster.

31. Every year SENAME also prints and distributes many leaflets explaining its work and giving information on child abuse, sexual abuse, adoption, the Juvenile Criminal Responsibility Act, and how and where to report violations of the rights of children and adolescents. In 2011, 80,000 of these leaflets were printed and there are plans to print about 60,000 in 2012. This material is distributed at public events and citizens' fairs and in schools.

32. On 11 June 2007, the Ministry of Social Development, together with the United Nations System in Chile, conducted a seminar to disseminate and follow up the recommendations of the Committee on the Rights of the Child in its concluding observations on the third periodic report of Chile. It was attended by a total of 132 people (representatives of civil society, universities, journalists, municipal and ministerial authorities and staff of the United Nations System in Chile). To analyse and discuss the various topics, participants were divided into four working groups, led by instructors from UNICEF and the Ministry.

33. Dissemination events included the International Seminar on the Participation of Children, in 2010, which was attended by Marta Maurás, member of the Committee on the Rights of the Child. She announced, especially to children, the Committee's observations to Chile on the last report on child rights and the mechanisms to enforce them. The participants included 191 adults from government institutions and civil society, and 25 children representing their peers in Chile, Ecuador and Paraguay.

34. In accordance with recommendation No. 50, in 2011 SENAME took part in the South American Meeting held in Paraguay for Follow-Up to the United Nations Study on Violence against Children, which reported on progress with the observations of the expert, Mr. Pinheiro, on violence. This information was taken into consideration for the implementation of various initiatives already outlined in this report, such as the Violence Observatory, mentioned above.

35. The Ministry of Justice helped to disseminate the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography from a legal perspective, by running annual seminars on a regional basis, mainly for representatives of the judiciary, police forces and public sector.

36. During 2008, 2009 and 2010, the Ministry of Justice organized a number of seminars on the topics of protecting the rights of children and adolescents as they pass through the justice system. A total of nine seminars were held in the Metropolitan Region, and Araucanía, Tarapacá, Valparaíso, Antofagasta, Los Lagos, Coquimbo, Libertador Bernardo O'Higgins and Bío Bío. In 2011, a seminar was run for community leaders on the Prevention of Sexual Abuse of Minors. Each one was attended by about 120 people, totalling more than 1,300 participants, including criminal and family judges, advocates, prosecutors, detectives, Carabineros, experts from the Forensic Medicine Department, professionals from SENAME and projects specializing in working with adolescents from ESCI, and community leaders.



### Civil society

37. Over that period, the SENAME Advisory Committee, responsible for participation and dialogue between the Service and accredited cooperating civil-society bodies, continued operating on a quarterly basis. A further three committees have been formed for the three SENAME lines of action (Protection, Adoption and Juvenile Justice), representing all the cooperating institutions administering projects in the different regions of the country, or which are lawfully accredited by the Service to run adoption programmes.

38. On 9 August 2012, the Ministry of Social Development and the Ministry of Foreign Affairs, in their role as drafters of the present report, attended a meeting of the Advisory Committee, convened by SENAME, with the aim of informing the cooperating institutions on progress with the drafting of this report, and the key elements to be included.

39. SENAME has 619 Accredited Collaborating Bodies (OCAS), 345 of which are civil society organizations (corporations, foundations, NGOs, functional community organizations, etc.). Under the Subsidies Act, detailed in the previous report, over 50 per cent of the budget allocated to SENAME for implementing programmes (residential, non-residential, prevention, advocacy of rights and redress of rights abuses) is implemented through OCAS. In 2012, \$75,983 million were transferred under this heading. In 2011 the figure was \$70,502 million. The sum of \$19,468 million was earmarked for transfers to carry out the various juvenile justice procedures in 2012. The amount for adoptions was \$541 million.

40. In the period 2010–2012, opportunities were created for analysis and dialogue between SENAME, civil society and other public bodies for addressing rights abuses, with regular participation by some 120 people. These included:

(a) Violence Observatory (November 2011 onwards): “To review, together with the participants, existing strategies for preventing and handling the various forms of violence against children and adolescents.” Thirty professionals take part regularly (representatives of the SENAME specialized network, the Children and Youth Network, UNICEF and various players in the public sector). Among other things, this initiative covers Recommendation No. 50 of the Committee and the comments of the expert, Mr. Pinheiro, on violence.

(b) Residential Centres Observatory (2009–2010): “To produce information and knowledge on the operation and results of residential centres, so as to generate proposals for a continuous improvement in the quality of care under this type of programme.” Twenty-five people representing 17 institutions regularly took part. The main outcomes included: setting up the Specialized Residential Programmes, strengthening family intervention, and establishing minimum quality standards. This material was circulated to all those implementing this action line (292 projects and 126 cooperating bodies).

(c) Foster Family Observatory (2010–2011): “To generate knowledge and improve the design of the foster family programme.” Twenty-five people representing 15 institutions regularly took part. The main outcomes include the creation of an institutional banner, with permanent content on the SENAME website for promoting and recruiting foster families,<sup>2</sup> with a link to the Chile Grows with You programme’s mass web dissemination network; and the preparation of a proposal for financial transfers to families.

(d) Diagnostic Observatory (DAM) (2009–2010): “To enhance the design and implementation of the non-residential diagnosis model for the protection of the rights of children and adolescents.” Thirty-five representatives regularly took part from

<sup>2</sup> <http://www.SENAME.cl/wSENAME/estructuras.php?name=Content&pa=showpage&pid=305>.

18 institutions implementing the entire DAM line nationwide. The main outcomes include the development of an operational flow of care and review of technical and methodological aspects on the conduct of evaluations.

(e) Commercial Sexual Exploitation Observatory (2010 onwards): “To produce information and shared knowledge about dealing with the commercial sexual exploitation of children and adolescents in order to strengthen the capacities of players in government and civil society organizations in their work to protect the rights of children and adolescents against these forms of violence.” Each session is attended by an average of 35, representing public and private sector institutions, family courts, and invited experts in the field, as well as academics. The main outcomes include: characterization of child victims of exploitation, analysis of approach models, continuity of the “No Excuses” campaign and contribution to the establishment of the “Second framework for action against commercial sexual exploitation”.

41. Regarding cooperation with groups of children and young people, and consistent with recommendations Nos. 26 and 35 on participation and consideration of the views of children, and recommendation No. 19 on dedicating further resources to regional cooperation, SENAME has carried out the initiatives listed below, with the aim of mainstreaming permanent participation mechanisms for children and civil society.

(a) 2011 saw the establishment of an Advisory Council on Children taking part in Offices for Protection of Rights and Community Prevention Programmes, who will be SENAME advisers on issues that concern them. This follows on from the project “Promoting strategies for substantive participation by children and adolescents from public institutions, for strengthening national rights protection systems”, implemented by Chile, jointly with Ecuador and Paraguay, funded by the Iberoamerican Fund for Child Development, set up by the Chilean Government in 2007.

(b) Participation project implemented in 2010, funded by the Ibero-American Child Development Fund.

42. In October 2010, in accordance with Committee recommendation No. 8 to prepare a bill on the protection of child rights in accordance with the Convention, the Ministry of Social Development set up a working party composed of representatives of civil society, UNICEF, SENAME and the Ministry of Justice. In January 2012 the working party submitted a draft proposal to the Minister of Social Development. The Ministry of Social Development and the Ministry of Justice are currently working to reach a consensus on the proposal.

## **B. Definition of the child (art. 1) and general principles (arts. 2, 3, 6 and 12)**

43. During the reporting period, no changes were made in the definition of child in relation to the third report of Chile.

### **Non-discrimination**

44. Act No. 20609 (2012) introduces measures against discrimination by establishing a legal mechanism to effectively restore the rule of law whenever an act of arbitrary discrimination is committed.

45. The General Education Act ensures non-discrimination through respect for multiculturalism, integration of students from different social and cultural backgrounds, and non-discrimination against any child that is an immigrant or has a different racial origin.

The right not to be discriminated against arbitrarily is explicitly mentioned in article 10 (a) and the final subparagraph of article 11.

46. In accordance with the Committee's recommendations Nos. 30 and 31, the principle of non-discrimination within SENAME is guaranteed in all its actions, and those of its collaborating bodies, both for the protection of rights and for adoption and juvenile justice. This is achieved through specific regulations, guidelines, guidelines and technical bases, systems of supervision and counselling for the systems and programmes, interviews and meetings between young people and the senior regional authority representing the National Director, Regional Directors, consultation and/or complaint instruments, such as complaints and suggestions boxes and user satisfaction surveys. This complements other formal and informal bodies relating to direct action and care for young people.

### **The best interests of the child (art. 3)**

47. In line with the Committee's recommendation No. 33, this is a cross-cutting principle in the technical guidelines for all SENAME lines of action, especially those relating to diagnosis, specialized programmes and residential systems.

48. Priority has also been given to work with family courts to review and improve mechanisms aimed at the adoption of protective measures and full compliance with them through programmes that handle children and adolescents whose rights have been violated, especially those separated from their families. This is done by setting up workshops with the Centre for Precautionary Measures of Santiago and Family Courts of Valparaíso, mandated by the Supreme Court, in order to work towards an agreement on technical criteria for protective action for children and adolescents and its enforcement, particularly in the residential system (2009, 2010, 2011). In 2010 aspects of adoption procedures that should facilitate the process of adoptability were addressed. In 2012, this work will be extended to the whole country through the design and implementation of a programme for interoperability between the databases of the family courts and SENAME.

49. In the field of juvenile justice, the Eleven Measure Plan for Youth Rehabilitation seeks to meet the challenge posed by the provisions of Act No. 20084, on the criminal responsibility of adolescents (LRPA), holding juveniles accountable for crimes they commit, and also to ensure that individuals in their formative years will not resort to a life of crime but rather build a new life plan based on the full development of their potential and opportunities, and observing the principle of the best interests of the adolescent.

50. Regarding adoption, the Adoption Act, its implementing regulation (Supreme Decree No. 944 of 1999) and the technical guidelines issued by SENAME governing the Adoption Programme set out in the Act, incorporate this principle. The search for an adoptive family is focused on the characteristics and needs of the child or adolescent, who needs his or her right to have a family to be restored, on any of the considerations and interests that may arise for others involved in this process. Furthermore, the full safeguarding of that principle is the central objective of the Adoption System Reform Project, on which SENAME is currently working, together with the Ministry of Justice.

### **The right to life, survival and development (art. 6)**

51. The right to life is guaranteed by the Chilean Constitution, in the first paragraph of article 19. It enshrines "the right to life and to physical and psychological integrity of the person. The law protects the life of those about to be born".

52. The comprehensive child protection system, Chile Grows with You, is a way of ensuring child development, especially of vulnerable children, which became sustained public policy from 2009.

53. Chile Grows with You offers children fast-track access to services and benefits that meet their needs and support their development at each stage of their growth. It also supports families and communities in which children are growing and developing, to provide appropriate conditions in a friendly and inclusive environment that is receptive to the particular needs of each child in Chile.

**Right to express his or her views freely and to be heard (art. 12)**

54. Regarding these measures, and taking account of recommendations Nos. 26 and 35, SENAME has carried out the following initiatives:

55. To intensify the participatory processes, in 2008 the Community Prevention Programme was set up, with the aim of “preventing violations of rights of children and adolescents, together with children, adolescents and their families, and other community players in a given territory”. The model has specific objectives and expected outcomes related to the participation and citizenship of children. It also defines strategies for moving from consultative participation to involvement in taking decisions that affect them. There are currently 55 Community Prevention Projects nationwide involving 5,136 children.

56. Since 2006, the Offices for the Protection of Rights, already mentioned in the previous report, have had a component for the participation of children, and since 2011 this component has been one of its central focuses, with associated objectives and concrete results, notably including the setting-up of children’s advisory councils at local level, and their integration into spaces of community relevance. These focuses are set out in the technical guidelines governing the 115 Offices for the Protection of Rights throughout the country, covering 454,597 children and adults associated with the guidelines.

57. All the technical guidelines for all SENAME protection programmes incorporate the principle of considering the views of children and their families in matters concerning them. They also include the application of a user satisfaction survey on the quality of care received.

58. A relevant project developed to listen to children’s opinions is the institutionalization of the consultation mechanism “My Opinion Counts”, where the children are asked how far their rights are respected in their commune. This initiative takes place every two years and involves children in primary school grades 3 to 8 in the communes where there are OPD offices. In the latest survey in 2011, 67,020 children took part nationwide.

59. Under the Participation of Children project, funded by the Iberoamerican Fund for Child Development, a committee of children was formed representing the Community Prevention Projects (PPCs), elected in the context of the National Forum held in May 2010. The committee took part in: (a) the organization and running of a national and international seminar on participation, attended by over 300 people; (b) the submission of proposals to the First Lady; (c) the “Fourth Regional Meeting on Participation of the Inter-American Children’s Institute (IIN)”; (d) the incorporation of their views into the new guidelines of PPCs; (e) the celebration of participation month in June 2011; (f) the launch of the book on participation; (g) two meetings with the director of SENAME for submitting proposals; and (h) the creation of the participation link on the SENAME website.

60. As a way of providing continuity and institutionalizing the issues of participation, since 2011, June has been designated “Participation Month”. In addition, as noted above, in 2012 an advisory council was set up within SENAME, composed of child representatives of PPCs and the Offices for the Protection of Rights, so that they can talk to the authorities of the institution about topics of interest to them.

61. Responding specifically to recommendation No. 26, Chile collects the opinions of children for the preparation of the present report, achieving a milestone in that respect. SENAME established a focus group of seven children taking part in Offices for the Protection of Rights and PPCs belonging to the aforementioned committee of representatives, who consulted their peers in their part of the country before issuing their opinions. They were asked for their opinion on the situation of five rights (participation, family life, environment, non-discrimination and ill treatment). The main conclusions are as follows:

(a) The right to live in a clean and pollution-free environment is not being fully respected. Children feel that this issue is being ignored owing to a lack of education; it is important for schools to teach children from an early age to care for and respect the place where we live.

(b) On the right to be treated properly physically and psychologically, children feel that progress has been made; they now feel able to complain when they are abused, as there are channels for doing so. However, adults still need to realize that no kind of abuse is allowed, whether physical or psychological.

(c) With regard to discrimination, children believe that people with fewer resources, children who have a disability, and foreigners are most vulnerable to discrimination.

(d) The right to participate is moving in the right direction. The children interviewed felt that channels are opening up to allow them to be heard (e.g. in Offices for the Protection of Rights and PPCs), and they felt that the school authorities are more attentive to their problems and listen to them and ask about the issues that concern them, although they feel that the authorities are not connected with them. Finally, they raise the need for legislation to promote the participation of children.

(e) The right to family life was chosen as the most important in the survey “My opinion counts”; the children interviewed agreed with this, arguing that the family is no longer the traditional structure it was, but consists of people who love you and bring you up, not necessarily your mother and father.

62. In the same context, the Ministry of Social Development implemented the system of Children’s Councils, in order to learn their opinions about the respect of their rights. The first meeting took place in March, attended by more than 30 children, ranging in age from 10 to 13 years. The children were divided into working groups, to enable them to talk and express their opinions in the form of drawings or texts on four topics:

(a) The first question was about the meaning of being a child, and the answers included a lot of positive activities: playing, going to school, having fun, making friends. None of the children who answered it associated it with anything negative.

(b) As for the best and worst of being a child, the best was very much in line with the previous answer, such as the opportunity to have fun, play and be carefree. The worst, however, was having no family, not being listened to, and feeling wrongly accused.

(c) The best known rights were the right to education, to a name and a family, to play and to live in a pollution-free environment.

(d) Regarding the importance of respecting child rights, most considered that parents and the authorities play a fundamental role in ensuring that children are respected.

63. The first Council meeting was held in the city of Santiago. Three Council meetings were subsequently held in Talcahuano (April), Villa Alemana (June) and La Serena (August). The Ministry of Social Development hopes to continue holding these meetings in

other regions and cities, as a way of ensuring continuity and relevance for the participation of children.

64. Another measure for learning about the circumstances of children in our country, asking them directly, is the Children's and Adolescents' Activity Survey (EANNA), which was conducted during the first quarter of 2012 on 10,000 children and adolescents and their families, aged 5 to 17 years old. This survey was a coordinated effort between the Ministry of Labour, Ministry of Social Development and the International Labour Organization. The survey was designed to directly "ask, consult and listen to" children and adolescents in the country. With this objective, qualitative methods were used to develop and select questions suited to children of different ages. Illustrations were also used to facilitate understanding and help children to remember the activities they perform in their everyday lives. The questionnaire includes questions related to everyday activities, housework, education (attendance, performance, relationships), sports and physical activities, support networks, participation and social activities. The EANNA survey results are expected to be available in early 2013.

65. In juvenile justice, the work of SENAME, through technical and professional teams working in detention centres and non-custodial programmes, assumes that in all actions concerning young people, freedom of opinion and right to participate should be promoted, prioritized and facilitated, carrying out all relevant measures and procedures to ensure that they are listened to. Indeed, from the first contact with young people, professional teams must listen to and respond to their opinions, interests, motivations, needs, resources and risks, building their action plan in accordance with the measure or penalty concerned. Later, during detailed diagnosis processes and the development of specialized intervention plans for convicted juveniles, their opinion should be taken into account when defining the work focuses and commitments associated with compliance with the penalty, and be signed by them. During the process, their opinion is essential in assessing progress and deciding on any appropriate readjustments.

66. From the admission of young people to detention centres and non-custodial programmes, and during their stay in them, they must be informed through audiovisual and/or written media of the mechanisms, procedures and tools available to express their opinions, complaints and any allegations, in accordance with current regulations.

67. SENAME is considering the provision and use in each centre and programme of suggestion and opinion boxes. Their use is regulated in article 10 of the implementing regulation of Act No. 20084, SENAME Exempt Resolution 0223/B (May 2007), and in the Technical Guidelines issued in Memorandum 362 (June 2007).

68. The supervisory guidelines devised annually by the Department of Juvenile Justice call for the application of user satisfaction surveys, and interviews of young people in the context of the monitoring and assessment processes at regional and national levels, instruments and associated procedures. In turn, the implementing regulation of Act No. 20084 provides for private meetings between the Regional Directors with juvenile detainees, and juveniles' right to petition, entitling them to submit requests or complaints, which must be answered promptly. In that respect, the policies and technical guidelines and the resulting practical action taken at national level, implemented by direct intervention teams (training and transfer of content) highlight the educator/mediator role and the bond of trust that they have to develop with young people to ensure that the penalty and/or measure they are carrying out results in an effective learning process.

69. Starting in 2009, codes of conduct were devised and implemented in detention centres. This is a collective project involving young people and adults working at the centres, representatives of the various sectors and agencies working with young people (SENAME officials, schools, drug programmes, educational rehabilitation projects, etc.).

These and other actions and measures for encouraging young people to express their opinions and participate, have been strengthened as a result of the acceptance the suggestions in the reports issued by the Interagency Oversight Committees for Detention Centres (CISC).

70. The current Adoption Act expressly provides that, in adoption proceedings, courts must take due account of the views of children, in line with their age and maturity. However, the age for which the consent of the child to be adopted is required, is set at the age of puberty, which is enshrined in our legal system by an old rule of the Civil Code, specifying that males must be at least 14 years old and females 12. This issue is specifically addressed in the aforementioned Reform Bill, proposing a single age of consent to adoption for both boys and girls.

## **II. Rights**

### **A. Civil rights and freedoms (arts. 7, 8, 13–17, 28 (para. 2), 37 (a) and 39)**

#### **Birth registration, name and nationality (art. 7)**

71. The Civil Registry and Identity Service has 467 customer service offices throughout the country; births may be registered in all of them (whereupon a single national identity number (RUN) is assigned to each registered person). It also has sub-offices in public hospitals. Chileans abroad can also register their children through the consulates. According to UNICEF,<sup>3</sup> Chile registers 99 per cent of children.

72. The Bridge Programme, which is the gateway to the Protection System, is responsible for connecting families to Government schemes. In this context, one of the first steps taken by Family Support is to ensure that all family members are entered in the Civil Registry and are provided with identity cards.

73. By applying the provisions of article 10, paragraph 1 of the Constitution of the Republic, and consistent with the Committee's recommendation No. 64 (c) on the third report, the Civil Registry and Identity Service must register children whose mothers or fathers are in an illegal situation or refugees in this country. In this case the child is entitled to opt for Chilean nationality within one year of reaching the age of 21.

#### **Preservation of identity (art. 8)**

74. The current Adoption Act fully guarantees the right of children to find out about their original background after reaching majority. To that end, and in accordance with the provisions of the implementing regulation of the Act, SENAME is running the "Origin search" programme, designed to guide and advise anyone wishing to initiate the process, in order to avoid or minimize the impact of emotional conflicts and assist in any reunion with the biological family, if it so wishes, ensuring that the family's right to privacy is respected.

75. This programme was consolidated and achieved critical mass in 2010, when a computer program was introduced to enable applicants to enter their requests via the SENAME website, and a procedure was coordinated with the regional adoption units, offering the support of a trained professional in the search for birth families, guaranteeing the right of the latter to preserve their privacy and confidential information.

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<sup>3</sup> The State of the World's Children 2011, p. 120.

76. Requests for origin searches increased from 136 in 2008 to 239 in 2011, which is explained mainly by a rise in applications from Chileans.

**Freedom of expression and the right to seek, receive and impart information  
(art. 13)**

77. Pursuant to the Access to Public Information Act (No. 20285, 2009), all resolutions, minutes, records, contracts, agreements and other information prepared with public funds, are public and must therefore be provided to any citizen on request. This Act lays down a procedure for applications, a deadline of 20 days to deliver the information or provide a reasoned refusal to do so, and fines if the deadlines are not met or if refusal is unfounded. Information may be refused only if it: affects the discharge of the functions of the department, violates the rights of individuals, jeopardizes national security or interests, or is declared secret by a law passed by qualified majority.

78. The entry into force of Act No. 20285 did not entail any significant changes in the area of the Management Improvement Programmes (PMG) in the public sector, in particular: an amendment was made to the Comprehensive Citizens' Information and Care System (SIAC), which is the system that coordinates all areas of care in public services, incorporating management objectives and requirements related to compliance with the law (proactive transparency and management of applications access to public information). Furthermore, the System for Access to Public Information (SAIP) was set up, with a view to designing a management model for standardizing the processes that implement the law, and continuously improving them.

79. Act No. 20285 also provides for the establishment of the Council for Transparency, an autonomous public body with legal personality and its own resources, which is empowered to monitor the implementation of the Act and punish any breaches. Its objectives are: to promote transparency in public administration, to monitor compliance with the rules on transparency and disclosure of information by State bodies and to safeguard the right of access to information. The Council is to be managed and administered by a management board consisting of four advisers appointed by the President, by agreement with the Senate (adopted by two thirds of its serving members). Council members are appointed for six years and may be reappointed for one further term of office only. They are confirmed in office every three years.

80. In the case of SENAME, the bodies within SIAC are the Information, Complaints and Suggestions Offices (OIRS), the toll-free 800 Line, the Documentation Centre and the website. SENAME has OIRS in all regions of the country, with the principal function of looking after users of the Service, guiding them, and referring their application, where appropriate, within the deadlines. Meanwhile, the "Fono denuncia 800 730 800" service is designed to handle any situation involving the violation of the rights of a child or adolescent. Calls are classified as follows: registering allegations or guidance, referral of the case to institutions in the SENAME network or other community bodies, as appropriate, or referral of allegations to prosecutors in cases involving criminal acts. This telephone service has nationwide coverage by landline only. The line operates Monday to Friday from 9 a.m. to 16 p.m. in offices of the Metropolitan Regional Directorate of SENAME; in the evening and at night, including weekends, it is transferred to the Sexual Offences Brigade located in the Forensic Medicine Service.

81. The Ministry of Education has a Citizens' Assistance Office "Ayuda MINEDUC", associated with SIAC, which provides access to information on various topics in the area of education, consultations for anyone who cannot find the information they are seeking, applying for certificates online, making suggestions, and accessing information on various topics in the area of safeguarding rights in education, and registering complaints about the school and higher education systems. The system can be accessed via its website



([www.ayudamineduc.cl](http://www.ayudamineduc.cl)), with customer service offices in all regions of the country (located in the provincial departments of education and the regional ministries of education), and a call centre (600 600 26 26). In 2011 a total of 1,732,490 contacts were handled, 35.7 per cent up on 2010. Of these, 1.3 per cent (23,243) were about allegations, 45.8 per cent (793,877) were queries, 0.2 per cent (4,207) were requests for information under the Transparency Act, and 52.6 per cent (911,163) about administrative procedures. In general, the most used channel was face-to-face contact in offices, at 47.2 per cent (817,274), followed by the call centre at 26.9 per cent (466,434), and the website at 25.9 per cent (448,782).

82. From 2010 the Ministry of Education gave priority to ongoing provision of information to parents and guardians to enable them to choose the most suitable schools for their children. In this context, in October 2010, it conducted the campaign “better informed means a better education”, which consisted of the implementation of 456 information modules in 253 communes of the country, where parents and guardians were given information on learning outcomes of students of the various educational institutions. It also publishes information on the schools on its website (<http://masinformacion.mineduc.cl/>): list by commune, data sheet on each institution, map and comparative table.

83. In juvenile justice, the implementing regulation of Act No. 20084, published in April 2007, ensures due respect for freedom of expression and the right to seek, receive and impart information.

84. In terms of particular internal regulations, Circular No. 0014 (23 May 2007) of the Ministry of Justice regulates the procedure for accessing information media regarding adolescents treated and subjected to a measure or sanction as a result of having infringed criminal law. Circular No. 0015 (23 May 2007) establishes the list of rights and duties of adolescents subject to a pre-trial detention measure. Circular No. 0020 lays down procedures allowing adolescent detainees to exercise their right to communicate directly with their environment. In a cross-cutting and complementary way, all the rights of young people, in particular those relating to taking account of their opinion and participation, are emphasized and prioritized in the technical guidelines and documents issued by the Department of Juvenile Justice, in the technical guidelines, the annual supervision guidelines and the internal rules of the centres.

85. Act No. 20418 lays down regulations for information, guidance and services relating to birth control, establishes the right to education, information and guidance on birth control, that is clear, understandable, complete and, where appropriate, confidential. All this is provided in line with the age and psychological maturity of the person concerned.

#### **Freedom of thought, conscience and religion (art. 14)**

86. In 2007 the National Bureau of Religious Affairs (ONAR) was set up with the aim of promoting a State perspective for the enjoyment of the right to religious freedom, guaranteed by the Constitution of the Republic. This Bureau reports to the Office of the Minister and Secretary-General of the Presidency and manages executive programmes for churches and places all these organizations on an equal footing in the eyes of the State.

87. In 2010 the Government made 30 commitments to the Christian-Evangelical movement, under which it undertakes to promote, in schools that request it, pastoral groups in line with the beliefs of the students, allowing spiritual growth and the dissemination of the various beliefs in a climate of dialogue and respect.

88. Act No. 20299 (October 2008) provides for a holiday on 31 October, National Day of the Evangelical and Protestant Churches.

**Freedom of association and peaceful assembly (art. 15)***Marches and student movement*

89. In Chile, the right of assembly is guaranteed by the Constitution of the Republic. Indeed, article 19 No. 13 of the Constitution guarantees everyone “the right of peaceful assembly without prior permission and unarmed”. Furthermore, the same article goes on to state that “meetings in squares, streets and other public places shall be governed by the general police regulations”. This means that assemblies to be held in public places, where the interest of many citizens coincide, are to be governed by the general police regulations, with a view to reconciling the exercise of the right to assemble with the other rights provided for in the Constitution.

90. In this context, the power to authorize the use of public places to hold assemblies falls to the Regional Governor, under Act No. 19175. The procedure and conditions for authorization are set out in Supreme Decree No. 1086, which states, among other things, that the organizers of any public meeting or demonstration must give at least two working days’ advance notice to the Intendant or Governor concerned. The Intendant or Governor, as appropriate, may refuse to authorize meetings or processions in streets with heavy traffic or where they would disrupt public transport; they also have the same power in respect of meetings to be held in the streets and avenues at times when these are customarily used by the public as places of leisure, or in parks, squares, gardens and avenues with planted areas. Should any meeting be held in breach of the above provisions, it may be dispersed by the Forces of Order and Public Security.

91. Where there is no prior coordination to hold a demonstration for reasons entirely attributable to its organizers, or if it is held in places without the authorization of the competent authority, the authority may disperse it where: (a) no assurances have been given that the demonstration is to be conducted peacefully and unarmed; (b) the necessary steps have not been taken to prevent a significant disturbance of the rights of other citizens, or to minimize the disturbance.

92. The purpose of the notice of any public meeting is not arbitrarily to restrict the holding of marches or demonstrations, but rather to take reasonable steps to avoid excessive disruption of the normal activities of the population and public order, to prevent the occurrence of violent acts or damage to public or private property and to protect the physical safety of those attending the demonstrations, as well as other citizens. Accordingly, the obligation to give notice pursuant to Supreme Decree No. 1086 does not contravene the provisions of the American Convention on Human Rights, or the doctrine emanating from the Inter-American Commission on Human Rights (IACHR); on the contrary, it is fully consistent with the legislation and doctrine, as it aims to coordinate the running of demonstrations, appropriate security precautions and the practice of all action aimed at the peaceful and safe exercise of the right of assembly. Indeed, both the Constitutional Court and the Office of the Controller-General have validated it. In short, as an exception to other rights, the Constitution allows the right of assembly to be regulated by means other than legislation, namely the general police regulations, which are set out in Supreme Decree No. 1086.

93. According to the Ministry of the Interior and Public Security, 2,254 public demonstrations were held across the country during 2011; this figure includes peaceful demonstrations, marches and convoys. In the Province of Santiago, 240 marches authorized by the City were recorded, 75 of which were linked to the student movement.

94. According to the same source, between 2007 and 2011 (up to September) an estimated 366 marches authorized by the Administration took place in the Province of

Santiago. Most of them (23.5 per cent) were trade union marches. Student marches accounted for 21 per cent.

*SENAME associative relationships*

95. As mentioned in section I.B., regarding article 12 of the Convention, the SENAME Community Prevention Programmes promote participation of children, and associative relationships are considered to fall within its cross-cutting approaches, with a view to promoting their impact on matters affecting them. Moreover, the Offices for the Protection of Rights foster the creation of local children's advisory councils, as advisers to mayors on children's issues.

**Protection of privacy and protection of image (art. 16)**

96. Article 15 of Act No. 20286 states that while all judicial acts and administrative procedures of the Family Courts are public, in exceptional cases, at the request of the parties and where there is a serious risk of harm to the right to privacy of the parties, especially children and adolescents, the judge may order one or more of the following measures: (a) Prevent access to the court room or order certain persons to leave it; (b) Prevent access by the general public or order them to leave it when specific proceedings are being conducted.

97. The SENAME Communications Unit cautions the media to respect the privacy of children and adolescents when responding to requests for information on any cases of public disturbance, also contacting editors and journalists to explain that they must respect that right when they have not done so. Indeed, the National Director has on occasion written to the National Television Council to censure a programme.

**Access to information from a diversity of sources and protection from material harmful to his or her well-being (art. 17)**

98. In 2008 SENAME conducted a campaign against grooming,<sup>4</sup> specifically targeting children and adolescents with a view to helping them to recognize and avoid anyone harassing them over the Internet. The initiative involved distributing posters in schools, encouraging adolescents to ask members of their contact lists in chat rooms to exclude anyone harassing them from their chats. The group "*Dile no al grooming*" [Say no to grooming] was created on the social network Facebook, and spots referring to the issue were broadcast on several radio stations. During a one-month campaign, 13,858 people joined the Facebook group and the banner of the campaign on the SENAME website received 86,547 hits. A second version of this campaign was conducted in 2009.

99. In 2007 the "Mi PC Estudiante Navegación Segura" [Safe browsing on my student computer] campaign was conducted through a strategic alliance between SENAME, the National Institute of Youth (INJUV), and private-sector companies, which sought to secure discounts to help low-income school and university students in the country to buy computer technology. The campaign used advertising materials such as brochures, newspaper inserts, newspaper advertisements, posters, advertising spots, radio spots and flyers with tips for safe Internet browsing. The campaign had nationwide coverage and lasted from February to May 2007.

100. In 2011, through the Chilenter Foundation (headed by the First Lady), 10,000 computers were reconditioned and supplied to subsidized educational institutions registered with the Ministry of Education Links Programme. Since 2004 the Foundation has

<sup>4</sup> Sexual harassment over the Internet.

distributed more than 50,000 refurbished computers throughout the country to some 6,000 educational institutions.

**Right not to be subjected to torture or other cruel, inhuman or degrading punishment, including corporal punishment (arts. 37 (a) and 28 (para. 2))**

101. Act No. 20286 amends article 234 of the Civil Code — which states that parents have the power to punish their children, ensuring that such punishment does not adversely affect their health or personal development — by adding the following sentence running on at the end of the first subparagraph: “This right shall exclude all forms of physical and psychological abuse and shall in any case be exercised in accordance with the law and the Convention on the Rights of the Child.”

102. In line with recommendation No. 37 of the Committee, on 18 December 2008 Chile ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Punishment, which came into force in February 2009, and provides, among other things, that each State party must maintain, designate or establish a national preventive mechanism for the prevention of torture. In December 2009, the Government informed the United Nations that the National Human Rights Institute would serve as the national preventive mechanism. This year (28 and 29 May) a working session was held in United Nations offices in order to discuss and move forward with the implementation of the mechanism, which was attended by the Minister of Justice, together with the Director of INDH, OHCHR and other relevant players. In June 2012, Ambassador Oyarce informed the Subcommittee in Geneva of these developments and the ongoing dialogue that has been maintained with the Institute with a view to finding the best legal mechanism for implementing this responsibility.

*Student movement*

103. In the context of the 2,254 public demonstrations that took place throughout the country during 2011, police detained a total of 16,454 persons: 7,471 adult men, 2,042 adult women, 5,526 male minors, and 1,414 female minors. In addition, a total of 822 detainees were injured: 426 adult men, 84 adult women, 265 male minors, and 47 female minors.

104. According to the Ministry of the Interior, as at October 2011, out of nearly two million participants in meetings and marches, the Carabineros received 36 complaints about alleged acts of violence perpetrated by its officers against civilians, which are being reviewed in accordance with internal disciplinary procedures. In two cases, the Carabineros dismissed the officers concerned.

105. Regarding the Committee’s recommendation No. 38, on its concerns about reports of excessive use of force and arbitrary detentions by police during student demonstrations in 2006, please note that in the Carabineros, the superior officers continuously monitor the performance of their subordinates. There are also institutional mechanisms to receive allegations, including those related to excessive or illegal use of force, and illegal or arbitrary detention. The facts and responsibility of the officer involved, his superiors and other officers involved, are determined by applying disciplinary and penal provisions. If the abusive use of force is not an offence, the facts and responsibility of the parties is determined by the administrative investigation and disciplinary action; to that end, Carabineros refers to Carabineros Disciplinary Regulation No. 11<sup>5</sup> and a system of administrative inquiries governed by Carabineros Administrative Proceedings Regulation

<sup>5</sup> Supreme Decree No. 900 of 20 June 1967 of the Ministry of the Interior.

No. 15.<sup>6</sup> If the abuse is an offence, Carabineros officers have a legal obligation to report it to the Public Prosecution Service or the military courts. The institution has this duty pursuant to article 175 (a) of the Code of Criminal Procedure and article 131 of the Code of Military Justice.

106. Meanwhile, in 2011, the National Human Rights Institute (INDH), in coordination with the Carabineros, carried out continuous monitoring of police work, especially in the context of student marches, observing that work and reporting any acts not consistent with good institutional practice. This monitoring was described in a report published in November 2011.<sup>7</sup>

107. In response to that report, the Carabineros ordered a review of its policing practices and procedures to check that they complied with international human rights law. In November 2011, by General Order 2038, the Director-General of the Carabineros ordered the establishment of the Department of Human Rights, which currently reports to the Sub-Directorate-General for the Carabineros and is responsible for promoting the implementation within the institution of international standards applicable to the organizational culture and policing, answering to the competent courts and representing the Carabineros before domestic and international human rights supervisory bodies.

108. To achieve these objectives, in January 2012 Carabineros de Chile signed a Memorandum of Understanding with the International Committee of the Red Cross (ICRC) with the general objectives of “updating, developing and promoting the integration of international human rights rules and humanitarian principles applicable to policing”. The work plan agreed on with ICRC includes the specific objectives of training trainers from the police ranks in human rights and humanitarian principles as they apply to police work, and building capacity to technically evaluate the extent to which international human rights standards and humanitarian principles are embedded into the training system, doctrine and best practices of the Carabineros.

109. In line with the Committee’s recommendation No. 39, the Human Rights Department of the Carabineros is currently conducting a study of the extent to which human rights are embedded into the organizational culture of the Carabineros and policing practices; it has also established a hotline to INDH and appointed human rights liaison officers in every prefecture of the country.

110. The measures already implemented in Santiago, at the request of this Department include: the obligation to keep children and young people permanently separated from adults when they are detained in mass demonstrations; and to take them to a specialized police station (48 family affairs police stations).

#### *Araucanía*

111. During 2012 and following specific acts of violence that occurred in La Araucanía, the Chilean Government, through the Ministry of Foreign Affairs, replied to three requests for information from the Human Rights Council, four United Nations Special Rapporteurs and the Special Rapporteur on the rights of indigenous peoples. In addition to these requests, the State has maintained a regular dialogue with these bodies, especially the Special Rapporteur, working to build good communication to keep him informed about the work being done, and to take note of his recommendations for implementing improvements on the handling of indigenous issues.

<sup>6</sup> Supreme Decree No. 118 of 7 April 1982 of the Ministry of Defence.

<sup>7</sup> Report on the Programme to monitor and record police abuses, INDH, November 2011.

112. In the context of the conflict in the region of Araucanía, involving juveniles belonging to the Mapuche communities, young people from these communities convicted and charged by courts of Malleco have been handled by the non-custodial programmes administering sanctions and/or measures, including supervised freedom and non-residential precautionary measures. In line with the Committee's recommendation No. 74 (d) on the third periodic report of Chile, the action taken over these young people, has been mainly characterized by: implementing differentiated plans since these are not ordinary crime cases; access to communities after authorization from their authorities; and participation of those authorities in meetings with psychosocial teams. Meanwhile, a limited number (four) youths involved in the conflict were held in the Chol-Chol temporary and closed detention centre, particularly under temporary precautionary internment. Interventions in this regard have fallen into three categories: special situations, cultural considerations and human rights. The measures taken in the "special situations" category have taken account of the separation of Mapuche juveniles and their integration with persons accused of less serious breaches of the law, the assignment of specialized professionals, the overall circumstances and the definition of the responsibilities of each party: young person, family and SENAME; in the "cultural considerations" category, the adequacy of regular visiting conditions, facilitating ritual activities, adaptation of meals, visits and care by machi (Mapuche medicine practitioners); in the "human rights" category, access at all times to defenders, visits and a Human Rights Commission report, and the implementation of procedures for managing critical situations such as hunger strikes.

113. The Carabineros Human Rights Department has stated that the staff of an institution working in places with indigenous populations should receive specific training in indigenous culture and children. The first such course was run in November 2011 in conjunction with UNICEF and the International Committee of the Red Cross in Santiago, and then in March 2012 with UNICEF and other public and private bodies with responsibilities in the field in the cities of Angol and Temuco.

114. Finally, note that the Carabineros, Investigative Police and Prison Service have a basic training course, in addition to in-service training, covering topics ranging from general aspects to the specific details of human rights in policing. In addition, the Human Rights Brigade of the Investigative Police, as well as investigating crimes, provides detectives with education through its Department of Human Rights Education and Dissemination. Meanwhile, the Prison Service has a human rights training manual.

#### *School violence*

115. By 2009 three National Surveys of Violence in Schools had been conducted (2005, 2007 and 2009).

116. A national survey of prevention, aggression and bullying in schools was conducted in October 2011, with interviews of 228,883 grade 8 students in 5,855 primary schools. The survey, which was conducted alongside the 2011 SIMCE test,<sup>8</sup> consisted of 34 questions and was answered anonymously by students. The results contained important data on aggression and bullying. In 2010 a similar survey was conducted of students in secondary grade 2.

117. The Ministry of Education has implemented some measures in schools to combat bullying, including the designation of a teacher to take responsibility for school

<sup>8</sup> SIMCE is the national educational quality assessment system of the Chilean Ministry of Education. Its main purpose is to improve the quality and equity of education, reporting on the performance of students in various learning areas of the National Curriculum, and relating this performance to the school and social context in which they are learning.

socialization and for receiving all complaints about breaches of school socialization and for informing the Ministry; the drafting of a regulation on school socialization, which must be signed by the director, a representative of the parent centre and a representative of the student centre; the designation of specialized teams of Ministry psychologists in each region of the country; and the creation of the website [www.convivenciaescolar.cl](http://www.convivenciaescolar.cl), offering guidance and support materials for schools. It also promoted the celebration of school socialization day on 29 April, to encourage discussion of the topic.

118. As detailed in chapter I, section A, in September 2011 Act No. 20536 on school violence was published.

#### *Decent treatment*

119. The National Nursery Schools Board (JUNJI) considers decent treatment of children as an essential condition for the provision of a quality initial education. This concept has been incorporated as an institutional focus and a number of measures have been rolled out with the primary goal of institutionalizing new insights and practices about how to relate to and treat children, ensuring proper care and protection for them, and safe environments for their comprehensive growth and development. Between 2007 and 2011, in line with the principles and provisions of the Convention, the flagship initiatives include:

(a) Creating child protection and decent treatment units (2007) in the National Directorate and all Regional Directorates of JUNJI. Between 2007 and 2011 these units took action in a total of 7,570 cases of child abuse.

(b) Creating the institutional policy for decent treatment of children (2008).

(c) Developing skills in the JUNJI technical and education teams. A diploma course taught at Chile's Pontificia Universidad Católica and Alberto Hurtado University provided training for 828 preschool teachers, 25 lawyers and 50 professionals for technical teams. Furthermore, 576 preschool technical staff from the 15 regions of the country graduated.

(d) Creating the child abuse detection and intervention procedure (2008). This document provides guidance and defines institutional procedures for addressing cases of child abuse affecting preschoolers attending JUNJI educational programmes, whether run by partner agencies or private. Some related tools were also developed: child abuse registration form and JUNJI-INTEGRA case tracking form, with the aim of advancing the implementation of quality intervention and setting up shared databases on the issue of preschool child abuse.

(e) Creating the "Decent treatment" educational game (2007). Aimed at families and educational teams. In only the first year of introduction it was played by some 18,500 guardians, plus nursery staff.

(f) In 2009 nationwide communication campaign "Children thinking big: aim high", aimed at raising awareness of the need to promote decent treatment in relationships with children.

(g) Continuation of the JUNJI-SERNAM mutual cooperation agreement, under which further progress was made in incorporating the Emotions Project into the curriculum of educational communities, as a strategy for preventing child abuse and domestic violence, with a rights and gender perspective. Between 2007 and 2011, 75,638 people, including JUNJI staff and families of preschool children, took part in the project's workshops, covering issues including child rights, parenting practices, and sexual development in toddlers.

*Juvenile justice*

120. The implementing regulation of Act No. 20084 states that no adolescent shall be subjected to torture, cruel, inhuman or degrading treatment, in word or deed, or be subjected to unnecessary rigour in applying the rules of the regulation. In turn, it requires all officials working in detention centres to report to the appropriate authority any situation that might constitute a violation of rights or abuse. In the same way, under its Circular No. 25 of 16 September 2012, SENAME initiates proceedings for any acts constituting physical or psychological abuse or offences against children or adolescents in the care of the Service.

121. Over the reporting period, SENAME initiated a total of 151 disciplinary proceedings, i.e. administrative or pre-trial proceedings for ill-treatment or abuse by its officials of children or adolescents in their care, 69 of which are under consideration, 17 were closed with penalties for the official(s) involved, 36 were dismissed, 28 were filed and there was one acquittal.

*Human rights*

122. In line with the Committee's recommendation No. 37, Act No. 20405 ordered the reopening of the Truth Commissions on serious human rights violations that occurred in Chile during the period 1973–1990. Transitional article 3 of the Act provides for the establishment of the Advisory Commission on recognition of the status of political prisoners who disappeared and were executed and the victims of political imprisonment and torture (Valech II Commission), which aims to continue the work of the National Commission on Truth and Reconciliation (Rettig Commission) and the National Commission on Political Imprisonment and Torture (Valech Commission). This new Truth Commission began work in February 2010, and set a deadline for receiving complaints, classifying them and submitting its final report.

123. The Valech II Commission completed its task on 17 August 2011, delivering its report to the President of the Republic on 18 August of that year. In this second report, it accredited 30 cases of disappeared detainees and executed political prisoners and 9,795 cases of political imprisonment and torture. All of those people are entitled to a number of benefits as statutory reparation.

124. Moreover, in accordance with the provisions of transitional article 10 of Act No. 20405, the powers of the Continuation Programme (Human Rights Programme) under Act No. 19123 of the Ministry of the Interior and Public Security were broadened. Currently, the programme is a party in 224 of the 233 criminal proceedings before the Judiciary, for victims classified as disappeared prisoners. It is also a party in 341 of the 1,092 ongoing criminal proceedings, pending before the Judiciary, for victims classed as executed political prisoners. From March 2010 until December 2011, the programme brought 341 lawsuits for a total of 489 victims classed by the National Commission on Truth and Reconciliation, and the National Reparation and Reconciliation Commission. Of these 341 lawsuits, 303 criminal actions relate to 434 victims classed as executed political prisoners and 38 lawsuits relate to 55 victims classed as disappeared prisoners. Furthermore, as at 24 January 2011, the Public Prosecution Service had made 726 submissions on behalf of victims of serious human rights violations perpetrated between 11 September 1973 and 10 March 1990, for which no legal action had been taken and which are now being investigated.



**Measures to promote physical and psychological recovery and social reintegration of child victims (art. 39)**

125. Against this background, SENAME has carried out the following initiatives in response to the Committee's recommendations Nos. 9 and 49 on the third report of Chile:

- (a) Strengthening the nationwide specialized rights protection network (discussed in detail in chapter II, section B of this report);
- (b) Drafting of instructions on detection of ill-treatment and abuse by partner agencies (Circulars Nos. 18 and 25);
- (c) Drafting of a "Manual of Procedures on Child Abuse and Sexual Abuse" for all SENAME programmes;
- (d) Development of a plan for decent treatment and prevention of child abuse and sexual abuse;
- (e) Continuous monitoring of 16 programmes on reparations for commercial sexual exploitation;
- (f) Monitoring of 67 Programmes on reparations for ill-treatment to shorten waiting lists and provide timely care to child and adolescents victims;
- (g) Cooperation with UNICEF and the Supreme Court to produce a single account of victims of sexual crimes to avoid revictimization;
- (h) Signing of an action plan with the Carabineros, Ministry of the Interior and SERNAM in 2009, for the proper care of children and adolescents who are collateral victims of femicide;
- (i) Training of officials and the SENAME network in sexual assault, by the Fundación Amparo y Justicia [Protection and Justice Foundation], and running of seminars coordinated by the Ministry of Justice on the prevention of child sexual abuse (2009, 2010 and 2011);
- (j) Implementation of a plan for decent treatment in the residential system.

126. As part of the above-mentioned cooperative project with UNICEF and the Supreme Court, SENAME, together with other bodies, took part in the drafting of a "Guide on the right of children and adolescents to be heard before family courts" in the context of the introduction of a facility (the Gessel room) to reduce the number of interviews that children have to undergo and prevent them being revictimized in the context of the protection processes, and to help them to testify in a space more appropriate to their stage of development. This guide is designed for officials of family courts.

127. Taking account of the Committee's recommendation No. 41 on the third Report, SENAME has taken the following action:

- (a) Strengthening of work with families (based on the decent treatment approach) in the technical guidelines for all programmes.
- (b) Tackling safety at school by promoting decent treatment and non-violence (2010–2011), together with the Ministry of Education.
- (c) During October and November 2011 SENAME conducted a campaign against abuse through social networks called "It's not your fault". This medium was chosen because Chile has nine million Facebook accounts and about one and a half million people have Twitter accounts. Furthermore, the country ranks fifth in the world in terms of hours spent on social networks. There were also art installations on the street giving information to the public in fairs, metro stations and shopping centres in Santiago. The campaign

attracted 3,075 Twitter followers, 2,374 retweets and almost 400 fans on Facebook, plus 2,036,288 mentions under the hashtag #noalmaltratoinfantil. Meanwhile, there were 7,919 unique hits on the website [www.noessuculpa.cl](http://www.noessuculpa.cl) and 2,082 video views on YouTube. The campaign was also broadcast on various conventional media. A second stage of this campaign is planned for 2012, which will raise its profile on Facebook.

**B. Family environment and alternative care (arts. 5, 9–11, 18 (paras. 1 and 2), 19–21, 25, 27 (para. 4) and 39)**

**Family environment and parental guidance (art. 5)**

128. Article 1 of the Constitution states that “the family is the fundamental nucleus of society”. It gives no indication of the types of family to which it refers. Furthermore, the Parentage Act (1998) amends the Civil Code, establishing rights and obligations between parents and children. Responsibility for the custody of a child neither conceived nor born during a marriage lies with the parent who has recognized it. If it is not recognized by either parent, the courts designate the person with custody.

129. Act No. 20545 (2012) amending the rules on maternity protection and incorporating postnatal parental leave, helps to foster joint parental responsibility in the upbringing of their children, as the Act entitles women to transfer postnatal leave to the father; when making use of this benefit, fathers receive a State subsidy calculated on the basis of their salary, and are entitled to job protection for twice the period of leave they take. In addition, the five days that were granted prior to this reform remain unchanged.

130. Chile Grows with You, through the “Empápate” [Immerse yourself] campaign encourages parents, uncles and aunts, couples, grandparents and caregivers of children, to enjoy active parenting and reinforce this important bond through everyday tasks in the upbringing of children. It is an active and interactive paternity campaign in which fathers are invited to celebrate and enjoy fatherhood, taking an active part in their children’s upbringing. Among other things, the campaign has a website<sup>9</sup> offering relevant information to fathers to reinforce their role in parenting and a forum for sharing opinions and experiences; it also invites mothers, carers and childcare professionals to promote active fatherhood by involving fathers and father figures in health care and creating opportunities for men in childcare tasks.

131. The technical guidelines of all SENAME programmes cover parenting skills, ranging from promoting education to clinical and therapeutic aspects.

132. Since 2002, JUNJI has had a policy of working with mothers, fathers and guardians. In this context, between 2007 and 2011 its work with families focused on rights, gender and inclusive education. It works with families in various ways (briefings, interviews, project and training workshops, learning communities, educational meetings, field trips, etc.). The contents of these activities include decent treatment, prevention and detection of child abuse and sexual abuse, parenting guidelines, emotional relations, breastfeeding, healthy lifestyles, addiction, child rights, parenting skills, and early prevention of drug and alcohol abuse.

133. In 2008 JUNJI signed an agreement with UNICEF which secured support and training materials for nursery school staff, and helped to create materials for families on good parenting, which were distributed in 2009. An agreement was also signed with

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<sup>9</sup> [http://www.crececontigo.cl/empapate/puedes\\_hacer.php#link3](http://www.crececontigo.cl/empapate/puedes_hacer.php#link3).

PRODEMU Foundation, with a view to focusing some of its promotional programmes on mothers whose children are taking part in JUNJI educational programmes.

**Parents' common responsibilities, assistance to parents and the provision of childcare services (art. 18)**

134. As requested by the Committee in its recommendation No. 43, the resources of the Chile Grows with You subsystem have been steadily increased since its inception, as well as its coverage: Chile Grows with You was first implemented in 2007 in 159 communes of the country, and in January 2008 it was extended to the remaining 186, thereby achieving nationwide coverage (345 communes). In 2008, it benefited 867,915 people who received \$9,948 million; in 2009, 886,313 people received \$27,342 million; in 2010, 892,650 people received \$34,783 million; and in 2011, \$37,056 million were awarded to 900,000 beneficiaries.

135. The mass education programme Chile Grows with You has a weekly radio programme with nationwide coverage; Crece Contigo TV [Grows with You TV] in waiting rooms of health centres (programmed with continuous content on child development); Fono Infancia 800 200 818 [child helpline] delivering free telephone support by specialists to parents and significant adults of young children; the [www.crececontigo.gob.cl](http://www.crececontigo.gob.cl) website offering information, consultations of specialists, information exchange forums, educational and training materials for children, etc.; a collection of educational leaflets circulated nationwide with essential content to support parenting skills and the development needs of children; a collection of music to support early childhood development; a collection of stories to support language and literacy in early childhood; and an electronic newsletter.

136. In the area of assistance to parents, the Chile Grows with You Biopsychosocial Development Support Programme offers, as part of the prenatal development support component, the "Guide to Pregnancy and Birth – Beginning to Grow",<sup>10</sup> which contains information about this process (biological and psychological changes during gestation, labour rights of parents, etc.), organized by week of gestation. There are different versions of the guide for different cultural contexts: Aymara (Wawasana Thakipa) Mapuche (Txur Txemuaiñ) Rapa Nui (Pe nei te poreko hana o te nã poki 'i Rapa Nui), Chilota, and an audio version (for pregnant visually impaired or illiterate women). It also includes a CD of prenatal music (Place of Loving Peace). Also supplied is a "Woman's diary" for recording relevant information about the pregnancy and for coordinating check-ups. It is important for these materials to be delivered with assistance, so the health professional carrying out the prenatal check-up has to describe the material, explain what it means and offer recommendations.

137. The Comprehensive Home Visit (VDI), part of PADB, is a strategy for delivering health services, aimed at families of pregnant women and/or children up to 4 years of age, based on building a helping relationship between the interdisciplinary health team and mothers, parents or primary caregivers, which has the principal objective of promoting better environmental and relational conditions to foster the development of the unborn child. The comprehensive home visit is part of a health plan defined by the physician's health team and the type of risk affecting pregnant women and their families, with specific objectives that guide the action to be taken, which are assessed during care. There is also a VDI for families with children aged under four who are vulnerable on account of their biopsychosocial development.

<sup>10</sup> <http://www.crececontigo.gob.cl/wp-content/uploads/2010/01/Gu%C3%ADa-de-la-Gestaci%C3%B3n-y-el-Nacimiento.pdf>.

138. The final activity of the subcomponent of comprehensive care for families with a psychosocial vulnerability is the launch of the Chile Grows with You community network. Under this measure, the mother and her family are linked to the relevant services available in her community.

139. Programme to Support Newborn Babies (PARN). As part of the personalized service component of the birth process, and in order to supplement measures taken under PADB, families receive the set of basic tools for newborns, a set of practical and educational items, composed of secure attachment items, care for the newborn child, an equipped playpen crib, and a clothing package of items for infants up to six months of age. The main purpose of this material is to encourage families to provide comprehensive care for their children by supporting and promoting the ideal conditions for the process of initial bonding between mother, father or caregiver and the baby; to provide instrumental support to families for physical care and to satisfy the basic needs of the baby; and better to meet the physical, psychological and emotional needs of the newborn baby. This activity also seeks to give people a fairer life and provide equal opportunities for development.

140. During the initial health check-up when accessing primary care (PADB), comprehensive care is provided for mother and child to assess their state of health, and also to assess the family circumstances to support the mother and care for the child, the family's initial adjustment process and to promote breastfeeding. During the check-up, emphasis is placed on preventing common biomedical and psychosocial complications of puerperium (depression, overwork of primary caregivers, family adjustment to the arrival of the baby, fear of not being able to take good care of the child, detection of problems with breastfeeding, monitoring and active investigation of psychosocial risk factors, etc.).

141. Chile Grows with You, through PADB, also offers the "Nobody's perfect" workshop to promote parenting skills in fathers, mothers and caregivers of children from birth to five years of age. It consists of group meetings and personal counselling, aimed at sharing experiences of raising a family, learning from others and receiving guidance on common issues to strengthen the development of children, with a strong focus on promotion and prevention. The workshop is run by trained professional facilitators working at the health centres of the 15 regions of Chile.

142. Chapter II, section C of the present report, with particular regard to social security and childcare services and facilities, elaborates on the increase in the coverage of JUNJI nursery schools for children from vulnerable households, and childcare facilities for working mothers.

143. The "4 to 7" programme, devised by the Ministry of the Interior and SERNAM, has the main objective of contributing to the integration and stability in the labour market of mothers and/or women responsible for the care of children aged between 6 and 13, through educational and recreational activities taking place in schools, after school hours on Mondays to Fridays. In 2011 it was implemented in 60 schools, with technical and financial support from the Ministry of Education, JUNAEB and the Ministry of the Interior.

144. SERNAM developed the "Women and Motherhood: Committed to Life" programme, which seeks to: help pregnant women and/or mothers in a complex situation linked to their motherhood to recognize and enhance their resources and skills, and the alternative support in her social network, promote life changes that benefit them, their child and family; encourage the mother and father to take joint responsibility for contributing to the development of responsible parenthood as a factor in protecting maternity and parental development.

145. In this context, in collaboration with the Chilean Foundation for Adoption, SERNAM set up a free and confidential hotline (800 520 100) that seeks to inform, guide, contain, accompany, refer and follow up and/or deliver psychosocial care in cases that

warrant it. To do so, it has 80 professionals, mostly psychologists, social workers and sociologists specializing in various topics (attachment, breastfeeding and early stimulation, teenage pregnancy, mourning the loss of a child, pre- and postnatal depression, postnatal legal consultation, alimony, direct and regular relations, personal care, adoption, unwanted or unplanned pregnancy, and pregnancy in situations of conflict, and sexual abuse). It also has a website: <http://mujerymaternidad.cl/sitio/>.

### **Separation of the child and family reunification (arts. 9 and 10)**

#### *Measures to prevent separation of parents and children*

146. In line with the Committee's recommendation No. 43, SENAME has stepped up non-residential programmes and cut back residential systems. There has been an increase from 510 projects in 2007 (ranging from prevention to specialized, including Offices for the Protection of Rights and diagnosis), to 666 in 2012, with a coverage of 476,552 children nationwide.

147. Furthermore, two new prevention methods are being introduced that include addressing the parenting skills of the adults responsible for the participating children. Of the 666 projects mentioned, 179 are Short-term Action Targeted Prevention Programmes (PIB) with the capacity to cover 14,702 children, using psychosocial and family intervention to address such rights violations as parental neglect, mild abuse, psychological abuse, witnessing domestic violence. There are also 55 community prevention projects covering 5,136 children. They approach the subject from the promotional and educational standpoint.

148. In accordance with the Committee's recommendation No. 45, the coverage of Offices for the Protection of Rights is being increased considerably, from 44 in 2007 to 115 in 2012. In addition, its technical design is being improved, incorporating an objective and outcome associated with the development of parenting skills with a view to preventing parents/mothers separating from their children. A psycho-socio-educational approach is used to strengthen the adults' skills and foster the connection with the network of social services available in their area. Legal support is also provided in appropriate cases.

149. The Offices for the Protection of Rights initiative was assessed in 2008 as part of the study "Management model for the development of a local system for the protection of rights of children and adolescents", the main conclusion of which was the need to strengthen local rights protection policy-making at municipality level, which has been included in the new technical guidelines of the Offices for the Protection of Rights.

150. All SENAME non-resident programmes consider the temporary separation of children from their families only as a last resort. In this connection, there are cooperation agreements with SERNAM and the Ministry of social Development to facilitate families' access to sectoral services and to strengthen their parenting skills. Work along these lines is currently ongoing with Chile Grows with You.

#### *Measures to ensure that personal relations and direct contact are maintained with both parents on a regular basis*

151. In 2009, SENAME upgraded the instructions concerning the child's right to maintain contact with his or her parents, relatives and significant others when separated from them because of a serious violation of rights. In this framework indications were integrated into the policy paper on the residential centres initiative, which was updated and recirculated to all residences in November 2011. This topic was also incorporated into the document Minimum Quality Standards for Residential Intervention, drafted by SENAME in 2009.

152. Consistent with the Committee's recommendation No. 72 (f), note that the presence of the family is of great importance in the process of social reintegration, as stated in article 46 of the implementing regulation of Act No. 20084. In this context, the involvement of a responsible adult, or significant other, is one element of intervention that was been pursued further in the technical guidance of 2011, establishing family intervention programmes that help them to address the process of social reintegration of their children, improve family relationships, and create opportunities for conversation, knowledge and personal growth among young people and their families.

153. In order to promote alternative types of guardianship to institutionalizing children, in line with the Committee's recommendation No. 45, SENAME has changed its policy in the residential system and made technical improvements to the foster families model. There are currently 46 projects covering 3,281 children.

154. SENAME has initiated processes aimed in the medium term at ending residential care for young children and its gradual replacement by fostering. Moreover, as mentioned above, SENAME has developed the Foster Family Observatory and reviewed the mechanism for assessing parenting skills with a view to family reunification.

155. Article 9 of Act No. 20430 establishes the right of refugees to family reunification: "Refugee status by extension may be granted to the spouse or civil partner of a refugee, his or her parents, children and minors under his or her guardianship or wardship."

#### **Recovery of maintenance (art. 27, para 4)**

156. In April 2012, SERNAM submitted comments on the bill on maintenance (Bulletin No. 7765-07) in order to reduce bureaucracy in the system, and improve mechanisms for monitoring and prosecuting parents who fail to make maintenance payments. In practice, the bill proposes the automatic deduction of a maintenance payment by the employer in the case of employed workers, from the fees of self-employed workers, and automatic deduction from the retirement or disability pension of pensioners.

#### **Right to special protection by the State for children temporarily or permanently deprived of their family environment (art. 20)**

157. One of the objectives of the restructuring of SENAME, through the bill that creates the National Child Protection Service (Bulletin No. 8487-07), is to reduce waiting lists in all protection programmes during its early years of operation, increasing the coverage of the programmes and subsidizing the children who are currently cared for without funding from SENAME collaborators under a court order (article 80 *bis* of the Family Courts Act).

#### *Placement in foster homes or alternative arrangements*

158. SENAME is continually improving its technical guidelines with a view to making the separation of children from their family environment the last resort. In this context, the criteria for admission to the residential system were adjusted, with the result that children can currently be admitted only under a court order. Also, it has continued to reduce the number of children that a residence may accommodate, and to promote family living conditions inside, restricting the length of time children stay with a view to reintegrating them into a family, in either their original family, extended family or another arrangement deemed appropriate for their welfare. In 2005 there were 15,000 residential places, while the trend was reversed in 2012, in order to invest in non-residential systems, with 11,428 places in 297 residences nationwide. Eighty per cent of them have coverage for no more than 50 children or adolescents. This guarantees care and at the same time reaffirms the intention that the residential system is the last resort when making a decision about the situation of a child.

*Adoption*

159. Act No. 19620, its implementing regulation and the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption, provide that only SENAME or private bodies accredited to it may be involved in adoption processes, requiring the participation of professional teams specializing in the field. This prevents private individuals mediating in the process for profit.

**Periodic review of placement (art. 25)**

160. In 2010, the technical guidelines of the residences were refined by incorporating quality standards, work with families and assessment of parenting skills as a key criterion for the reintegration of the child into his or her family of origin. Eighty specialized residential projects (PER) were also launched, with 1,285 places, which are attached to the residence to enhance family and remedial intervention, with a view to facilitating and expediting the process of returning to the family of origin or other appropriate arrangement.

161. Worthy of note in this regard are the workshops between SENAME and Family Courts, mentioned above, and the Early Detection System, detailed in chapter II, section B on Adoption, on suitability for adoption.

162. During 2009 and 2010, there was a reorganization of visits by Family Courts to children admitted to SENAME residential centres in the Metropolitan Region and Fifth Region. In order to comply with the mandate of the Convention that any institutionalized child be visited by the judge, a group of magistrates counted up all children admitted by SENAME collaborating bodies, identifying in the Metropolitan Region alone over 1,500 children without judicial intervention, resulting in all of them being currently entered in the Family Courts system for processing cases associated with an admission role. With this new way of working, it was possible to identify groups with common issues as a way of focusing better on their situation and detecting deficiencies in internal administrative operation in the centres visited.

163. By official letter No. 2275 (March 2012), the Ministry of Justice ordered the implementation of a mechanism to supervise protection institutions attached to SENAME. The Regional Minister of Justice will organize and conduct a biannual round of visits to the residences, in order to enquire into the living conditions of the children in each region, with a view to drafting a report embodying comments and recommendations to be submitted to the Ministry of Justice. The Social Defence Division of the Ministry of Justice will act as Executive Secretariat of this body, and may invite UNICEF and a representative of the Ministry of Social Development to join the Secretariat. This supervision mechanism will be operational from the first half of 2012.

164. In order to obtain additional technical advice on this supervision, the Regional Minister of Justice may also invite to take part in this body: a representative of accredited collaborators of SENAME working in the field of rights protection which do not run residential programmes in the region; a representative of civil society institutions working in the field of childhood or young people in the region; a representative from academia, preferably a college of social work or psychology that has an office in the region; and a representative of the Regional Ministry of Social Development.

**Adoption (art. 21)**

165. In the context of the legislation and in the administrative sphere, since 2008 to date, several initiatives have been taken to improve management in the various technical processes involved in adoption. These notably include the Early Detection System (SDP) which seeks to restore the child's right to family life through timely adoption, and through judicial procedures laid down in the current legislation. During 2011, a total of 927 judicial

proceedings were initiated to declare children suitable for adoption, which compares favourably with the 458 cases processed in 2008.

166. Through the development of that system and other initiatives such as the implementation of a system to disseminate the Family of Origin Support and Guidance subprogramme, and improvements made to the systems for measuring the management indicators and targets for adoption, a significant increase was achieved in the number of children benefiting from an adoption measure, from 449 in 2008 to 660 in 2011.

167. Act No. 20545 (2011), mentioned above, introducing postnatal parental leave of three months, also benefits female or male workers who take care of a child for adoption, whatever the child's age.

168. In accordance with the Committee's recommendation No. 47, in 2008 SENAME conducted a campaign, jointly with the Chilean Foundation for Adoption, with the aim of raising public awareness of adoption as a valid way of building a family and helping to prevent discrimination against adopted children and adolescents. The concept of the campaign arose out of a SENAME study in which adopted adolescents said that they felt discriminated against among their peer group or at school, for example. The slogan of the campaign "Love is as strong as a blood tie" was disseminated throughout the country during the month of May, by means of posters, leaflets and radio spots.

169. Intercountry adoption has been promoted in a subsidiary role in relation to domestic adoption, as an excellent alternative for children whose special needs have left them unable to find a family in their country of origin, and there has been a substantial increase in the number of children adopted in this way over the past four years (from 51 in 2008 to 122 in 2011).

170. The role of SENAME has been consolidated as the central authority for the purposes of the Hague Convention on the Protection of Children and Co-operation in respect of Intercountry Adoption, and to date there are 15 foreign organizations in this country accredited to mediate in procedures for the adoption of Chilean children.

171. In view of the recognition of good practices prevailing in Chile in the field, during 2008 and 2012 SENAME professionals carried out two consultations at the request of the National Council for Adoption of Guatemala, designed to provide advice on the process of implementing the new adoption legislation, and the resolution of pending intercountry adoption cases, since they had begun under the old system.

172. In April 2010, the First Meeting of Central Authorities of Latin America took place in Chile, organized by SENAME with the support of the secretariat of the Hague Conference on Private International Law. This event aimed to create a forum for meetings between the different countries of the region, to foster the transfer of knowledge and good practice in international adoption and the design and development of policies, strategies and common technical criteria, to safeguard the best interests of children who are adopted by families living abroad. The meeting was also an opportunity to prepare for the Third Special Commission of the Hague Convention on the Protection of Children and Co-operation in respect of Intercountry Adoption, which would take place in The Hague the following June, drafting a common proposal for the participants' countries origin, which was presented on that occasion.

173. In the field of cooperation, SENAME is currently providing advice to Haiti on the process of reforming the country's legal framework for adoption. In the context of that reform process, in June 2011 the "Montreal Group", formed in 2010 by host countries of Haitian children, led by Canada and France, met in Haiti to review the process of reforming the regulations on intercountry adoption in that country, in general, and in particular the prospects for resuming the adoption processes that had been suspended after the earthquake



that struck the country in January 2010. On that occasion Chile was invited to take part as the only country of origin of children subject to intercountry adoption, through SENAME in its capacity as Chilean central authority on intercountry adoption.

174. In 2008, SENAME set up the “Origin search” subprogramme, mentioned above, designed to provide technical advice and satisfy the requirements of adult adoptees or adopters wishing to locate an adoptee’s biological family, in accordance with the provisions of the Adoption Act No. 19620.

**Abuse and neglect, including physical and psychological recovery (art. 19) and social reintegration (art. 39)**

*Children whose rights have been violated*

175. In recent years SENAME has stepped up the publication of guidelines and technical and administrative instructions aimed at promoting decent treatment of children and adolescents separated from their families, who are in the care of collaborating institutions.

176. In accordance with the Committee’s recommendations Nos. 9 and 49, and as noted in the preceding paragraphs, SENAME has introduced two new preventive methods, related to addressing the parenting skills of the adults in charge of the participating children:

(a) Short-term Action Targeted Prevention Programmes (PIB): these are designed to resolve associated rights violations of medium complexity (such as neglect, witnessing domestic violence, mild abuse), affecting children and adolescents, and prevent any worsening. To that end it is proposed to foster the development of parenting skills of adults with dependent children, through family therapy, counselling, educational workshops, etc. Of the 666 non-residential projects, 179 are PIBs covering 14,702 children. Between 2008 and 2011 the programme has handled 95,598 children.

(b) Community Prevention Programmes (PPCs): these are designed to prevent violations of the rights of children and adolescents, together with the children, their families and other community players in a particular territory. To do so, it is proposed, among other outcomes, to promote decent treatment skills in the families of the children through socio-educational workshops. SENAME is currently running 55 PPCs covering 5,136 children.

177. To meet new demand and to develop a more comprehensive approach to rights violations, the number of abuse redress projects (covering 4,414 children) was increased to 67 and sexual exploitation projects (covering 800 children) to 16. Meanwhile, the Specialized Comprehensive Programmes (PIE) are equipped to care for children in extremely complex situations (street children, commercial sexual exploitation, moderate drug use), covering all regions of the country, especially those where there are no targeted programmes, with 4,664 places.

178. The Carabineros Comprehensive 24 Hour Safety Programme (PSI: 24 Horas) aims to contribute to prevention, protection processes and control of risks and/or participation in criminal activities, through the availability of valid and timely information regarding children and adolescents admitted to Carabineros police units. To run this programme, the Carabineros has a database in which admissions to police units are recorded. This list is sent to the municipalities with which there is a cooperation agreement (to date the Carabineros has signed agreements with at least 290 municipalities in the country), to provide information on the status of a child and, where necessary, to manage admission to a care project depending on the child’s circumstances.

179. In 2010, the New Life Programme was launched with the aim of creating and organizing specialized psychosocial intervention strategies for children and adolescents, in

line with the principles of the Convention on the Rights of the Child, offering children and their families care and access to social services and/or programmes in prevention and specialized protection, rehabilitation and social reintegration. This programme introduced a territorial management model for the protection of rights at local level, with care facilities at various levels (OPD, PIB, PIE and drug education and rehabilitation programmes). New Life is an intersectoral management and intervention model involving the Carabineros (through PSI: 24 Horas), the Ministry of the Interior, the Ministry of Health and SENAME. The programme was set up in eight districts of the Metropolitan Region, where SENAME contributed to the installation of 53 projects: 8 Offices for the Protection of Rights, 10 Short-term Action Targeted Prevention Programmes, 19 Specialized Comprehensive Programmes, 8 drug programmes and 8 educational reintegration programmes; SENAME also provided advice and technical support for the programme, from both national and regional levels.

#### *Domestic violence*

180. The first national survey of victims of domestic violence and sex offences was conducted in 2008, in order to obtain relevant information on the levels of victimization caused by these phenomena affecting the population nationwide. The survey will be conducted again in 2012. Work is currently in progress with other institutions to improve and validate the tools to be applied this time. The information will be collected between June and October and the results will be available in the first half of 2013.

181. The Domestic Violence Act No. 20066 provides that SERNAM is responsible for devising an annual National Action Plan to tackle domestic violence, in coordination and cooperation with relevant public and private bodies. In January 2011, SERNAM convened various stakeholders to participate in two workshops to develop together the National Plan 2011–2012 which has four topics (promotion, prevention, care and protection) and four cross-cutting themes (coordination, research and study, continuing education and specialized training, and monitoring and evaluation).

182. In providing care to victims of domestic violence, in 2007 SERNAM opened 16 shelters, rising to 24 in 2011, with a presence in all regions of the country. The shelters are intended to provide temporary protection for women (and their children) who are in grave danger and/or at risk of their lives, mainly from their partner. Admission is generally by referral from the regional victim and witness support units (URAVIT) of the Attorney-General's Offices (74 per cent of admissions in 2010). In the first quarter of 2011 257 women and 332 children were admitted.

183. In 2011, SERNAM (in partnership with Hogar de Cristo) implemented the pilot for the Early Warning programme, which seeks to prevent and promptly detect domestic violence affecting children attending the nursery schools taking part in the pilot, incorporating in the training elements relating to decent treatment, improving the establishments' knowledge of family violence, and delivering guidance and information on this topic to the local community. The programme involves a psychologist working with the educational community (children, parents, educators and nearby community networks).

184. An important element of intersectoral coordination is the Intersectoral Protocol for children and adolescents who are indirect victims of homicide or parricide in the context of violence against women, which was signed in 2009 by the Carabineros, the Ministry of the Interior, SENAME and SERNAM, and which helped to coordinate action to protect the children of women victims, who are regarded as collateral victims.

*Centre for Precautionary Measures*

185. In 2007, with the aim of establishing a body to provide urgently the necessary precautionary measures in cases of child protection measures and allegations of domestic violence, without having to wait for the hearing that determines the ordinary family procedure, a Centre for Precautionary measures was set up in the Metropolitan Region, where judges from the four courts of Santiago attend and hold immediate hearings or resolve urgent requests, subsequently referring the materials to the appropriate court. Following the success of this centre, and with a view to allowing judges to specialize in protection measures and domestic violence, in September 2010 the Supreme Court (Act 135-2010) set up the Santiago Centre for Precautionary Measures, which operates under the direction of a coordinating judge and with its own administration, with the participation of three judges for each court of Santiago, and in order to learn about the processes of protective measures, breaches of the law and domestic violence from their initiation and until settled by those same judges. The Centre has enabled common procedural criteria to be devised, and the judges to specialize in these matters, so as to deliver quality justice.

186. The main results of the Santiago Centre for Precautionary Measures are:

- (a) Availability of judges with specialist knowledge of these matters.
- (b) Immediate hearings for anyone requiring a precautionary measure in cases of domestic violence and serious rights violations.
- (c) An end to the waiting lists in SENAME programmes providing psychosocial diagnosis reports (DAM), vital for deciding family matters, which previously meant waiting about eight months.
- (d) Coordinated visits by family judges to all children admitted to residential centres in the Metropolitan Region, which in 2010 allowed them to check the situation of more than 3,900 children. Before the project was launched, more than 1,700 of these children lived in SENAME residences without the knowledge of the family courts.
- (e) Regarding specialized remedial programmes for seriously abused children (PIE and PRM), waiting lists were reduced significantly, but given the nature and duration of such intervention, it was not possible to reduce waiting times to zero, as the study revealed the need for additional resources.

187. Within the Centre for Precautionary Measures, an even more specialized Protection Unit was set up, with the aim of analysing and monitoring all the procedures followed for children admitted to a residential scheme run by SENAME on account of a serious violation of their rights. This Unit keeps an up-to-date register of all children admitted to homes in the Metropolitan Region to make sure that they remain visible and that the necessary measures are taken to remove them as soon as possible from the residences. The Protection Unit has proven highly effective in managing them, which has led to this model being replicated in some regions of the country, such as Antofagasta, Concepción and Chiloé.

188. In 2011 the technical work began for the installation of a Precautionary Measures Unit in the Fifth Region, replicating the working methodologies of the Centre for Precautionary Measures of Santiago, while taking account of the local situation.

**C. Disability, basic health and welfare (arts. 6, 18 (para. 3), 23, 24, 26, 27 (paras. 1–3) and 33)**

**Children with disabilities (art. 23)**

189. In line with the Committee's recommendation No. 52 (b), in August 2008 Chile ratified the Convention on the Rights of Persons with Disabilities (CRPD), thereby undertaking to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity. Concerning children, CRPD states as one of its general principles (art. 3 (h)) respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities. It also includes a special section on "children with disabilities" (art. 7), in which States parties give a number of undertakings in relation to them. Notwithstanding this, all the principles set out in CRPD relate also with children with disabilities, since any reference to "persons" includes them without distinction.

190. Act No. 20422 (2010), laying down rules governing equal opportunities and social inclusion for persons with disabilities, relates to one of the obligations under the Convention on the Rights of Persons with Disabilities, adapting Chilean legislation to the principles set out in the Convention. The Act establishes the National Service for the Disabled (SENADIS), a functionally decentralized public service with locations throughout the country which has as its purpose the promotion of equal opportunity, social integration, participation and accessibility for persons with disabilities. SENADIS is the legal successor of the National Disability Fund (FONADIS) and reports to the President of the Republic through the Ministry for Social Development.

191. Through the Technical Assistance programme, SENADIS provides full or partial funding for technical aids<sup>11</sup> for persons with disabilities, focusing its work on persons of limited resources, or non-profit-seeking organizations caring for such persons. In this context, the Early Intervention programme, which provides technical aids in the form of hearing aids, orthoses, prostheses, and some rehabilitation facilities for children belonging to Chile Grows with You, operates continuously and welcomes all children with physical and sensory disabilities between 0 and 6 years of age, without requiring them to be enrolled in the National Disability Register. Children aged between 6 and 17 have to apply to receive technical aids, which are provided after an assessment of socioeconomic level and degree of disability, which must be certified by a preventive medicine and disability commission (COMPIN). In 2010, 7,584 technical aids were supplied to 3,967 beneficiaries. In 2011, 9,516 technical aids were supplied to 5,033 beneficiaries, at a cost of some \$3,419 million.

192. Each year SENADIS runs the National Project Competition for the Social Inclusion of Persons with Disabilities, which seeks to promote inclusive initiatives at regional level to encourage citizens' participation, accessibility and equal opportunities for persons with disabilities in inclusive contexts. The competitive grant funds are administered by SENADIS, providing full or partial funding for projects. The credit lines are linked to the areas of health, education, employment and accessibility. In 2010, 307 projects were funded at a total cost of \$1,033 million.

193. In the education section, the competition is open to public and private educational institutions. The beneficiaries of the project are children and young people with disabilities,

<sup>11</sup> Technical aids are the items or tools that a disabled person requires to prevent their disability from degenerating, improve or regain their functionality, or lead an independent life.

with priority for those with limited resources, admitted to study, who have not had any educational support or are regular students; and children and young people belonging to Chile Grows with You, the Pathways Programme or the SENAME network. The resources funded include support professionals and sign language interpreters, technology (specific hardware and software), educational materials, adapted furniture, architectural adaptations (students with reduced mobility and wheelchair users), transportation for students with physical disabilities, and support teachers for integration and inclusion. During 2010, the programme supported 544 students, attending various educational institutions throughout the country from the preschool level to higher education, funding 220 projects at a cost of \$710 million. In 2011, 183 projects were funded, supporting 514 students at a total cost of \$577 million.

194. The Bureau of Children and Disabilities was established in May 2011. It aims to organize and optimize the material and human resources provided by the State and private institutions, fostering early intervention and the comprehensive development of children between 0 and 6 years of age who have special needs associated with disability and are late in their development, in order to help them to be included in ordinary educational institutions. The following institutions take part in these bureaux: the Ministry of Social Development, SENADIS, the Department of Education and Health of the Ministry of Education, the Special Education and Early Childhood Education Unit, Chile Grows with You, JUNJI, INTEGRA, Teletón, the Pedro Aguirre Cerda National Institute of Rehabilitation, JUNAEB and SENAME.

195. SENAME has incorporated an inclusion approach into the technical guidelines for all rights protection measures, so as to create the conditions for effective integration of disabled children into the network, avoiding creating new specific programmes for them that could result in segregation. While this transition takes place, and as noted in section I.B., provision of protection for children with disabilities and whose rights have been violated is continuing, amounting to nine non-residential projects that can care for 500 children, and 22 homes for the disabled with 1,586 places.

196. In juvenile justice, the main thrust of care for young people with disabilities is differentiated, promoted and prioritized intervention. Each intervention team has to define, implement and monitor the intervention with young people, according to their needs, interests and degree of disability. In this context, great importance is attached to the management and coordination of sectoral networks, including the areas of health, education, training and SENADIS, among others.

#### **Health, survival and development (art. 6 (para. 2) and 24)**

197. The National Health Strategy 2011–2020 (ENS), prioritizes a set of strategies to reduce morbidity and mortality, improving health at key stages of people's life, such as the perinatal period, childhood and adolescence. Through this strategic objective, it is hoped to apply an approach that covers the entire life cycle and recognizes the influence of events in the early years of life and intergenerational factors in future health outcomes, thereby building a more equitable health system and creating synergies between the various areas of the programme.

198. ENS, through the benefits delivered by Chile Grows with You, prioritizes three areas of intervention to ensure comprehensive development of children, and to reduce the prevalence of lags in children under 5 years. These areas are: promoting comprehensive child development; primary prevention of delayed development in children by means of the health check, which is designed as an intervention that calls upon differentiated services according to the needs of the child and family); and secondary prevention of delayed child development (through stimulation rooms, home visits, and group educational events for parents and caregivers to stimulate development and support breastfeeding). Another aim of

the strategy is to continue reducing infant mortality, linking the main strategies in relation to early neonatal deaths, for which it is proposed to step up interventions that improve the quality of care for high obstetric and neonatal risks.

199. The Explicit Health Guarantees (GES) cover 69 diseases overall. In line with recommendation No. 54, the following child and/or adolescent health problems (and related issues) have been included since the previous report until the present: cervical cancer; type 2 Diabetes mellitus; breast cancer in persons aged 15 and over; schizophrenia; acquired immunodeficiency syndrome (HIV/AIDS); primary or essential hypertension in persons aged 15 and over; prostate cancer in persons aged 15 and over; strabismus in children under 9 years old; haemophilia; depression in persons aged 15 and over; ischemic stroke in persons aged 15 and over; outpatient treatment of chronic obstructive pulmonary disease; severe bronchial asthma in children under 15 years old; respiratory distress syndrome in newborn babies; surgical treatment of primary tumours of the central nervous system in persons over 15 years of age; leukaemia in persons aged 15 and over; outpatient dental emergencies; cystic fibrosis; alcohol and drug abuse and addiction in persons under 20 years old; analgesia for labour pains; severe burns; retinopathy in premature babies; pulmonary dysplasia in premature babies; bilateral sensorineural hearing loss in premature babies; non-refractory epilepsy in persons aged 15 and over; bronchial asthma in persons aged 15 years and over; juvenile idiopathic arthritis; secondary prevention of end-stage renal disease, infant hip dysplasia; comprehensive oral health of pregnant women; and relapsing-remitting multiple sclerosis.

200. The Ministry of Health has produced a guide on the preventive medicine check-up throughout the life cycle. In children, the main interventions defined are: newborn babies: phenylketonuria, congenital hypothyroidism and developmental dysplasia of the hip; infants (3 months): developmental hip dysplasia; children age 4: overweight and obesity; amblyopia, strabismus and defects in visual acuity; and detection of bad oral habits that cause dento-maxillary abnormalities that are preventable in children between 2 and 5 years of age.

201. Through Chile Grows with You, particularly PADB and its components, the following activities are being carried out to strengthen comprehensive child development:

- (a) Admission to prenatal care: comprehensive, systematic and regular care for pregnant women with their partner (or significant other), which is regarded as crucial to the establishment of a helping relationship between the mother and the midwife, and assessment of psychosocial risk.
- (b) Drawing up a personalized health plan for every pregnant woman and her family in a vulnerable psychosocial situation based on identified needs.
- (c) Personalized comprehensive care before and during the birth, which must take account of the mother's emotional and physical needs, with appropriate pain management and respect for cultural relevance.
- (d) Personalized and comprehensive care for newly-delivered women and their babies. This involves a continuous assessment of the physical and emotional state of the mother and her newborn baby, with emphasis on detecting early indicators of postnatal depression and difficulties in establishing an emotional bond with the newborn baby.
- (e) Comprehensive care for newborn babies hospitalized in neonatology units.
- (f) Comprehensive care for children hospitalized in paediatric units.
- (g) Admission of healthy children to health check-ups.
- (h) Health check-up with assessment and follow-up of overall development.

202. The Ministry of Health's main activities concerning children over the period are as follows: improvements in screening high-risk obstetrics; developing strategies for prevention of premature birth; implementing regional programmes decentralizing perinatal care; development of adequate systems of neonatal transport; closing the gaps in equipment and human resources for the care of newborns at high risk, particularly the extremely premature; introduction of cost-effective evidence-based interventions; implementation of national databases and centres for newborns at high risk; development of care procedures for pathological newborn children; and implementation of monitoring and surveillance of the results obtained by centres regarding survival and disease fatality in order to keep improving the quality of neonatal care.

### *Breastfeeding*

203. Chile has made sustained efforts through the Children's and Women's Health Programme to increase the prevalence of exclusive breastfeeding (EBF) at the sixth month. The prevalence of EBF has increased from 13 per cent in 1993 to 44 per cent in 2010.

204. Since 2007, Chile Grows with You has provided important support for breastfeeding through the promotion of mother-child bonding and changes in delivery care. The most important aspects of the process in relation to the policies of promoting breastfeeding and comprehensive early childhood development issues are linked to promoting immediate skin-to-skin contact in the first hours of life, stimulating the initiation of breastfeeding and including it as an important measure for the overall health of the child. Moreover, priority is given to educational content on monitoring child health and prenatal check-ups.

205. It is important to highlight the efforts made to train accreditors of mother- and child-friendly institutions (health centres, hospitals, crèches and nursery schools) and to train health and intersectoral teams. The Breastfeeding Manual has been updated and educational materials for the general population (video, leaflets, posters) have been produced and distributed. Surveys on breastfeeding have been conducted, recording the prevalence of exclusive breastfeeding broken down by region and health service.

206. In July 2012 the Ministry of Health launched the "Choose breastfeeding" campaign in order to encourage exclusive breastfeeding during the first six months of life. Also worthy of note is the publication of Act No. 20545 that extends postnatal maternal leave to six months.

### *Obesity*

207. In line with the Committee's recommendation No. 54, reducing overweight and obesity has emerged as a major public health challenge in the country for the next 10 years. The target selected by ENS is to reduce obesity in children aged under 6, a key stage for reducing the likelihood of obesity when they get older.

208. Since 2007, Chile has had information on weight-for-age, height-for-age and weight-for-height in relation to the WHO tables, as Chile was the first country in the region to adopt this reference standard. The integrated nutrition diagnosis is also analysed, which looks at personal history, birth weight, rate of weight gain, diet, intercurrent morbidity and the physical characteristics of the parents, which can differentiate between a genetic variation in growth and a real nutritional risk.

209. The Nutritional Intervention Programme for all stages of life has been reinforced in the framework of the Global Strategy against Obesity (EGO-Chile). This measure, benefiting about 1,000,000 children under 6 years of age and more than 90,000 pregnant women and their families, has led to the following new activities:

- (a) Healthy child nutritional consultation at 5 months and 3½ years;

(b) Counselling on recovering pre-gestational weight in the third and sixth months after giving birth;

(c) Monitoring and educational workshops for obese children aged under 6.

210. Under the Communal Health Promotion Plans, a total of 81 communes implemented community promotion plans during 2010. The budget allocated was \$48 million. With the aim of supporting communes with higher rates of obesity among schoolchildren in implementing strategies to improve environments that support behavioural change, the Communal Health Promotion Plans promoting physical activity and healthy eating were implemented in 22 communes. The budget allocated for this task was \$180 million. Promotion plans focusing on physical activity and healthy eating were carried out in communes in all regions.<sup>12</sup>

211. The National Food Supplement Programme (PNAC) is a universal programme that comprises a number of preventive and remedial nutritional support activities, under which foods are distributed for children under six, pregnant women, nursing mothers and others, through the local primary health care network under an agreement with the Ministry of Health. It serves the purpose of lessening nutritional shortfalls, expressing genetic potential, covering financial shortfalls, promoting acceptance of health measures, and adapting to the changing epidemiology of our population. The programme provides monthly food supplements that provide calories, macro- and micronutrients that are appropriate to age, physiological condition, nutritional situation, prematurity and associated morbidity. The population who received products under this programme in 2010, broken down by type of user, was as follows: children aged under 6: 701,588; pregnant women: 63,527; breastfeeding mothers: 46,569; and premature babies: 2,342. The budget invested in this programme during 2010 was \$44,258,000.

212. Under the school meals programme (PAE), JUNAEB delivers daily supplements of food (lunch, breakfast or afternoon snack), differentiated for the most vulnerable students in municipal and subsidized private levels of nursery (lower and upper foundation), primary and secondary education. The food supplied covers about a third of the daily needs of primary and secondary education pupils and between 45 and 50 per cent of the needs of preschoolers. In 2011 an average of 2,046,339 meals were served daily. For students belonging to Chile Solidario programme, this benefit is supplemented by the supply of a booster snack equivalent to 200 or 300 extra calories depending on the educational level. JUNAEB also conducts nutritional assessments on pupils in the lower and upper foundations levels of nursery, primary grade 1 and secondary grade 1.

213. For the 2010 budget process, JUNJI adopted a performance indicator “percentage of preschool children enrolled in the network who maintain a normal nutritional status between the start and end of the year”. To that end, enrolled nursery pupils were assessed in relation to the WHO reference Child Growth Standards (a technical regulation also applied by the Ministry of Health). The assessment was initially conducted (March) on 18,796 nursery pupils, 14,197 of whom maintained their initial normal nutrition status, equivalent to 75.5 per cent. These results are considered satisfactory given the national trend of weight gain in children for reasons related to physical inactivity and poor diet.

#### *Prenatal and postnatal care for mothers*

214. As part of the strategies to improve care during pregnancy, the Ministry of Health has developed regulations. They include: breastfeeding manual; perinatal guide; neonatal care guide; manual of personalized care in the reproductive process; and rules for regulating

<sup>12</sup> Except for the region of Coquimbo.



fertility. In addition, the ALARM course in emergency obstetrics took place in 2008, with international advice, aimed at obstetricians and midwives in the assistance network of the public system. Training and in-service refresher courses in comprehensive newborn care have also been given to professional midwives in the assistance network of the public system.

215. Under its PADB, Chile Grows with You offers a number of benefits to support mothers during pregnancy: admission to prenatal check-up, design of personal health plan for each pregnant woman and her family in a vulnerability psychosocial situation, and personalized comprehensive care for labour and delivery.

#### *HIV/AIDS*

216. According to the Ministry of Health, the HIV epidemic in Chile is concentrated, in other words, it is transmitted in specific groups of the population, with prevalences of over 5 per cent in populations at risk (such as homosexual and bisexual men) and under 1 per cent in pregnant women. The epidemic is characterized by predominantly sexual transmission (95 per cent of reported cases), concentration in young adult males aged between 20 and 39, and mainly affects people with lower levels of education. Over the period 2004–2008, AIDS mortality showed a steady decline, to 2.3 deaths per 100,000. This steady decline can be linked to guaranteed access to antiretroviral therapy (ART).

217. To achieve the goal of reducing mortality from AIDS, various strategies referred to in the comprehensive care, support and treatment policies in the National AIDS Programme are followed. These include: incorporation of ART in the Explicit Health Guarantees (GES); a psychosocial support programme for acceptance of ART; work associated with organizations of people living with HIV/AIDS to train counsellors who support their peers in accepting treatment and health checks; ongoing training and updating of multidisciplinary care teams; and implementation of the care model for people with HIV/AIDS.

218. Thanks to the incorporation of ART within GES, Chile offers access to ART, covering 100 per cent of seropositive adults, children and pregnant women who are beneficiaries of the Public Health System. Public policy on HIV/AIDS in Chile and fundamentally the provision of ART, have helped reduce mortality due to AIDS by 67 per cent over the 20 years that the epidemic has evolved, while survival in persons in treatment after 24 months of follow-up is 92.8 per cent and virological efficacy over the same period is 80.4 per cent. This shows a clear improvement in people's quality of life, demonstrated by the lower incidence of opportunistic infections, which was 3 per cent in people in treatment after 36 months of follow-up.

219. HIV screening conducted in the country and the number of people tested have increased, but based on "captive" populations. The tests include pregnant women in prenatal check-ups and blood donors, focuses that seek to prevent paediatric infection in the first case, and ensure infection-free transfusion in the second. Despite the increase in testing, the proportion of those tested positive by the Institute of Public Health has declined, because both populations are of low risk and have a low prevalence of HIV infection. These strategies, which were implemented in Chile for pregnant women in 2005 and for blood donors in 1987, have had a high impact, reducing vertical transmission of HIV from 28 per cent (before 1996, when no preventive treatment protocol was available) to 4 per cent in 2009, while no cases of infection by transfusion have been reported since the 1990s.

220. The 2010 prevention campaign, which focused on the populations most vulnerable to HIV/AIDS — young people aged between 15 and 29 and men who have sex with men — used innovative technologies that were more effective in the target groups. The campaign had goals of persuasion, such as delaying the initiation of sex among young people,

fostering the use of condoms, stepping up research and reducing exposure to infection. The website [www.quientienesida.cl](http://www.quientienesida.cl) was used to provide information, show videos and interact through online chats, especially with young people, while events in meeting places was the strategy to reach the homosexual population, giving priority to direct contact to allow guidance, clarification of doubts and personalized support to this population.

#### *Migrant children*

221. Any resident, regardless of their legal status, even undocumented, can have access to free emergency care in public hospitals. This has been spelt out in the instructions issued by the Ministry of Health (communication No. 3229 of June 2008) concerning care for immigrants at social risk and without legal residence status. This communication refers to a series of initiatives agreed by the Ministry of Health in conjunction with the National Health Fund (FONASA) and the Aliens and Migration Department of the Ministry of the Interior, with a view to resolving some health issues that may affect certain groups of the immigrant population in Chile, as listed below.

222. Pregnant women. Since 2003, women in an irregular immigration situation who fall pregnant while residing in Chile may regularize their migration status solely on account of their pregnancy, in order to receive care in the public health network. Since that year, an average of around 300 residence permits have been awarded annually under this procedure, the vast majority of the women being of Peruvian nationality. The Government's main concern has been to have pregnant migrant women registered with health clinics nearest to their places of residence in order to facilitate the control and monitoring of their pregnancies.

223. Children and adolescents under the age of 18. By Exempt Resolution No. 1914 of March 2008, a cooperation agreement was signed between the Ministry of Health and the Ministry of the Interior, under which it is agreed to provide all foreign children and adolescents under the age of 18 with health care in establishments of the public health system on an equal footing with their Chilean counterparts; it applies to all children under the age of 18, regardless of their migration status in Chile or that of their parents, guardians or legal representatives. The benefit has to be applied for at the health clinic nearest to their place of residence.

224. On the platform of the Chile Grows with You registration and monitoring system, there are 1,375 foreign women who have had a pregnancy check-up. There are 2,783 beneficiaries on the platform of the newborn support programme. These data are for April 2012.

225. Refugees and applicants for refugee status: Refugees in Chile have access to health care on the same footing as Chileans. To make this measure more effective, a special agreement between the Aliens and Migration Department of the Ministry of the Interior and the National Health Fund, which has been approved and is in force, also gives applicants for refugee status the right to health care while the migration authorities are deciding on their status (Communication No. 2551 of June 2008). The problem that gave rise to this agreement was the amount of time elapsing between applications for refugee status and their acceptance or rejection.

226. The Ministry of Health has consistently acted to improve the health situation of immigrants and refugees in Chile. The establishment of the Immigrant and Refugee Health Advisory Group (SIR-MINSAL), coordinated by the Research Department, is evidence of that. The foregoing relies on the need to generate information to improve knowledge and hence to implement health measures to benefit these groups. Emphasis has been placed on treating the most vulnerable groups in order to devise promotion and social protection measures in health. The objectives of this working group are: to ensure that there is proper

coordination between the various departments within the Ministry as regards the SIR-MINSAL advisory working group; to take part in interministerial and international commissions on migration and refugees; to advise on the health impacts of national and international initiatives by outside agencies on migration issues; to conduct studies and propose regulations and action in the field of protecting and promoting the health of immigrants and refugees; and to disseminate the studies and regulations adopted on the health of immigrants and refugees.

### *Indigenous peoples*

227. The Special Programme for Health and Indigenous Peoples, in operation since 1996, currently operates in nearly all regions of the country, with 25 of the 29 health services taking part. This programme takes an active role in national, regional and local coordination, alongside indigenous organizations and stakeholders, to devise strategies to provide comprehensive health services that are culturally appropriate for regional and local realities. It has a Health and Indigenous Peoples Policy and technical guidelines have been devised for the health services and SEREMI.

### **Communicable and non-communicable diseases**

228. The objectives of ENS include addressing communicable diseases, HIV, tuberculosis, and acute respiratory diseases. It is also responsible for chronic non-communicable diseases (cardiovascular diseases and mental health disorders), associated risk factors, and violence.

229. The Ministry of Health conducted the National Health Survey 2009–2010 which covers 42 health issues, which were diagnosed using self-assessment questionnaires, quizzes and biophysiological and biochemical measurements. The survey is representative of national, regional and urban-rural situations. The results show that in recent years no progress has been made in reducing the risk factors of smoking, obesity, alcoholism, low physical activity and poor diet. There are also still major differences by socioeconomic level, the most vulnerable people having worse outcomes.

### *Respiratory infections*

230. Chile has a National Immunization Programme<sup>13</sup> (PNI) for invasive *Streptococcus pneumoniae*. Implementation began in 2007 of a prevention programme for pneumococcal infections in older persons, through the introduction of the pneumococcal vaccine and, in 2010, the Pneumococcal Campaign extended the target population to all children born after 1 November 2010. This is a milestone for equity in our country, as it benefits all children during their first year of life. Projected coverage for this vaccine is the same as that reported for other vaccines administered during the first year of life, namely at least 95 per cent. The PNI is investing some \$10,000 million a year in this vaccination strategy, equivalent to about one million doses.

231. The Winter Campaigns are part of a plan to tackle the increase in consultations for acute respiratory infections (ARI) in winter time. As part of this plan, certain measures are taken to expand coverage of care, such as the radiology diagnostic support programme,

<sup>13</sup> The National Immunization Programme (PNI) is an organized set of vaccination programmes aimed at preventing disease, disability and secondary deaths from infectious immuno-preventable diseases relevant to the Chilean population throughout their entire life cycle. The PNI targets the diseases listed in a Supreme Decree, and to date includes the following 13 diseases: tuberculosis, diphtheria, whooping cough, tetanus, poliomyelitis, invasive *Haemophilus influenzae* type b infections, hepatitis B, measles, rubella, mumps, influenza, pneumococcal infections and human rabies.

short-term inpatient care in acute respiratory infection wards, applying a risk factor to deaths from pneumonia, the conversion of hospital beds and financial support for human resources, drugs and equipment.

232. In the area of surveillance, Decree No. 158/04 (2010) added pneumonia and severe acute respiratory infection as notifiable diseases. Sentinel influenza surveillance is also maintained by the Department of Health Statistics and Information (DEIS), which monitors emergency treatment for respiratory complaints and primary health care consultations, through 15 sentinel sites. This tool helps to assess the impact of the control measures implemented and identify the circulating strains and changes in the disease's epidemiological profile.

233. Up to 2010, the out-patient oxygen programme, for children and chronic obstructive pulmonary disease patients with respiratory failure, covered over 2,200 people needing this treatment. Likewise, the non-invasive ventilatory support programmes for children (AVNI) and adults (AVNIA) were introduced and successfully implemented. These programmes aim to avoid lengthy hospitalization and to return patients dependent on ventilatory support, whether of neuromuscular or respiratory origin, to their family environments. Another important factor of note is the inclusion from 2007 of chronic obstructive pulmonary disease and asthma patients aged under 15 in the GES scheme. Asthmatics of all ages were subsequently included as well.

234. AH1N1 influenza vaccination campaign: for 2010 it was planned to purchase 2,002,660 doses of vaccine for the influenza vaccination strategy, to immunize nationwide the target group of pregnant women over 13 weeks in gestation, children aged between 6 and 23 months, chronic patients of all ages, adults aged over 65, and health personnel. After the earthquake of 27 February, as an extraordinary preventive measure in the O'Higgins, Maule, Bío Bío and Araucanía regions, the Under-Secretary of Health decided to extend the vaccination programme to include children aged between 2 and 14. This measure was implemented with the purchase of 500,000 doses and a donation of 1,200,000 doses managed by the Pan-American Health Organization and private laboratories. Finally, 3,566,942 people were vaccinated against AH1N1 in 2010. Note in particular that thanks to the redoubled efforts of regional health teams, a total of 3,096,274 people were vaccinated during March and April alone.

#### *Tuberculosis*

235. The number of cases of tuberculosis in children has declined and severe cases are exceptional. This is explained by the vaccination of bacillus Calmette-Guérin (BCG), which in 2009 covered 95 per cent of the country. This trend applies to both sexes, although men are at higher risk over their life cycle. The age structure of tuberculosis distribution matches that in developed countries that are at advanced stages of controlling the endemic. Another strategy adopted was in-service training of human resources at the various levels of the health system. This has allowed technical regulations to be applied from local to central level.

#### *Relevant immuno-preventable infectious diseases*

236. The following activities were carried out under PNI:

(a) Measles-rubella campaign: in order to prevent further outbreaks of measles-rubella, in late 2010 this campaign was conducted for 871,508 children between 1 and 5 years of age, achieving progress in consolidating the elimination of measles and congenital rubella syndrome in the country. This strategy was extended until June 2011 to enable all children under 5 to receive this important benefit. The total cost of the campaign was \$1,522 million.

(b) Implementing the National Immunization Registry (vaccines): this is a computer system that uses a web platform designed to identify each person who receives and administers an immunization, with details of the vaccine administered. The aim is to improve the safety and quality of the process, resulting in continuous online monitoring of vaccination activities at national, regional and commune levels and by establishment.

#### *Oral health*

237. The strategies in the sector have been mainly preventive. One was the fluoridation of drinking water in 14 regions, covering nearly 83 per cent of the urban population nationwide. In rural areas the School Food Programme with Fluoridated Milk (PAE/F) was implemented for rural primary schools from grades 1 to 8. This programme currently serves 240 communes, with a total of some 3,520 schools and 210,000 children. In the field of protection and damage limitation, action was focused on periods of tooth eruption for both milk and permanent teeth; comprehensive dental care was therefore prioritized for children aged 2, 4, 6 and 12, and pregnant women.

238. The JUNAEB Oral Health Programme, operating since 1991, seeks to improve the oral health of vulnerable pupils in preschool and primary education in municipal and subsidized private education, through clinical, preventive and educational activities to promote equal opportunities, and to encourage them to stay in school and complete their education. In 2012 it expects to serve 230,093 students with a budget of \$6,017 million.

#### *Healthy lifestyle*

239. The JUNAEB Healthy Schools for Learning programme, operating since 1997, seeks to promote a healthy lifestyle through regular physical activity and healthy eating. It is intended for pupils in preschool and primary education, institutions with high rates of obesity in primary grade 1 and socio-economic vulnerability (measured by IVE SINAIE) where no other programmes are available. In 2012 it expects to serve 7,941 children.

240. The prevalence of overweight and obesity in the child population has increased in Chile, which is why both the Ministry of Health and the Ministry of Education, through JUNAEB and JUNJI, have implemented various initiatives, as detailed in section II.C. on obesity.

241. In 2011 implementation began of the Choose Healthy Living (EVS) programme, with the aim of promoting a cultural change in the population that promotes healthy habits to prevent non-communicable diseases and risk factors associated with them, through a positive, cross-cutting, and proactive socio-educational strategy, offering people an independent choice of alternatives for their quality of life. EVS invites citizens to make four commitments to improve their quality of life: healthy eating, physical activity, family life, and outdoor living.

242. In 2012, the Ministry of Education proposed an increase to four hours of compulsory physical education in first to fourth grade of all primary schools in the country, to address the issue of a sedentary lifestyle from the early years of schooling. This is complemented by a new curriculum for primary grades 1 to 6, which will incorporate lessons that help pupils adopt a healthier lifestyle. The curriculum is currently at the consultation stage, prior to a review by the National Education Council.

#### *SENAME*

243. The technical guidelines for all SENAME protection programmes incorporate the promotion of physical and mental health for the children served, in coordination with the health services available in the local area, through networking. Also, as part of the redefinition of rights violations affecting children, they can access the required

psychological care, whether preventive or specialized. Moreover, SENAME, together with the Ministries of Health and Justice, is designing a pilot mental health care model for children and adolescents with moderate to severe biopsychosocial conditions and special needs, mainly users of specialized outpatient and residential programmes in the Metropolitan Region.

*Drinking water and sanitation*

244. According to the Health Services Inspectorate, in December 2009 urban drinking-water coverage was 99.8 per cent. According to the same source, the percentage of properties located in urban centres that have no connection to the public drinking water mains fell from 2.6 per cent in 1990 to 0.2 per cent in 2009. Meanwhile, in rural areas, the population with drinking water increased from 45.8 per cent to 91.2 per cent over the same period. In this context, the main challenges relate to increasing coverage of wastewater treatment.

245. Chile Solidario pays a drinking water subsidy to families and persons who, owing to their socioeconomic circumstances, are unable to pay the full cost of the drinking water and/or wastewater sanitation services they receive.

246. Regarding the Committee's recommendation No. 60 on the need to address the disparity in access to drinking water and sewage disposal services between urban and rural areas, the Ministry of Public Works is carrying out the following programmes: Rural drinking water systems installation programme in semi-concentrated localities; Existing rural drinking water improvement and upgrade programme; Existing rural drinking water conservation programme; and Advisory and assistance plan for rural drinking water committees and cooperatives. The Ministry of Public Works expects to invest a total of US\$815.3 million under these four headings between 2010 and 2025.

247. In 2008, 108 sanitation projects materialized nationwide, with an investment of \$16,976,000 directly benefiting 179,437 people. In 2009, 147 projects materialized, with an investment of \$18,083 million, benefiting some 180,000 people. By 2015, in line with the Millennium Development Goals, it is expected to fund projects for drinking water and/or sanitation plants, wastewater treatment plants, etc.

**Adolescent reproductive health and measures to promote a healthy lifestyle**

248. In accordance with the Committee's recommendation No. 56, current strategies for adolescents and young people are designed to provide comprehensive health care, incorporating rights, gender and multicultural approaches, with active participation by adolescents and young people, their families, communities and schools. The Ministry of Health has therefore included goals with a specific impact on adolescents and young people in ENS: to prevent and reduce oral problems most prevalent in young people under 20 years of age, with emphasis on the most vulnerable; to reduce tobacco consumption in the population aged 12–64; to reduce alcohol consumption and related risks in the population aged 15–24; to increase the prevalence of physical activity in adolescents and young people; to increase the prevalence of safe sex in adolescents and young people; to reduce the projected rate of suicide in adolescents; to reduce the projected rate of teenage pregnancy in under 19s.

249. In 2008 a new national health policy for adolescents and young people was introduced, laying down the main health guidelines for this group. The policy was developed with input from interregional workshops of adolescents and young people, with intersectoral health teams.

250. The National Comprehensive Health Programme for Adolescents and Young People of the Ministry of Health, currently being implemented in healthcare networks, aims to

improve access to and provide differentiated services that are integrated, comprehensive and interlinked, at the various levels of care in the health system, that meet the current health needs of adolescents and young people, with a gender focus and cultural relevance, in the areas of promotion, prevention, treatment and rehabilitation, incorporating their families and the community. To that end, it is prioritizing eight health policy areas which have a cross-cutting relationship with the other Ministry programmes, namely: promoting protective behaviours and healthy lifestyles; mental health; nutritional health; sexual and reproductive health; disability; chronic and oncological diseases; dental health; and physical activity. The programme is implemented nationwide, in SEREMIS and the three care levels of the public health system, including the entire population of adolescents aged between 10 and 19 and young people aged between 20 and 24.

251. Implementation of the “Friendly care spaces” (EAA) strategy began in 2008, following recommendations of the World Health Organization (WHO) and the Pan-American Health Organization (PAHO). Under the strategy, a differentiated and welcoming space is being opened up for the care of adolescents aged 10 to 19. It offers a differentiated timetable, with eight hours per week of professional care from a midwife, social worker or psychologist. In 2009, 54 EAAs were implemented in the communes having the highest incidences of teenage pregnancy. The programme primarily addresses the areas of sexual and reproductive health, mental health and nutritional health, based on a preventive, promotional and participatory approach. By 2012, there were 65 EAAs, which improved the offer of services. During 2009, 19,614 adolescents were treated in EAAs, and 28,248 in 2010.

252. The comprehensive adolescent health check-up assesses health, normal growth and development, and is a care opportunity that takes a proactive approach to early detection of health problems, risk detection, vulnerability and protective factors for interventions that are timely, integrated and comprehensive. It is carried out in health and educational facilities, and in 2012 INJUV cooperated as a strategic ally in the programme’s work. Since 2005, the health check-up has been included as a service explicitly guaranteed in primary care, in the Preventive Medicine Health Review (EMPA) for the adolescent population aged over 15. In 2011 preventive GES delivered 29,504 check-ups of adolescents in the 15–19 age group, corresponding to 2.66 per cent of the enrolled population in that age range. From 2011, an important step forward was the implementation of the Comprehensive Health Check-up as a health goal. Its inclusion in the Primary Health Care Activity Index (IAAPS) for the population aged 10–14 is a milestone and a challenge for the delivery of quality services to this group. The goal for 2011 was 5 per cent of the enrolled population in this group (aged 10–14), approximately 45,000 check-ups, while the actual figure achieved was 4.78 per cent (43,212), corresponding to 96 per cent compliance. Starting in 2012, the health check-up is being expanded to cover the 10–19 age range, with a projected target of 150,000 check-ups on adolescents, or 7.12 per cent of the enrolled adolescent population. The proposed challenge is to close gaps in access to achieve universal coverage by 2020.

253. The Youth Advisory Council of the Ministry of Health was set up by Exempt Resolution No. 65 (March 2010) with the aim of advising the ministerial authorities on decisions about public health policy and services for this group, so to have direct input from the people to whom it is addressed. This Council is composed of 30 National Directors, two from each region (one man and one woman), who are elected by the respective Regional Advisory Councils, which were formed by citizens’ dialogues to promote associative relationships and representation in their composition. The Advisory Council meets annually, devising and implementing regional work plans that propose strategies for local action, and assessing achievements over the period. The issue of preventing teenage pregnancy is given priority and a holistic focus.

254. In the field of ministerial standards and guidelines for teams working with adolescents and young people, a number of regulatory documents have been drafted and published, as a part of the strategies to be implemented and designed to improve professional skills to improve health care for adolescents and young people. The published documents include: Personalized care manual on the reproductive process (2008); Technical guidelines for the care of adolescents with mental health problems (2009); Technical guidelines for the care of children and adolescents with mental disorders (2009); Guide to clinical depression in children aged 10–14 (currently under review for inclusion in GES); Guide on the care of child and adolescent victims of sexual abuse aged under 15 (2011); Programme guidelines for the care of adolescents in primary health care (2011); Technical guidelines for implementing the national comprehensive health programme for adolescents and young people in regional ministries of health (2011); Practical counselling guide for adolescents and young people: general guidelines (2012); and Technical guidelines for check-ups on healthy young people (2012).

255. In line with the Committee's recommendation No. 56, Act No. 20418 establishes the right to education, information and guidance on birth control, in a clear, understandable, complete and, where appropriate, confidential form. The content and scope of the information provided must be in keeping with the age and psychological maturity of the person concerned. Act No. 20533 amends the Health Code to empower midwives to prescribe contraceptives. This initiative seeks to improve access by adolescents and young people to sex and reproductive health education services.

256. In March 2011, the Ministry of Education and SERNAM released seven new sex and emotional education programmes to the school community. Schools can access these programmes through the website [www.mineduc.cl](http://www.mineduc.cl), which the Ministry has opened up for that purpose. A special fund of \$300 million enables the most vulnerable institutions to access this content, while schools are also eligible for these programmes using the resources of the preferential school subsidy. A committee of experts was set up to select these sex education programmes. It selected a portfolio of programmes from which educational institutions can choose the one of most interest to them and which best matches their vision and socio-educational circumstances.

257. In juvenile justice, there are differentiated interventions for young people: a number of teams make special plans for the period of pregnancy and breastfeeding, and for young people with a potential conflict with motherhood. Likewise, coordination is being stepped up with families of origin, the extended family or the person's own family — depending on the particular circumstances — and with health professionals, lawyers, judges and other areas of the public and/or private world. Pregnant teenagers can access information about their rights in the communes where there are Offices for the Protection of Rights. If their rights are violated, they can opt to join a Residence for Teenage Mothers under protection measures issued by Family Courts. Eight of these centres have been set up to date.

258. As a way of approaching and understanding the circumstances of young people who have been teenage parents, in 2011 the National Youth Institute conducted a qualitative study to understand the impact of parenthood, the effects and consequences on their life projects, careers, access to education, integration into the labour market, etc.

#### **Narcotic drugs, psychotropic substances and drug trafficking (art. 33)**

259. Act No. 20502 (2011) provides for the establishment of the National Service for Prevention and Rehabilitation of Drug and Alcohol Consumption (SENDA), based in the Ministry of the Interior and Public Security, which is responsible for drugs and alcohol prevention policy-making, as well as treatment, rehabilitation and social reintegration for persons affected by these substances. In every respect, SENDA will carry on the work of



the National Narcotics Control Board (CONACE), established by Decree No. 683 (21 September 1990).

260. Since 2001, SENDA has conducted five national studies of drugs in the school population (ENPE) in alternate years.<sup>14</sup> The latest study was conducted on pupils in primary grade 8 to secondary grade 4 in municipal and subsidized and fee-paying private schools in 99 communes nationwide, which make up the national drug-use samples that SENDA uses in all its studies. The results of the ninth version of this survey, based on data gathered in 2011, will be presented in 2012.

261. In 2010, the National Drug and Alcohol Strategy 2011–2014, which defines the measures to be taken in this area during the period, seeks to reduce not only the levels of illicit drug use and high-risk alcohol consumption, but also the social and health consequences associated with those phenomena. To achieve these objectives, the strategy includes a number of initiatives, programmes and measures ranging from universal and non-specific prevention of risky behaviours to complex treatment interventions, rehabilitation and integration of problem users of these substances. The strategy was devised by the technical teams of SENDA and the Ministry of Health's Department of Mental Health.

#### *Prevention*

262. The Universal Prevention Programme in School Contexts "Activate Your Development: Attitude" is a universal strategy for preventing drug and alcohol use, consisting of three successive phases throughout the cycle of school life. It is designed to develop preventive skills and protective factors in relation to drug and alcohol use among students. This strategy has been implemented since 2000, though in 2012 a new series of skills-based programmes was designed. The implementation methodology works by voluntary registration of municipal and subsidized private schools; teachers in the school then apply it after receiving training and advice from SENDA. In 2010 the programme had 11,697 beneficiaries with resources of \$569 million.

263. "On Time" selective prevention programme in educational institutions. The programme involves the implementation of selective prevention initiatives within the school context, targeting adolescents in primary grade 7 to secondary grade 2 (and their families) where the risk factors that make them vulnerable to alcohol and drug use or other risky behaviours are greatest, unless preventive action is taken. Intervention is specialized and carried out by a psychosocial team that works closely with the user, educational institutions and the local network. In 2011, it catered for 8,579 adolescents, with a budget of \$687 million. In 2012, the design of the programme will be assessed and baselines will be established for a subsequent impact assessment.

264. The certification of preventive educational institutions aims to help instil a "prevention culture" within educational communities, recognizing the existence of strategies, the accumulated experience and the capabilities within schools that act as factors to protect against drug and alcohol use among children and adolescents. In the context of the programme, a preventive institution is a school, college or high school that recognizes the value of prevention and supports efforts to coordinate and bring together all stakeholders in the school community to implement effective prevention strategies,

<sup>14</sup> This series comprises a total of eight studies: the first three were conducted in a format known as DUSI (1995, 1997, 1999) under the responsibility of the Ministry of Education; the last five, however, were conducted using a SENDA format and procedures, and under its responsibility (2001, 2003, 2005, 2007 and 2009). The DUSI series is not comparable with the SENDA series, so the evolution of drug use in schools is reported using the results obtained in this decade.

resulting in an improvement in the overall factors affording protection against drug and alcohol use for students and their families. An institution that obtains certification has prevention strategies in various areas of school life: the curriculum, the regulations, the involvement of students with the institution, their relationship with the environment and the acquisition of skills throughout their educational community. These prevention strategies are formalized in an action plan that the institution undertakes to carry out. To achieve these objectives the institution receives support and advice from the local SENDA office. In 2011 the programme covered 219 establishments.

#### *Treatment*

265. Since the second half of 2007, the Ministry of Health has had technical and budgetary responsibility for treatment of non-illegal substance abuse among children and adolescents, under the implementation of GES, embodied in the clinical guide to alcohol and drug abuse and addiction among the under-20s. In that context, the drug abuse treatment programmes for the child and adolescent population which were hitherto implemented by CONACE, were continued until that period. The programme implemented by CONACE was composed of five plans covering a broad spectrum of care: community non-residential, basic, intensive, residential and detoxification services; plus work on the street. In 2007, 1,456 people (aged 0–19) were treated.

266. In addition to the drafting of the Clinical Guide, a treatment plan (basic non-residential plan) was drawn up for individuals with mild to moderate consumption and a minor biopsychosocial condition. The focus was on primary care, allowing early detection and intervention.

267. Since 2007, pursuant to Act No. 20084, SENDA has been implementing the comprehensive treatment programme for adolescents in conflict with the law, with drug/alcohol consumption problems and other mental health disorders.<sup>15</sup> This treatment model was designed in conjunction with the Ministry of Health and SENAME, with the principal objective of providing treatment, rehabilitation and facilitating the integration of children and adolescents with alcohol and drug abuse problems, using a comprehensive model to apply a quality holistic clinical approach, within an integrated network. In 2011, it handled 3,936 adolescents, with a budget of \$9,197 million.

268. A technical cooperation agreement was drafted in 2007, signed to date by SENDA, SENAME and the Ministry of Health, resulting in a National Technical Committee for the management of this programme. This body has been replicated in Chile's 15 regions, with the participation of the local representatives of those organizations.

269. In 2009 the Clinical Evaluation Diagnostic Programme for Adolescents in conflict with the law<sup>16</sup> was implemented by means of projects funded by SENDA and run by the Regional Attorney-General's Offices (Public Prosecution Service). The goal of this programme is to encourage and provide an opportunity for treatment for young people who have an addiction to drugs or abusive consumption, framed in Act No. 20084. It is an assessment system composed of a professional team of a psychologist, a social worker and a psychiatrist hired by the respective Attorney-General's Offices. This assessment involves a review of clinical and psychosocial variables that looks at two main aspects:

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<sup>15</sup> The technical and regulatory framework of the programme is set out in "Technical standard No. 85 for the comprehensive treatment of juvenile offenders with alcohol/drug problems and other mental health disorders" (2005), and the programme's "Technical Guidelines" (2007), designed to offer guidance on how to apply the standard.

<sup>16</sup> This assessment is contained in the document "Technical Guidelines. Treatment of alcohol and drug abuse and other mental health disorders in juvenile offenders", CONACE, 2007.

biopsychosocial commitment and the dimension linked to consumption. After the assessment, a report is compiled that can offer guidance to the Attorney-General's Offices, where necessary, with respect to programmes available in the region for treating this population, considering the type of treatment required in line with the young person's profile, for both non-custodial and custodial measures. This report can be used to allow the Attorney-General's Office to request an accessory penalty (article 7 of Act No. 20084), and for a conditional suspension of proceedings, if appropriate. The user population corresponds to adolescents admitted for infringing criminal law to the Attorney-General's Offices in the Southern and Western Metropolitan Region (which also serve the population of the Attorney-General's Office for the Central Northern Metropolitan Region) and the Eastern Metropolitan Region, with which an agreement was signed when presenting projects. In 2011, it handled 597 children, with a budget of \$176 million.

270. Since 2010 SENAME has been running the Drug and Alcohol Abuse Treatment Programme for Children and Adolescents (PDC) under the New Life Programme. This care facility also complements the Specialized Comprehensive Programmes (PIEs), also run and funded by SENAME, and the New Life child and adolescent mental health teams, under the Ministry of Health. The programme provides treatment and promotes the rehabilitation of children and adolescents with alcohol and other drug problems, whose rights have been violated or who have broken the law and been admitted to the comprehensive 24 hour programme. In 2011, with resources from the Ministry of Health, eight specialized mental health teams joined the New Life programme, working complementarily with cases referred by OPD, PIB and PIE psychosocial teams of the eight communes in the programme. They can also handle children referred from other institutions.

271. Since 2006, the SENDA technical treatment unit has been implementing a treatment programme, designed in conjunction with the Ministry of Health, that has a gender perspective for women aged over 20 who have problems due to the use of psychoactive substances. This programme offers differentiated outpatient and residential treatment plans depending on the severity of the women's condition. The programme has enabled treatment to be delivered to the female population, according to their particular needs and promoting access to care through the inclusion of their children where necessary, particularly for residential care. This opportunity to be admitted for treatment with one or two children, preferably if they are under five and especially under one year old, has not only helped women to remain in treatment but also to foster mother-child bonding, thereby preventing the development of childhood disorders and enhancing the care and protection of these children. The teams running public and private treatment centres have been trained in a gender-sensitive approach to treating women, with expert advice and supervision, and have also have been trained to provide differentiated care for mothers and/or pregnant women with drug problems. Technical support documents for running the programme have also been drafted and published.

### *Campaigns*

272. Between 2007 and 2011, SENDA conducted 11 preventive campaigns aimed at different groups of the population, with the aim of supporting and complementing the institution's ongoing programmes.

273. The Fonodrogas help line (188 800 100 800) is a free, anonymous and confidential telephone service, staffed by professionals from Monday to Sunday, 24 hours a day.

### **Children and parents deprived of their liberty**

274. The Pathways programme was launched in 2008, as part of the Intersectoral Social Protection System. This programme is a comprehensive support strategy for children whose father, mother and/or adult guardian primarily responsible for their care and upbringing is

serving a custodial sentence in a closed detention centre, and it aims to “help families and their members in extreme poverty to join social networks and access better living conditions”. To achieve this end the programme provides the following services: (a) Psychosocial support and counselling to parents and/or caregivers to improve parenting skills; (b) Tutoring for children aged between 7 and 18 for the development of social skills; (c) Networking for families designed to create an appropriate linkage between the needs of the families in the programme and offerings available on the networks; (d) Specialized services for families participating in the programme (psychologists, educational psychologists, etc.). The programme was first run in the region of Bío Bío and the Metropolitan Region. A further two regions were added in 2009: O’Higgins and Los Ríos. In 2010 it was running in nine regions: Arica y Parinacota, Atacama, O’Higgins, the Metropolitan Region, Bío Bío, Los Ríos, Araucanía, Aysén and Magallanes. In 2011 four new regions were added: Antofagasta, Tarapacá, Valparaíso and Los Lagos, and finally in 2012 Coquimbo and Maule were added to cover all the country’s regions. In 2010 the Budget Directorate (DIPRES) assessed the Pathways programme, which scored well in terms of both the formulation of the programme and its management.

275. SENAME has improved the technical guidelines for “Residential shelter for infants of mothers in prisons” with a view to strengthening the mother-child attachment; involving from the outset the extended family who will take care of the child once it reaches the maximum age for living in the prison; and improving material conditions inside the detention centre. The programme covers 32 prisons and 120 children nationwide.

#### **Social security (art. 26) and childcare services (art. 18 (para. 3))**

##### *Social security*

276. Act No. 20379 provides for the establishment of the Intersectoral Social Protection System and grants institutional status to the “Chile Grows with You” comprehensive child protection subsystem. The System is a public governance model consisting of the social measures and services provided and coordinated by various State agencies to help the country’s most vulnerable population. The System is composed of a number of subsystems (Chile Solidario and Chile Grows with You) and the Ministry of Social Development will be responsible for the administration, coordination, monitoring and assessment of its implementation. Each subsystem accompanies, supports and follows the group of people for whom it is designed. For example, Chile Solidario supports the development of families and individuals to overcome extreme poverty or vulnerability, while Chile Grows with You supports the development of children from birth until they enter the school system in lower foundation level.

277. Act No. 20595 provides for the establishment of a new subsystem called “Security and Opportunities”, based on three fundamental pillars: dignity, duties and achievements; on that basis, grants and conditional transfers are awarded to families living in extreme poverty. It also introduced an employment allowance for women.

##### *Childcare facilities*

278. As noted in the previous report, according to article 203 of the Labour Code, establishments employing more than 20 female workers, regardless of their age or civil status, must maintain rooms adjoining but separate from the work areas, where women may feed their children aged under 2 years and leave them while they are at work. A similar obligation is imposed on shopping or industrial centres or complexes administered under a single trade name or juridical personality when the establishments located there together employ 20 or more female workers. The extra costs entailed by the crèche are regarded as

common costs to which all the establishments must contribute in the same proportion as to other costs of this nature. Crèches must meet the statutory hygiene and safety conditions.

279. The National nursery schools Board (JUNJI) offers citizens three types of educational programmes with various forms of care, in order to satisfy regional and local needs and characteristics. These programmes and their modalities are described in the following paragraphs. Over the period 2006–2010, JUNJI built a total of 2,812 crèches and 1,565 middle level nurseries. JUNJI's total reception capacity at December 2010 was 174,900 infants.

280. The Nursery School Programme is implemented in educational institutions, receives infants from 0 to 4 years old and caters for children with special needs. The nursery schools are located in urban and semi-urban areas, are open full-time for eleven months of the year and offer free meals. These nursery schools may be administered directly by JUNJI or through a transfer of funds to municipalities or non-profit entities. In percentage terms, this method accounted in 2008, 2009 and 2010 for 37, 44.2 and 52.9 per cent respectively of the institution's total capacity. In 2010 this programme served 150,228 children.

281. The Alternative Care Programme caters on a daily basis for children from age 2 until they are admitted to primary education. It provides free comprehensive care, including education, meals and social care. It views the family as a key player in the educational process and is typically located in rural and semi-urban areas. It has the following facilities:

(a) Family nursery school: opens half a day, run by a specialist who works with the families of the children on a daily basis.

(b) Working mothers' nursery school: intended for children whose mothers work and organized according to their needs, offering extended hours and meals, as required.

(c) Seasonal nursery school: intended for children of mothers with temporary jobs, preferably in production positions in fruit-growing, agro-industry, fishing and tourism. These nursery schools open for three or four months in summer. In 2010, thirty-two nurseries were set up in regions III, VI, VII, IX and XIII, with coverage for 796 infants.

(d) Summer nursery school: these are nursery schools offering conventional care, operating in February, for children of mothers who work during that month and have no other alternative care.

(e) Intercultural nursery school (National Intercultural Education Programme): designed for children between 2 and 5 years of age belonging to the Aymara, Atacama, Colla, Rapanuí, Mapuche, Pehuenche, Huilliche, Kawashkar and Yámana indigenous peoples. An intercultural curriculum is applied for each ethnic background. In 2010 there were 150 intercultural nursery schools and nurseries, serving 6,847 children.

(f) Improved Childcare Programme (PMI): designed for children in vulnerable situations. The programme operates in community spaces with the participation of families and cultural stakeholders who, with support from JUNJI professionals, provide them, as a group, with education and care. The 2010 programme ran a total of 147 projects in ten regions, covering 2,786 children, 96.7 per cent of whom belong to quintiles 1 and 2 (the lowest incomes) according to the social protection file (SPF).

(g) Programme of Cultural Education Centres for Children (CECI): this offers an innovative teaching approach, which seeks to foster children's development and learning through creative expression, in art and cultural revival and appreciation.

282. Family Education Programme: this is based on the family, in its own home, playing a prominent role in the process of educating its children. The parents or close relatives guide the learning process with advice from preschool teachers and support materials. It operates in the following ways:

(a) Communication programme: Aimed at children who do not attend formal preschool education programmes. It is implemented through radio broadcasts, supplemented by educational guides for families.

(b) “Know Your Child” programme (CASH): trains mothers in rural areas as educators of their children under 6 years of age, who do not have access to other educational programmes on account of living in highly geographically dispersed areas. In 2010 it provided educational services for 3,343 infants, divided into 300 groups.

283. Additionally, JUNJI carries out registration, which is certification to the effect that an establishment hosting a nursery and/or nursery school meets the statutory requirements, has qualified staff as required by law, and that teaching materials and furnishings are fit and proper. In order to verify that the conditions at registration are maintained and that all legal standards and techniques are complied with for the provision of a quality educational service, JUNJI conducts inspections of nursery schools not funded by JUNJI. The inspections are similar to those carried out on nursery schools funded by the institution or those managed by third parties with JUNJI funding. In December 2010, there were 1,965 private nursery schools in the country not funded by JUNJI (registered and unregistered), 1,392 of which were inspected, equivalent to 70.8 per cent.

284. As a result of the change in the organizational structure of the National Nursery Schools Board, by Exempt Resolution No. 015/1609 (30 June 2011), a JUNJI Inspection Section was established in the JUNJI National Directorate and in the various regions. It has a total staff of 72 inspectors.

285. Between 2007 and 2011 JUNJI trained 14,865 participants (officials) in 695 activities lasting 17,814 hours. The wide variety of topics include attachment theory; prevention of child abuse and violence; improvement in the quality of educational processes; improving nurseries in indigenous communities; intercultural education; gender perspective; theories of learning and theories of psychomotor development; curricular guidelines and criteria for educating students with multiple special educational needs and deaf-blindness; promotion of breastfeeding; protection of maternal rights and parental responsibilities; gender equality; IEPA learning assessment tool; food and nutrition in the life cycle of the child; quality assurance model for early childhood education.

286. Under Chile Grows with You, JUNJI undertakes to extend coverage from 40 per cent of the most vulnerable population to 60 per cent of the most vulnerable; as a result, the number of infants in this group entering JUNJI nursery schools rose from 81,486 in 2008 to 141,873 in 2011. This amounts to 98.4 per cent coverage of the 60 per cent most vulnerable.

287. INTEGRA crèches and nursery schools meet the needs for quality education and meals of children aged from 84 days to 5 years, belonging to the poorest 40 per cent of the country’s families. This effort complements JUNJI’s work to set up a public preschool education network with nationwide coverage. Between March 2006 and March 2010 Integra Foundation changed the target age of the children it handles in its institutions as a result of the Government drive to increase nursery coverage, with a consequent increase in the number of children covered from 4,362 to 16,744 (284 per cent). Meanwhile, coverage of nursery schools increased from 72,647 to 74,514. In the same period, the Integra budget increased from \$53,983 million to \$93,979 million. Furthermore, following the enactment of Act No. 20162 on universal access to upper foundation level, in 2007, it was planned to transfer children aged 4 and 5 from nursery schools to schools. This shift meant a change in INTEGRA’s cost structure, since the cost per day per child in a nursery (\$7,000) is double that for the higher levels of education (\$3,200).

**Standard of living: reduction of poverty and inequality (art. 27 (paras. 1–3))***Reducing inequalities*

288. Regarding the Committee's recommendation No. 60 on the disparity in the standard of living in female-headed households, note that the Act providing for the establishment of the "Security and Opportunities" subsystem (No. 20595) introduces a subsidy for recruiting women that includes a State contribution of 20 per cent of a woman's salary while the employer gives her a 10 per cent subsidy to foster female employment. An estimated 300,000 women will qualify for the subsidy.

289. As noted in the preceding paragraphs, in line with the above recommendation and recommendation No. 22 of the Optional Protocol, Chile Grows with You provides not only universal benefits, but also other differentiated ones for specific situations of vulnerability, with the aim of ensuring equal opportunities from conception.

290. The Street Programme provides psychosocial support and coordination with protection networks for people living on the street, to enable them to achieve minimum standards of well-being. In 2008, some 2,015 people benefited at a cost of \$738 million and in 2011, there were 3,377 beneficiaries at a cost of \$1,019 million. Section III provides detailed information on this programme.

291. The Labour Skills Development Programme of PRODEMU Foundation, which has been operating since 2002, seeks to develop core labour skills and techniques to help more women belonging to the Chile Solidario system to join the labour market. The programme delivers vocational training courses, and provides a daily allowance of between \$1,500 and \$2,000, and tools for the job. For 2011, training hours under the programme were doubled, to upgrade trade skills while providing proper certification. This led to a sharp decline in the target of women beneficiaries for 2011 (from 1,349 in 2010 to 700 in 2011). In the same period, the programme budget was increased from \$265 million to \$273 million.

292. Meanwhile, the implementation of Explicit Health Guarantees for the whole population, regardless of social status, is one of the pillars of the pursuit of equity in access to health care.

293. Since 1992, the Medical Services programme (JUNAEB) has been striving to improve the health status and quality of life of students with socio-economic vulnerability, sensory or biological constraints that affect their learning, preventing absenteeism and poor performance due to vision, hearing and postural problems. The programme is for pupils from lower foundation level of nursery school to secondary grade 4 in municipal and private subsidized schools who have ophthalmological, otorhinolaryngological and orthopaedic conditions and who belong to FONASA. In 2012 it expects to cater for 612,329 students with a budget of \$4,275 million.

*Camps, earthquake and reconstruction*

294. The earthquake and tsunami that followed on 27 February 2010 left 880,000 Chileans homeless; 220,000 homes were destroyed or severely damaged; one in three hospitals and schools collapsed or were severely damaged; hundreds of bridges, roads, ports, airports, buildings, dams and irrigation works were destroyed, and thousands of businesses and hundreds of thousands of jobs were lost. The material cost of this tragedy was US\$30,000 million, 18 per cent of our GDP. Reconstruction has been very difficult and demanding; however, in May 2012 three quarters of this task had been completed.

295. More than 220,000 grants for repairing and rebuilding houses were allocated. The vast majority of these subsidies, 165,000, were for private projects, where families chose to repair or rebuild their home in the same place as the old one, and to choose the type of

housing they wanted. Homes are currently being started and completed at the rate of 4,200 per month, or 140 a day. As of April, 90,000 homes have been handed over, 70,000 are under construction or repair and the remaining 60,000 will be ready before the winter arrives next year.

296. As for the families still living in villages, accounting at present for only 1 per cent of the victims, their new homes are already under way or have a firm delivery date.

297. The Government has developed a comprehensive plan for camps 2012–2013, under the responsibility of the Executive Secretariat for Camps of the Ministry of Housing, which brings together various ministries and institutions with the aim of addressing the needs of families in camps. In this context, in 2011 the Social Map of Camps was implemented in conjunction with Alberto Hurtado University, a register that gives an overview of the social emergency they are facing. Simultaneously, in 2011 the government prioritized the need to provide housing solutions for these families, providing an average of 1,800 solutions per year between 2006 and 2010, which rose to 3,600 in 2011. The Comprehensive Plan for Camps 2012–2013 works in a number of areas, notably the work of the various sectors of government, the new housing policy for camps, integration of the private sector, civil society and work with leaders. The Plan assumes that the housing shortage of families in camps is a symptom of a more complex situation, and therefore the solution cannot be based solely on providing a subsidy to buy a home. Accordingly, it includes a raft of measures in various fields, in line with the social realities facing families in camps. The areas of action that are currently being designed or developed are:

(a) The “My business” and “My work” programmes: in partnership with FOSIS, they seek to foster the development of independent economic activities with a view to increasing family income and improving their quality of life. They also support the employment of persons who are unemployed or who have an insecure occupation.

(b) Camps in Action competitive grants: again in conjunction with FOSIS, these support communities and families by funding collective community initiatives.

(c) Introduction to Law programme for camp leaders: driven by the legal aid agencies, this programme aims to train camp managers and leaders on legal issues and refer relevant cases to the institution.

(d) “I’m dealing with it” programme: this programme, developed jointly with INJUV, seeks to promote the organized participation of young people from camps, through funding of social enterprises established and run by them to improve the quality of life of their communities or to prepare for the transition to permanent housing.

(e) Programme Against Domestic Violence in Camps: systematic intervention in conjunction with SERNAM to address the high prevalence of domestic violence in this population group.

(f) Women’s Leadership Support Programme: training programme to strengthen the leadership of community leaders and reaffirm the joint responsibility of government and citizens in the process of eradicating the camps.

(g) Preventive intervention together with the Ministry of Health: before each winter, there is an information and mass vaccination campaign in the camps.

(h) Programme to Promote Early-Childhood Education: together with JUNJI, a strategy will be implemented to promote education for infants from camps. The objective of this programme is to give priority access to children from camps to nursery education institutions and ensure that they receive effective assistance.

298. To recover the districts and the heritage of the affected towns and cities, 111 urban regeneration plans are under way, together with 27 master plans for landmark



reconstruction and implementation. These plans include mitigation works to protect citizens against potential future disasters.

299. Work in education and health is very close to completion: 3,483 damaged educational institutions have been rebuilt or repaired. Nine quick-build hospitals are operational, while 110 hospitals and 207 rural surgeries and clinics have been repaired. Of the hospitals that suffered major damage, two are finished and five are under construction.

300. In infrastructure, over 99 per cent of the 1,500 damaged roads, ports, airports, rural drinking water systems, hydraulic installations and connectivity points have been rebuilt or repaired and are operational.

## **D. Education, leisure and cultural activities (arts. 28–31)**

### **The right to education (art. 28)**

301. The General Education Act (LGE), delivers a new institutional framework for education in Chile, repealing the Constitutional Act on Education (LOCE). The LGE promotes universal education and recognizes that it must be attainable by all people throughout their lives. It also notes that all students, regardless of their conditions and circumstances, must achieve the overall objectives and learning standards laid down by the Act. All students must have equal opportunities to acquire a quality education.

302. The LGE is inspired by the principles of: autonomy of the educational institutions; promoting and respecting the diversity of institutional educational processes and projects and the cultural, religious and social diversity of the learners; responsibility of all stakeholders in the education process and public accountability where appropriate; participation and information of members of the educational community; flexibility to allow the process to adapt to the diverse realities and institutional education projects; transparency of information in the education system, including income, expenditure and academic results, which must be available to all citizens; integration of students from different social, ethnic, religious, economic and cultural backgrounds; sustainability through fostering of respect for the environment and the rational use of natural resources; and multiculturalism, whereby the system must recognize and value the individual in their specific cultural and origin, considering their language, world view and history.

303. Act No. 20248 (2008) introduced a preferential educational grant designed to improve the quality of education in subsidized educational institutions. The grant will go to priority students enrolled in the lower or upper foundation level of preschool, primary and secondary education.

304. Act No. 20162 (2007) makes preschool education mandatory from the upper foundation level. The State will be responsible for giving free access to and government funding for the upper foundation level, without this being a requirement for admission to primary education.

305. In order to improve access to and coverage of education, the Government sent the following bills to Congress, which are still under consideration:

- (a) Bill to introduce a single system of student funding for higher education (Bulletin No. 8369-04, submitted on 13 June 2012);
- (b) Bill to increase subsidies (Bulletin No. 8070-04, submitted on 13 December 2011);
- (c) Bill to grant benefits to the debtors of the State-guaranteed loan and to amend Act No. 20027 laying down regulations for funding higher education studies (Bulletin No. 7898-04, tabled on 1 September 2011).

306. In its recommendation No. 62 (a), the Committee urged the State of Chile to continue to increase budget allocations to the education sector. In this regard it can be said that, according to data provided by the Budget Act, the budget allocation was steadily increased from 2007 to 2012. Spending on education nearly doubled over five years. In 2007 the sector's budget was \$3,403,399 million, well below the figure of \$5,936,270 million allocated for 2012.

307. JUNAEB prepared the National Equitable Allocation System (SINAE) that seeks to target the benefits delivered by selecting students in accordance with priorities. Priority one is for those living in extreme poverty (participating in Chile Solidario, living in SENAME homes, living in urban poverty and living in rural poverty). Priority two is for those living in poverty at risk of school failure and a high probability of dropping out (with low academic achievement and/or performance or attendance problems). Priority three is for those living in poverty, in primary and secondary education.

308. The School Food Programme for vulnerable priority-one and priority-two children has attained 100 per cent coverage since 2007. For pupils in primary education, priority one in 2011 accounted for 39.53 per cent, while priority two was 10.05 per cent. Priority three was 16.16 per cent of pupils. The remaining 31.6 per cent of pupils were not in a vulnerable situation. For students in secondary education, 34.44 per cent were priority one, 11.09 per cent priority two and 21.16 per cent priority three. The remaining 31.81 per cent were not vulnerable.

309. Since 2011, JUNAEB has been running the School Retention Support Programme, which seeks to help students in vulnerable circumstances and at socio-educative risk to stay in school and continue their education, thereby ensuring the 12 years of compulsory schooling. This is a psycho-socio-educational support programme that supplements the retention support grant (BARE Grant). During 2012 it expects to handle 1,020 students in three regions (Bío Bío, Maule and the Metropolitan Region). An interdisciplinary team attends to with individual students and groups in secondary grades 1 to 3, outside school hours.

310. All SENAME network programmes safeguard the children's right to education, through intersectoral work with the schools, reintegrating those who had dropped out of the system, or taking measures to encourage regular attendance. This is stipulated in the technical guidelines for all modes of intervention. Also, under the New Life Programme, eight Educational Reintegration Programmes (PDE) were set up in eight target communes, fostering the reintegration of the participating children in PIE projects.

311. In juvenile justice, the main progress on education in detention centres since the implementation of the 2007 RPA Act was as follows:

(a) Regarding academic coverage, there were four schools in the country's 17 temporary and closed detention centres (San Joaquín, Santiago, Graneros, Coronel); 12 of the 17 centres currently have regular or formal education (the five regions not offering formal education are: XV, I, X, XI and XII). Notwithstanding the foregoing, the 17 centres in the country have educational reintegration support programmes (ASR) to strengthen studies and/or provide remedial education through the system of free examinations.

(b) As for the available supply, when the Act was implemented there were no Adult Integrated Studies centres (CEIA), or educational reintegration support programmes. Such centres now exist, some of which teach trades, and there are secondary schools teaching arts and sciences.

(c) There are currently primary and secondary teachers, differential educators, educational psychologists and education assistants.

(d) In terms of infrastructure, only multipurpose rooms were originally available for conducting classes. There are now centres that maintain enclosures specially equipped as schools (Talca, Coronel, Santiago, San Joaquín, Limache, Graneros, Chol-Chol and La Serena) or, alternatively, enclosures have been equipped as classrooms in houses or modules where the young people live.

(e) Regarding education offered for young inmates, when LRPA was implemented, plans and programmes were offered (Interdisciplinary Programme for Research in Education) which were not fully implemented but served only as a benchmark. Accordingly, an educational model has been put into practice through the Institutional Education Project (PEI), with pilots in Regions IV, V and VIII, which is currently under implementation and monitoring.

(f) In the field of adolescent criminal responsibility, addressing the need to ensure that users of detention centres and non-custodial programmes have access to certain benefits, since 2007 SENAME has prioritized strengthening of educational intervention, implementing measures to provide educational services, and to ensure that young people have access to and keep attending the education and job training provided, in line with regional characteristics. In the light of this, specific measures are being devised in these areas, including the Management Improvement Programme.

312. In the case of students who are pregnant or already mothers, LGE explicitly states that they may not be prevented from entering or remaining within an educational institution, and they may not be moved to other accommodation, have their registration cancelled, or be suspended from classes. The female students must remain on the same course and day. They are entitled to pregnancy and postnatal check-ups and health checks for their child at the relevant family health centre or clinic.

313. The JUNAEB Support Programme for Pregnant and Parenting Students seeks to help students who are mothers, fathers or pregnant, in secondary school grades 1 to 3, and are beneficiaries of the BARE grant, to attend and remain in the education system, through support to guarantee the 12 years of compulsory schooling, while taking account of and promoting the development of parenting skills. This programme began in 2011, after running as a pilot programme between 2007 and 2010. It runs on an annual basis, and in 2012 catered for a total of 1,595 students.

314. The higher education maintenance grant supports vulnerable students with good academic performance, to enable them to complete their studies. In 2012 is expected to provide 64,340 grants, which are awarded for ten months and are renewable.

315. The Chaitén Higher Education Assistance Grant is intended for students in higher education who were affected by the Chaitén volcano eruption. They receive funding for the tuition fees, money for maintenance, another amount for food and another to spend as they please. All this is provided for ten months to students who reside more than 30 kilometres from their place of study. This programme was implemented in 2009, and in 2012 it is expected to cater for 300 students.

316. The Patagonia Aysén Grant seeks to increase human capital, facilitate and create mechanisms to ensure opportunities to access higher education for young people in the Aysén region who have to study elsewhere. Three types of allowance are granted: maintenance, food and transportation for one year. This grant was first awarded in 2012, covering 485 students.

317. The Student Family Residential Programme is aimed at vulnerable students from rural areas or places far removed from educational opportunities who have to move to a location away from their home to continue their studies. They go to live in the home of a guardian family, with better housing conditions, where they receive accommodation, food,

basic services and emotional and educational support. The programme is open to students from primary grade 7 through to secondary school. This programme has been running since 1992; in 2011 it catered for about 9,000 students.

318. The 18 JUNAEB Student Homes have been in operation since 1965, and in 2012 housed 1,028 students in primary and secondary education from a variety of localities where there is insufficient educational provision. Its main feature is that they are not attached to any specific educational institution.

319. The Region V Island Residence Programme covers accommodation, meals and transfer fees for students from the Juan Fernández islands and Easter Island by:

(a) The Valparaíso Region Island Student Homes Programme. Under the residence scheme, students receive food, accommodation and protection. Students residing in student homes who are in first year and have no higher education credits are given a subsidy for the tuition and registration fees.

(b) The Student Family Residence in various regions of the country: In addition to receiving accommodation and all the services and support of a family, each year students are paid the cost of air travel from the mainland to their place of origin (Easter Island or Juan Fernández islands). In addition, students receive psycho-social support to help them combat the feeling of being uprooted and the guardians are offered information and regular meetings.

320. The School Materials Programme is aimed at children and young people identified as SINAIE priority one. A set of school materials is supplied at the beginning of the school year, to suit the level (nursery, primary or secondary education) for municipal and subsidized private schools. In 2011, 1,393,262 sets of materials were supplied across the country at a cost of \$2,904 million.

321. A National Student Card (TNE) is provided to enable students to use public transport at a discounted rate; it also entitles them to additional benefits under agreements with the National Youth Institute and the Directorate of Libraries, Archives and Museums. This benefit is available to students in the country's municipal and private subsidized institutions, in primary grade 5 to secondary grade 4, and students of higher education institutions recognized by the Ministry of Education. In 2012 it catered for 2,743,796 students, with a budget of \$7,022 million.

322. Since 2008, JUNAEB has been running the "Skills for Life II" programme, supplementing the "Skills for Life I" programme, which seeks to strengthen social, cognitive and affective skills in pupils aged between 9 and 15, to enjoy positive school socialization and improve psychosocial well-being. This programme is designed for children with a high degree of socio-economic and social vulnerability, who have already taken part in the JUNAEB Skills for Life I programme. Planned coverage for 2012 is 19,756 students. The budget for 2007 was \$1,510 million, rising in 2012 to \$4,989 million.

323. To reduce the digital divide for children with a good academic record who are in a vulnerable situation, the "I Choose My PC" programme has been running since 2009. Each beneficiary exercises their right to choose their own computer. This programme is for students in primary grade 7 with a good academic record who are among the poorest 40 per cent of the population and who are enrolled in municipal or subsidized private schools. The programme has been implemented since 2009 and it is expected to provide 60,000 students with a computer in 2012.

324. For immigrants, the following initiatives are in operation or being implemented:

(a) Regularization of the residence status of any child who is enrolled in an educational establishment recognized by the State; the figures for this initiative are as

follows: 2004: 147 cases; 2005: 291 cases; 2006: 268 cases; 2007: 190 cases; 2008: 143 cases.

(b) Access to preschool education for immigrant and refugee children. JUNJI coordinates its work under this activity with the Ministry of the Interior; they signed a cooperation agreement that has been in force since 20 November 2007.

(c) In 2005, in order to ensure equality before the law and freedom from discrimination for everyone, the Ministry of Education issued an instruction on admission to, continued enrolment in and rights of immigrant children in educational establishments. The instruction calls on educational establishments to allow immigrant children to enrol at educational establishments on a temporary basis. Presentation of an authorization issued by the appropriate Provincial Education Department is sufficient for admission and that authorization must be issued promptly by the Provincial Education Department upon presentation of documents providing evidence of the identity, age and most recent courses studied by the pupil concerned in his or her country of origin, without any requirement for legalization. Students who do not have documentation as evidence of their studies are admitted to a course or grade on the basis of their age and the information provided by the parent or adult responsible for the child. Any person who is temporarily enrolled must be regarded as a regular pupil for academic, curricular and legal purposes, without prejudice to the requirement to obtain a residence permit as a regular student as soon as possible. Educational establishments must advise immigrant pupils to upgrade their temporary status and enrol permanently within three months of the date of conferral of temporary enrolment status. After that period, the educational establishment must initiate an assessment procedure to regularize the situation.

(d) The same instruction suggests that the heads of educational establishments should facilitate access to immigrant pupils by, for example, offering the opportunity to benefit from fee-remission arrangements, and more relaxed requirements for attendance and school uniform. It also states that the school rules governing socialization within educational establishments must foster integration between Chilean and foreign pupils and reprimand any members of the school community whose actions or words are discriminatory on grounds of nationality, race, skin colour, etc.

#### **The aims of education (art. 29), with reference also to quality**

325. In its recommendation No. 62 the Committee expressed concern about the quality of education delivered. The measures taken in relation to that recommendation are set out in the following paragraphs.

326. In the light of the new institutional system introduced by the General Education Act and the Act providing for the establishment of the National System for Ensuring the Quality of Education, there is a need to adapt and modernize the national curriculum (curricular foundations) to improve the definition of what students are expected to learn. In this context, the Ministry of Education faced the challenge of adapting the existing curriculum tools to the new requirements without breaking the continuity of the major curricula defined in 1996 and 2009. Thus, given the need for a gradual transition to the new structure, it was decided to begin by developing the curricular foundations for primary education.

327. This task is to be performed in two stages. The first will be implemented during 2012, from primary grades 1 to 3, and will cover the objectives of the following subjects: language and communication, mathematics, history, geography and social sciences, natural sciences (primary grades 1 to 6), and English as a foreign language (primary grades 5 and 6). The second stage, during 2013, will cover primary grades 4 to 6 and will include the following subjects: visual arts, music, physical education, technology and orientation (primary grades 1 to 6).

328. The proposed curricular foundations were drafted by experts in the subjects and teaching areas with extensive classroom experience. It was a participatory, pluralistic, open and transparent process and, in addition to work within the Ministry of Education, included a public consultation with experts and teachers by means of: an online survey on a first draft proposal (to which some 11,000 teachers responded), participatory dialogues in regions (involving 600 teachers), panels of experts convened by the Ministry of Education, and a civic education working party, convened by Ministry of Education and composed of representatives of the political parties and experts in the field.

329. In order to improve the quality of education, the Government submitted the following bills to Congress, which are still under consideration:

(a) Bill establishing the system of promotion and professional development of teaching staff in the municipal sector, which introduces the initial examination of professional teaching excellence and amends other legislation (Bulletin No. 8189-04, submitted on 7 March 2012);

(b) Bill establishing public local education agencies and laying down other rules to strengthen State education (Bulletin No. 8082-0, submitted on 13 December 2011).

330. To encourage high-achieving students to pursue careers in teaching, in 2011 the Ministry of Education implemented the Teacher Training Scholarship, which funds the teaching degree course in State-recognized universities for students who score at least 700 points in the University Selection Test (PSU). They also receive a maintenance grant. Students scoring more than 720 points in PSU may opt for a semester of study abroad. Students receiving the scholarship must sign an undertaking to obtain their degree and work for three years in a municipal or subsidized school, where they will be required to work 30 hours a week. There are scholarships for 408 students in 2012.

331. JUNJI has laid special emphasis on revising the curriculum framework. Since 2009 it has had a new curriculum, which provides a structure embodying foundations, principles, objectives, content, methodological support, contexts and organization of expected learning, taking account of the distinctions between the first and second cycles of nursery education. This curriculum is conceived and implemented taking account of the concept of the children as subjects of rights and therefore has a leading role in the socialization, teaching and learning process. The JUNJI curriculum embraces inclusive education as a quality approach that seeks to include all children, regardless of their individual characteristics and circumstances.

332. JUNJI uses two forms of quality assessment:

(a) Quality management model for early childhood education: this model has been applied every two years since 2006 to all nursery schools. Its purpose is to promote a continuous improvement through self-assessment by the members of the educational unit that is validated by external agents. Thus the model assesses dimensions, areas and elements of management that exhaustively address all aspects of educational quality management.

(b) Assessment of learning: this assessment has been performed since 2008, through the implementation of the Educational Assessment Tool (IEP), which considers mega-variables relating to autonomy, corporeality, creativity, knowledge, environmental knowledge, mother tongue and socialization, applied over those years by way of a sample and/or census. In 2011, the Learning Assessment Tool (IEPA), which was developed by JUNJI professionals, was applied, formulating a progressive logic by descriptors, which end up taking stock of the children's learning achievements. This new assessment tool has significant strengths, some of which are: that it is based on cycles, areas, cores and

expected learning that are fully consistent with the curricular foundations of nursery education, and that it is based on the principles, guidelines and aims of the foundations.

333. In its recommendation No. 62, the Committee expressed concern about the quality of education provided in rural areas. In that connection, note that during 2011 and 2012 a number of activities were carried out to support the country's rural multigrade schools, owing to the extra complexity involved in teaching more than one course at a time in the classrooms. The guidelines can be highlighted through documents and workshops designed for networks of rural multigrade schools, called microcentres. Teaching modules will soon be available in four subjects to facilitate the expected learning and improve curricular coverage in those establishments.

334. There are also other activities for 2011–2012 in this same area:

(a) All multigrade schools with five or fewer teachers have been encouraged to form microcentres.

(b) Regional workshops were held with rural microcentre coordinators and technical advice from the Ministry.

(c) The pilot version is nearing completion of the study of curricular coverage in multigrade education for schools with five or fewer teachers. It is expected to have a final study by early 2014.

(d) During 2012 planning guides for multigrade teaching will be designed in the following subjects: language, mathematics, social sciences and natural sciences. The guides will be printed and distributed during 2013.

(e) Regional and national competitions will continue to be held on good teaching practices devised by teachers in rural multigrade classrooms.

(f) Multigrade schools in microcentres were provided with teaching materials for planning educational and classroom practices.

(g) The "School +" pilot programme was implemented in 500 rural schools, giving them access to audiovisual material via satellite television. It is expected that all the equipment will be installed in the selected establishments by December 2012. The budget for this in 2012 is \$334 million.

#### **Cultural rights of children of indigenous and minority groups (art. 30)**

335. The Constitution of the Republic guarantees access to education for all children and young people living in our territory. Immigrant students have the same rights as Chileans. Special consideration should be given to the right to exempt them from the attendance figures during the first year of joining the school system.

336. On indigenous children, LGE states that it is the duty of the State to promote educational policies that recognize and strengthen indigenous cultures. Educational establishments with a high percentage of indigenous students are to have a general objective of the development of learning that enables pupils to understand written texts and express themselves in their native language.

337. The Act states that the system must be flexible so as to allow teaching to be adapted to the diverse realities and institutional education projects. It must also recognize and value the individual's specific culture and origin, considering his or her language, world view and history. Finally, it is proposed to achieve integration by incorporating students from different social, ethnic, religious, economic and cultural backgrounds.

338. The Government has decided to implement and develop the Educational Policy for Indigenous Peoples, institutionalizing the indigenous language learning curriculum. These

were implemented gradually, starting in 2010 with primary grade 1, moving forward until primary grade 8 is reached in 2017. In this context, the Intercultural Bilingual Education Programme (PEIB) is designed as an approach to teaching that embodies the particularities of indigenous cultures in the context of educating indigenous and non-indigenous children.

339. In line with Recommendation No. 62 (c), the number of preschool establishments that have embraced PEIB has consistently increased. According to CONADI, 20 intercultural nursery schools were using this programme in 2007, a figure that rose to 133 nursery schools in 2012. The goal for 2013 is to add a further 110 nursery schools.

340. The CONADI budget for implementing this programme has also been increased through annual adjustments. In 2007 it was \$146 million, attaining \$187 million in 2012. The programme also received support from the Ministry of Education, JUNJI, the Integra Foundation, universities and municipalities.

341. In 2007 JUNJI and CONADI signed an agreement in which they undertook to establish and build at least 30 intercultural nursery schools nationwide. It also allowed intercultural educators to be hired; an intercultural curriculum relevant to nursery schools to be devised — the text “Curricular Guidelines for Intercultural Preschool Education” was prepared together with the University of Valparaíso; the design and development of training materials; and finally, an undertaking was given to offer annual training of teaching staff as a regional level technician.

342. JUNJI also contributes textbooks and teaching materials developed by the National Intercultural Task Force, which are distributed to all establishments. In addition, periodic training is given to intercultural staff and advisers on issues relevant to the topic.

343. The Indigenous Housing Administration Programme seeks to provide accommodation, meals and living conditions to enable higher education students of indigenous descent and in income quintiles I, II and III to continue their studies outside their commune of origin. There are currently 13 homes available, which are managed differently by region. Each has its own policies and organization. By 2012 it is expected that 412 students will be living in one of these homes.

### **Human rights and civic education**

344. In Chile, the curricular foundations embody the guiding principles of the Chilean Constitution and the anthropological and ethical conception underlying the Universal Declaration of Human Rights. The right to education and freedom of education are fundamental rights inherent in human nature and that the State must safeguard and respect in order to fulfil its ultimate aim of promoting the common good.

345. As mentioned in the previous section, from 2012 the national curriculum is embarking on a process of change mandated by LGE. In this context, Ministry of Education action during the reporting period was taken under the old curriculum framework. According to that framework, the treatment of human rights in the curriculum is approached through the Vertical and Transversal Basic Objectives as well as the Minimum Required Content for each area of learning. The Transversal Basic Objectives consist of comprehensive and general learning, achieved through the formative work of the whole curriculum or subsets thereof that cover more than one field or speciality. Here the treatment of the human rights content is specifically approached through the “Ethics Training Area” in which the following learning is to be promoted among students:

(a) Know, understand and act in accordance with the ethical principle that all “human beings are born free and equal in dignity and rights, and that they are endowed with



reason and conscience and should act towards one another in a spirit of brotherhood”.<sup>17</sup> Consequently, know, respect and defend the equality of the essential rights of all persons, without distinction as to sex, age, physical condition, race, religion or economic status.

(b) Exercise responsibly increasing degrees of freedom and personal autonomy and habitually perform acts of generosity and solidarity, while recognizing and respecting justice, truth, human rights and the common good. Ultimately the human rights content should be worked in gradually and in line with the learning objectives; the proposal is that this learning should not be the responsibility of any one subject, but several at once and of the entire educational community throughout the educational process.

346. Some additional Human Rights action by the Ministry of Education:

(a) Seminars on human rights education were held for the educational communities in all regions of the country.

(b) Since 2000, together with UNICEF, the Ministry has been producing a calendar for promoting child rights under the Convention. The calendars are circulated among the educational communities of the country.

(c) Since 2007, teachers in the Metropolitan Region have been trained in the “Villa Grimaldi memorial educational trail” to visit Villa Grimaldi with students as an educational trail and memorial site.

(d) Since 2007 the Ministry, in conjunction with the National Mine-Clearance Commission, has been running landmine risk education and awareness workshops for educational communities adjacent to mined areas, namely the regions of Arica y Parinacota, Tarapacá, Antofagasta, and Magallanes y Antártica Chilena.

(e) During 2008–2012, the School Socialization Policy was updated by the Cross-Cutting Education Unit. This policy is based on a rights, gender and training approach, with an emphasis on participation and commitment by the entire educational community.

347. The new curricular foundations retain the previous cross-cutting objectives, since they are consistent with the aims set out in LGE, and have achieved a high level of consensus. There are isolated amendments designed to: organize these objectives into categories that allow them to be grouped together more accurately and hence be more consistent with the areas or dimensions referred to in LGE (art. 19); simplify the wording; include more directly or explicitly some aims set out in LGE; and consider nuancing them for primary and secondary education to ensure that these objectives are appropriate to the age of the students.

### **Recreational, cultural and artistic activities (art. 31)**

#### *Sports activities*

348. The National Sports Institute (IND) runs a number of programmes for children and young people:

(a) Youth in Motion programme: oriented towards young people at social risk, it seeks to have young people view sport as a valid alternative use of free time. Activities for young people aged between 10 and 18 take place three times a week between April and November. Some 25 young people can take part in each workshop. Around 20,000 young people benefit under this programme each year.

<sup>17</sup> Universal Declaration of Human Rights, art. 1.

(b) Football Schools Programme: seeks to promote sport, through football among children and young people in 15 regions of the country, with the aim of fostering habitual physical activity, and identifying and developing upcoming sports talent. The programme benefits 38,822 children annually, ranging in age from 8 to 14.

(c) Children of Casual Working Mothers Programme: runs recreational sporting activities for children of mothers with seasonal agricultural work during January and February, in nine regions of the country. The programme benefits 9,800 children a year, aged between 6 and 12.

(d) Schools Open to the Community: these schools run one-hour sports and recreational workshops, during and after school hours. Participants are aged between 4 and 17. In 2011, preschoolers took part for the first time. Each year, some 50,000 children benefit from these schools.

349. SENAME and IND enable children and adolescents whose rights have been violated and who are receiving care in residential and non-residential SENAME network programmes to take part in football school and recreational programmes. In 2012, 150 schools will be established and sports-recreational programmes will be run at national level, in both protection-oriented and juvenile criminal justice contexts. Ninety-one schools were opened in 2011, 51 in 2010 and 75 in 2009. In 2010, a satisfaction survey of 241 children and adolescents was conducted regarding their participation in and the functioning of the football schools that opened in 2009. The results showed that 90.8 per cent had a positive opinion of them, giving a score greater than 5 (on a scale of 1 to 7). In this context, a proposal for technical guidelines for psychosocial teams carrying out interventions through sport (March 2011) was circulated to the SENAME Regional Directorates and the network of collaborating institutions.

350. For adolescents within the juvenile justice system, SENAME has devised a number of measures to promote sport and healthy living, and offer them recreation opportunities. The main agreements and projects in progress include:

(a) In the technical guidelines issued in 2011 for closed centres, recreational activities are identified as being of high importance to young people in their routine and the programmes offered.

(b) Cooperation agreement concluded with IND, allocating \$150 million for the improvement and repair of sports grounds in pretrial detention centres and those for serving sentences.

(c) Regular programmes: Football schools and youth movement. There has been coordination with IND about making the bases for application more flexible in order to help adolescents in detention centres and subject to non-custodial measures in the country have access to this resource. In addition to funding for structural improvements in existing SENAME sports facilities, IND offers the option to apply, with a total of 150 projects nationwide, for both technical lines (juvenile justice and protection) for the recruitment of staff and purchase of sports/recreational equipment enable various training activities to be carried out.

(d) Annual street-football workshop in the San Bernardo and Santiago detention centres: under an agreement with a private-sector institution, two pilot programmes in the above-mentioned cities were promoted in 2012, with the aim of extending the workshop to other detention centres in the country. These pilots have a capacity of 12 women and 13 men in Santiago and 12 men in San Bernardo.

*Cultural activities*

351. Since 2007 the Ministry of Culture has implemented the “Migrant, time and creative space in your high school” programme, with the aim of expanding the educational and artistic offerings provided to students through workshops in dance, theatre, visual arts, music, heritage and literature, taught during free periods in the school day. That year it began as a pilot in 30 high schools in the regions of Valparaíso, Bío Bío, Los Lagos and the Metropolitan Region, with 180 professional artists, working with 1,164 teachers assigned by the educational establishments, to develop new educational projects. At the end of the year, the First National School Art and Culture Fair was staged in Valparaíso. The pilot programme, which ran in 50 high schools in the country, was completed in 2010.

352. Upon completion of the pilot phase of the programme, its name was changed to “Acciona”, and in 2011 it continued working in the local nursery, primary and secondary schools, in two ways. The first is “Acciona Workshops”, a collaboration between educator artists, traditional enthusiasts and specialist teachers. The goal is for students to enhance their critical thinking and reflection, boost their self-esteem and improve their ability to solve problems, by studying and engaging in cultural artistic activities. The second is “Acciona Mediation”, which seeks to enhance the appreciation and integration of art and culture in education. Unlike the Acciona Workshops Programme, the educational establishment is an essential and ongoing agent in the process of creative learning in school, through cultural mediation that brings children closer to expressions of art and culture. There is a constant interchange between the students of a particular school and a local cultural institution, with an artist or creative professional acting as a mediator between the two. Acciona Mediation will begin as an initial experiment from the second half of 2012 in 15 schools in seven regions of the country.

353. During 2008, progress was made on the early-childhood project “Born to Read” which, together with JUNJI, INTEGRA and Chile Grows with You, involved the supply — through nursery schools — of materials to support and stimulate reading in children aged 0–4 years. The materials consisted of a bag of reading material and guidelines for reading with children, including a guide to stimulating reading, plus a core collection of books for children in nursery schools. The first stage of the project had a target of 200 nursery schools, benefiting 15,136 children.

354. Also in the framework of Chile Grows with You, during 2009 an early-childhood reading plan was introduced through children’s libraries in at least 200 JUNJI and INTEGRA nursery schools. A CD was also provided containing music for children under five. This music was the result of the 2008 Contest, which awarded prizes for works in the categories of “Music for Prenatal Stimulation”; “Music for Language Stimulation” and “Music for Early Childhood”.

355. The School Art Fair seeks to disseminate and expand artistic activities in schools, in the performing and visual arts in municipal secondary schools. Over the year, it promotes the holding of school competitions at regional level in theatre, dance and visual arts, so that the winners can show their work in regional exhibitions. Outstanding examples will take part in the National School Art Fair. In 2008, it was attended by 7,800 members of the general public, plus 132 high schools and 1,635 students.

### **III. Special protection measures (arts. 22, 30, 32–36, 37 (b) to (d), and 38–40)**

#### **A. Asylum, migration and armed conflict, including the Optional Protocol on the involvement of children in armed conflict**

##### **Refugee and migrant children (art. 22)**

356. In line with the Committee's recommendation No. 64 (b), Act No. 20430 (2010) provides protection for refugees, and seeks to establish a special regulation as a compendium of Chile's international commitments in the field.

357. During 2010 a series of financial partnership agreements were made with civil society institutions, with the aim of helping to fund activities that support the integration of refugees, by providing resources to meet subsistence needs and to implement strategies for generating income, such as employability and micro-enterprises. For instance, agreements were signed with the Social Pastoral Vicariate and the Christian Churches Social Aid Foundation (FASIC) for the sum of some \$270 million to cover various projects.

358. Under the "Resettlement Framework Agreement" (1999) signed by the Government of Chile and the Office of the United Nations High Commissioner for Refugees (UNHCR), as at December 2009 there were 16 missions to resettle refugees. People of various nationalities have been resettled, the vast majority of them Colombian, but people of other nationalities were also resettled who had come from as far away as Azerbaijan and Pakistan. As part of this framework agreement and in response to a request from UNHCR to the Government authorities, in September 2007, for humanitarian reasons, the Chilean Government agreed to receive 116 Palestinian refugees who were in the Al Tanf camp on the border between Iraq and Syria, without prejudice to recognition of their right of return to their country of origin. Accordingly, a "Special Palestinian Resettlement Programme in Chile" was implemented, lasting two years including preparation, reception and socio-cultural and labour integration of these refugees in Chile.

359. According to the provisions of the Regulations on Aliens, a family is understood to be the spouse of a migrant worker, the parents or children of both or one of them, who are supported by the holder of the residence permit. For the purpose of family reunification, residence permits may also be granted to children and adolescents in the custody of an immigrant, provided that their relationship has been formalized before the appropriate family court and that evidence of this is produced to immigration officials.

360. As noted in section II.D., the State has also provided access to preschool education for immigrant and refugee children. JUNJI coordinates its work under this activity with the Ministry of the Interior; they signed a cooperation agreement that has been in force since November 2007; In this context, the JUNJI Intercultural Education Programme aims to strengthen and mainstream intercultural education for all children who take part in it.

361. As explained in detail in section II.D., any resident, regardless of their legal status, even undocumented, can have access to free emergency health care in public hospitals. The Ministry of Health, FONASA, and the Department of Immigration and Migration of the Ministry of the Interior, have therefore agreed to resolve some health situations that may affect certain groups of the immigrant population in Chile, such as pregnant women, children and adolescents aged under 18, and refugees or asylum seekers.

362. As regards the protection of the rights of children and adolescents, Chile makes no distinctions based on social, economic, ethnic, geographic or religious background, gender or other factor. Accordingly, care policies and programmes include foreign immigrant

children and adolescents, in line with Chile's commitments, mainly to promote and respect the principles of equality and non-discrimination set out in the Convention on the Rights of the Child. In this context, the technical programmes and strategies for intervention with children and adolescents whose rights have been violated, which are conceived and implemented by SENAME, are accessible also to all migrant children and adolescents.

363. In the context of juvenile justice, intervention with adolescent migrants is regulated by article 15 of the implementing regulation of Act No. 20084. Meanwhile, SENAME has issued Exempt Resolution 0225/B (23 May 2007) and Circular 010 (18 October 2010). The above regulations relating to migrants in the juvenile justice system and subject to protection measures, give priority — among other measures — to the assistance of an interpreter where necessary; connectivity, communication, and contact with the consular authorities of the country of origin of the young person, if requested; communication management and/or facilitating contact with his or her family; management and/or collection of identity and other particulars; management of information required by other State agencies involved in the case, for example the Aliens and Migration Department of the Ministry of the Interior for the purpose of regularizing the migration status of adolescents in an irregular situation; management of guarantees and conditions for the proper exercise of the right to education; and the adoption of specific measures if rights violations are detected and/or it is feasible to manage the return of the adolescent to their country of origin if they wish.

364. Decree-Law No. 2465 empowers the National Director of SENAME to “exchange technical information with other national or international agencies and offices that carry out activities related to the functions of the Service”. That article, while establishing the framework for international cooperation with the Service, has enabled the institution to solve the problems facing migrant children, both foreigners in Chile and Chileans abroad. SENAME coordinates its work with a number of international organizations and public agencies, such as: International Police, the Aliens and Migration Department of the Ministry of the Interior, the Civil Registry, IOM, etc.

365. An agreement concluded with the Aliens and Migration Department of the Ministry of the Interior states SENAME's obligation to promptly admit migrant children and adolescents to the protection system — regardless of their migration status — and to support efforts to resolve residence of those who are not accompanied by a parent or guardian, or are in the process of adoption, through social reports or coordination to have such reports drawn up by SENAME's counterpart institutions abroad. For its part, the Aliens and Migration Department undertakes to regularize the status of children who are in an irregular migration situation and are in one of the establishments or programmes of the SENAME protection network or are subject to a non-custodial, semi-open or closed measure, in the context of the RPA Act. The agreement also allows information to be provided about pending residency applications for children residing in centres and programmes directly administered by SENAME or institutions in the collaboration network, and in cases of lost documentation of children with a regular migration status.

#### **Children in armed conflict (arts. 38 and 39)**

366. Decree-Law No. 2306 (12 September 1978), last amended by Act No. 20045 (2005), states in articles 13 ff. that military duty extends to all persons regardless of sex, from 18 to 45 years of age, therefore there is no question of enlisting minors.

367. Army:

(a) The requirements and background for admission to the military academies are: Military Academy: no minimum age is stated, but applicants are required to be enrolled in secondary grade 4 and have passed the entrance exam; Officers' Academy: minimum age

for applicants 18–24; and professional soldier: age 19 in December of the year of application.

(b) Procedure for handling weapons: based on strict compliance with institutional doctrine in accordance with regulations, manuals and methodological instruction booklets; training is carried out under the supervision and responsibility of specialist instructor staff of the institution. As for activities involving explosives, students receive only the basic instruction for their own safety and protection should they be exposed to contact with such materials, but are not authorized to use or handle them as this is done only by specialist permanent personnel.

368. Navy:

(a) The requirements and background for admission to the military academies are: Naval Academy: no minimum age is stated, but applicants are required to be enrolled in secondary grade 4 and have passed the entrance exam. During the 2012 admission period, there was a special admission for secondary grade 3 students; Apprentices Academy: be studying in or have passed secondary grade 4 (those studying in secondary grades 3 and 4 simultaneously may apply); and professional naval personnel: aged between 19 and 23.

(b) Regarding the procedure for handling of weapons and explosives, weapons are used for training only. When used with ammunition, weapons are loaded with blanks (salutes). Cadets do not use weapons on garrison duties. Weapons loaded with live ammunition may be used solely by personnel under contract, who are all adults. Accordingly, it is not deemed necessary to have special permission from parents or legal guardians for the use of weapons.

369. Air Force:

(a) The requirements and background for admission to the military academies are: Aviation Academy: 17 years of age in January of the year of admission, but applicants must be enrolled in secondary grade 4 and I have passed it on admission; Specialist Academy: aged under 23 on 31 January of the year of admission. To be enrolled in or have passed secondary grade 4. University Entrance Exam submitted (reference only); and professional airman: the requirements include having an up-to-date military record.

(b) Regarding the procedure that applies for the handling of weapons and explosives in the Air Force Academy, there is a letter of undertaking to be signed before a notary by parents and/or guardians of the cadets being admitted, point 3 of which states as follows: “Those appearing declare and accept that military training and the military profession involve a certain personal health risk, in that the Air Force Academy trains men and women in the defence and protection of the homeland, which necessarily implies higher special and particular physical and academic demands inherent in professional military training and different from a university career.”

(c) Regarding the Specialist Academy, there is a statement acknowledging and accepting the admission and attendance requirements, signed before a notary by the parents and/or guardians of cadets admitted the Institute. Note that while neither the above-mentioned letter of undertaking or statement specifically requires special permission from the parents or legal guardians of under-18s for the handling of weapons and explosives, the Air Force decided to include this aspect in the documents for both military academies, in order to obtain such special permission from the parents or legal representative.

370. The Chilean Civil Defence has volunteer personnel aged between 15 and 18, who take part in youth brigades in country’s local headquarters. The document regulating their participation is the Organization and Operations Manual for local institutional headquarters,

and it indicates the procedures, treatment, action and measures to be used with minor volunteers, with the aim of fully protecting the individual at all times. These volunteers participate in youth brigades, subject to a notarized authorization by their parents, which interact with one other and are trained in subjects that cultivate and enhance their sense of responsibility and volunteer spirit as a fundamental part of the institutional doctrine. The volunteers are instructed and trained to carry out tasks and missions in support of the community, in emergencies or disasters, as members of communal civil protection committees in the areas of first aid, giving directions, telecommunications, rescue, shelter management, operation of pumps, generators, chainsaws, etc.

## **B. Children in situations of exploitation**

371. Special protection measures are regulated in articles 68 ff. of Act No. 19968, and are treated at the Centre for Precautionary Measures in the Metropolitan Region, referred to in depth in section II.C.

### **Economic exploitation and child labour (art. 32)**

372. In order to comply with the Committee's recommendation No. 66, the State of Chile has taken the following initiatives and measures on economic exploitation and child labour.

373. Act No. 20189 states that children aged under 18 and over 15 may enter into employment contracts only for light work that will not jeopardize their health or development, provided they have express permission, and have a certificate of completion of secondary education, or are currently enrolled in secondary or primary education. The Act also states that an implementing regulation should determine which activities are hazardous to the health and development of children aged under 18, and in respect of which they may not enter into contracts of employment. In this context, Decree No. 50 of the Ministry of Labour and Social Welfare was published in September 2007, approving the above-mentioned implementing regulation. The regulation defines work that is inherently hazardous and that is hazardous on account of the working conditions, and prohibits under-18s from engaging in it. Furthermore, article 8 provides that every two years the Ministry of Labour, following a report from the Labour Department, must update the list of hazardous jobs or activities set out in the regulation. Finally, it imposes a number of obligations to be met by anyone employing a child under 18 (and over 15).

374. Act No. 20539 prohibits anyone under 18 years of age from working at night in industrial and commercial establishments. Anyone aged under 18 may not work at night for 11 consecutive hours, including at least the time between 10 p.m. and 7 a.m.

375. The Ministry of Labour and Social Security heads the National Advisory Committee for the Prevention and Progressive Eradication of Child Labour, with representatives of the Ministry of Education, the Ministry of Health, the Ministry of Justice, the Ministry of Agriculture, the Ministry of Social Development, the Integra Foundation, the Confederation for Production and Commerce, the Unified Federation of Workers, the Catholic Church, the Methodist Church of Chile, NGOs, the Labour Department, Carabineros de Chile, the National Association of Exporters of Non-Traditional Manufactured Products, the Chilean United Nations Association, the College of Teachers, the United Business Confederation of Micro-, Small- and Medium-sized Industries, Services and Artisans of Chile (CONUPIA), ILO/IPEC (advisory status) and UNICEF (advisory status). The Committee has also been joined by the Investigative Police, the Chile Telecom Foundation and the Chilean Safety Association (ACHS). Meanwhile, the regional ministries of labour lead the work of the Regional Advisory Committees on the prevention and eradication of child labour.

376. Between 2007 and 2010 the Committee worked on a review of the progress of the National Plan 2001–2010. In 2007, the Committee issued a summary of a Plan 2006–2010 and followed up on the measures taken by the various institutions over the period (studies, world day, etc.). The Committee resumed its meetings on 30 May 2012.

377. The Ministry of Labour, along with the Ministry of Social Development and ILO signed an agreement establishing the coordination and cooperation action needed to support the implementation of the National Survey of Activities of Children and Adolescents (EANNA) 2012 with the aim of collecting information on the magnitude, characteristics and main determinants of child labour in Chile, and refining and updating the diagnosis made in 2003 with the first version of the survey. EANNA prepared the questionnaire in 2011 and the pre-test was conducted. The fieldwork was conducted between February and April 2012.

378. In May 2011, under a cooperation agreement between the Ministry of Labour and the Ministry of Education, the two institutions agreed to coordinate their work and cooperate with a view to preventing and eradicating child labour and protecting adolescent workers.

379. The Ministry of Labour and SENAME signed an Agreement (Exempt Resolution No. 470, 31 July 2007) whereby they undertake to carry out joint action for the prevention and eradication of child labour, safeguarding the rights of adolescent service providers and supporting young people with criminal responsibility in activities to train and prepare them for working life and social reintegration.

380. Under that agreement, the Ministry of Labour and the Labour Department take an active part in the Interministerial Panel of the Worst Forms of Child Labour, led by SENAME. In 2011 it worked on a “Procedure for the Detection and Comprehensive Care of Children and Adolescents in Hazardous Agricultural Labour”. The leaflet describing this procedure was launched during March 2012, in the commune of San Clemente, Maule Region, in the presence of the authorities.

381. The cooperation agreement between SENAME and the Labour Department (28 September 2007) establishes agreements to prevent and protect victims of the worst forms of child labour; in particular for the coordination of action designed to stop children under 15 years old being used in prohibited activities, and activities carried out by children aged 15 and over, who provide services in unprotected conditions, under the current rules. The agreement requires action at local and regional level on the detection of child labour and protection of victims, by the SENAME regional directorates and network, especially OPDs.

382. The Department of Labour has a special instruction that regulates the supervision of child labour, which includes the immediate suspension of work for some situations, including hazardous child labour. In 2010 there were 2,535 inspections related to the provisions governing child labour. In 2011 there were 673 inspections. Inspections are conducted on the premises of companies or employers and at work sites. The Labour Department prosecutes all infringements detected during its inspections. When it detects illegal child labour it orders it to be brought to an end and informs SENAME. The latter adopts rescue and protection measures as appropriate.

383. SENAME has a Central Intersectoral Register of the Worst Forms of Child Labour which receives advice from ILO, and extends to the whole country. Between January 2007 and December 2011, 1,728 new cases were registered, bringing the total number of children and adolescents registered between June 2003 and December 2011 to 4,034. Of this universe, 41.9 per cent were girls and 58.1 per cent boys; 48.5 per cent were not attending school, 27.5 per cent were under 15 years of age and 32.7 per cent were subject to commercial sexual exploitation.



384. Regarding the Central Register, according to Ministry of Labour information, at 31 December 2011 there were 259 cases of children and adolescents identified by police and inspectors, 63 of whom were referred to a care programme and awaiting the outcome of this process, and 166 cases were closed administratively. Although technical intervention by a programme in the SENAME network may remain active when the results of contact with the child or family are reported to the Registration System, the remaining group was awaiting referral for appropriate contact and care.

385. Taking into account, *inter alia*, the Committee's recommendation No. 66, SENAME has set up 93 Specialized Comprehensive Programmes (PIE). These programmes have helped to provide nationwide coverage for tackling violations associated with economic exploitation.

386. With support and funding from ILO, by means of a letter of intent signed in February 2010, SENAME is taking specific institutional action in child labour and its worst forms. This includes technical support for the implementation of a joint working plan in the areas of detection, registration and care of child and adolescent victims of the worst forms of child labour, integration of the worst forms of child labour into social programmes and policies, awareness-raising and horizontal cooperation on the worst forms of child labour, plus financial support for making proposals for intersectoral procedures for the care of children and adolescent victims of commercial sexual exploitation and hazardous work.

#### **Illicit trafficking in narcotic drugs and psychotropic substances (art. 33)**

387. The Secure Chile Plan 2010–2014 provides that the Ministry of the Interior is responsible for taking control of drug trafficking and for planning, coordinating, monitoring and evaluating the State's efforts in this area. It will also be the coordinator of a new National Control System for Narcotics, Psychotropic Substances and Precursors, which will have an intersectoral advisory board composed of Carabineros and the Investigative Police narcotics departments, together with representatives of the Chilean Navy, the National Customs Service, the Financial Analysis Unit, the National Intelligence Agency, the Public Prosecution Service, the Chilean prison service and SENDA. The initiatives promoted will be incorporated into a drug trafficking control strategy, which will set up a standing working party to coordinate specific action, measure progress and resolve difficulties with national representatives from all State agencies involved in controlling and prosecuting this crime.

388. The Neighbourhood in Peace programme, which is aimed at reducing victimization, violence and the feeling of insecurity in 50 residential neighbourhoods prioritized on account of crime problems, covers multiple areas of intervention, including reclaiming public spaces, prevention of violence in schools, and community conflict prevention. In the field of prevention, 45 local projects have been implemented, which together have served some 5,270 children and adolescents, from the perspective of promoting family and personal protection factors, promoting reintegration into the education system and the reduction of risk factors that may encourage people to embark on a life of crime.

389. Under the New Life programme, intervention processes are implemented, at individual and family levels, associated with preventing rights violations and breaches of the law regarding children and adolescents. It also devises strategies for intersectoral coordination and intervention in networks in the territory where the project is taking place.

#### **Sexual exploitation and sexual abuse (art. 34)**

390. In its recommendation No. 70 (a) the Committee expressed the need to bring legislation fully into compliance with Chile's international obligations under the Convention and the Optional Protocol on the sale of children, child prostitution and child

pornography. Chile has made progress in that respect as set out below (described in more detail in chapter I, section A:

- (a) Act No. 20207 lays down a new period of limitations for sex offences involving minors;
- (b) Act No. 20230 raises the age limit for victims of rape from 12 to 14 years, below which the rapist may not be granted parole until he has served at least two thirds of the sentence;
- (c) Act No. 19927 on child pornography raised the age range for protection in sex offences from 12 to 14 years of age;
- (d) In compliance with recommendation No. 24 (b) on the Protocol, Act No. 20526 introduces amendments to various legal texts with a view to combating sexual harassment against children, child pornography and possession of pornographic material;
- (e) Act No. 20594 introduces disqualifications for persons convicted of sexual offences against children and establishes a registry of such disqualifications.

391. Jointly with SENAME, the Ministry of Justice has prepared the Second Framework for Action against Commercial Sexual Exploitation of Children 2012–2014, convening institutional and civil society players with a view to combining and coordinating efforts to eradicate child sexual exploitation. Various international institutions have worked to support this initiative, notably UNICEF, IOM, ILO and IIN technical advice. Its specific aims are: to update qualitative and quantitative assessment of the situation of child and adolescent commercial sexual exploitation in Chile; to strengthen strategies for raising awareness of child and adolescent sexual exploitation, including prevention mechanisms; to enhance processes for reporting, specific research and coordination between the various players and sectors involved; to encourage early detection, referral and timely treatment of children and adolescents identified as being in situations of commercial sexual exploitation; to strengthen models and specialized technical interventions for children and adolescent victims of commercial sexual exploitation; to introduce an efficient system for coordinating information on children treated at the various centres in the case handling circuit; to strengthen institutional technical capabilities and specialized training activities to prevent and restore rights violations, with the assistance of international organizations; and to contribute to adjustments of legislation and judicial and legal practices related to prosecuting clients and protecting victims.

392. SENAME increased the number of projects on sexual exploitation to 16. These projects are operating in 10 regions of the country, covering 800 children. In regions where there is no specific programme, demand is met by IEPs.

393. SENAME has also carried out the following initiatives to tackle this type of violation, some of which have already been mentioned in this report:

- (a) Contribution to the creation of a procedure for investigating crimes of commercial sexual exploitation, in conjunction with the Public Prosecution Service.
- (b) Setting up a national observatory on the subject (2010–2011) with 35 participants.
- (c) Annual celebration of the National Day Against Commercial Sexual Exploitation (May 18).
- (d) Internet campaign “Chiquitas.cl” to raise awareness of commercial sexual exploitation, which won national recognition with the Effie Awards Chile prize.
- (e) Cooperation agreement with the National Tourism Service, SERNATUR (Resolution No. 1692, 28 May 2009), under which the two services undertake to cooperate

on preventing child sexual exploitation in travel and tourism. The agreement covers the implementation of a joint action plan aimed at raising the profile of the issue and gradually introducing it at SERNATUR, with technical advice from SENAME for promoting and conducting training activities for its staff and educating and informing related sectors, all in line with recommendation No. 20 (b) on the Optional Protocol.

(f) Bilingual campaign in two of the main airports and at border crossings, through the dissemination of material (jointly with the Investigative Police and the Aliens and Migration Department of the Ministry of the Interior).

(g) Coordination of the “No Excuses” campaign, transferred by ILO.

(h) Awareness-raising in the business sector of establishments for adults (cabarets and similar premises), by means of a leaflet urging them not to hire minors.

(i) The grooming campaign (2008) created the group “Say no to grooming” on the social network Facebook, and in 2007 the “Safe Online Student PC” campaign was conducted.

394. Between March and August 2007, a training programme was run on legal procedures for handling commercial sexual exploitation and means of action, implemented by Diego Portales University. This included the study on the implementation of legislation to combat, prevent, suppress and punish the commercial sexual exploitation of children; the publication of treatment guidelines; training courses and regional seminars in five regions of the country for 197 officials; and the development of a training module for prosecutors and a primer for in-house training designed by the Public Prosecution Service.

395. In 2008, SENAME took part in the national conference to prepare for the Third World Congress against Sexual Exploitation of Children and Adolescents; and in the congress in Rio de Janeiro, Brazil. Jointly with the Ministry of Justice it also drafted the report of progress of the first framework for action against commercial sexual exploitation.

396. SENAME and ILO are currently engaged in the preparatory phase of a new study to estimate commercial sexual exploitation of children during 2012.

397. With regard to legal actions relating to commercial sexual exploitation, from 2007 to March 2012 SENAME filed 179 complaints, plus those filed by the Legal Representation Programmes, which involved one or more child victims of these crimes.

398. In 2011, the Public Prosecution Service developed a project called ESCNNA [commercial sexual exploitation of children and adolescents], which identified centres of child sex trade in three pilot regions. After assessing this experiment, an Investigative Guide of Good Practice was drafted, which in 2012 will be considered for nationwide application.

399. Since May 2008, the Forensic Medicine Service (SML), under its modernization programme, has united the efforts in the areas of child psychiatry and forensic sexology to call upon the country’s various universities to take part in a series of seminars on child abuse, with the overall objective of informing them about the reporting channels and the legal and forensic processes that children have to undergo, holding discussions to devise improvements to reduce the victimization processes and other consequences of child abuse. The specific objective of the seminars was to discuss, with the university community and research, judicial and other organizations concerned about the issue of child abuse, the current development of the various expert appraisals conducted by SML in this area, as an auxiliary body of the judiciary. These discussions expressly acknowledge the relevance of expert evidence in the pursuit of justice through trials of such crimes. A total of 34 seminars have been held all over Chile, each with an average of 330 participants. The seminars were sponsored by the World Health Organization and the Pan-American Health Organization;

accordingly, experts from Colombia, Spain and the United States took part alongside experts from SML, prosecutors and regional defenders.

400. A guide to the regulations on mental health expert appraisal techniques in the fields of forensic psychiatry and psychology was produced, approved by Exempt Resolution No. 10655 (30 November 2009). In addition to updating the regulation of the entire area, in compliance with the procedural rules, this technical document includes specific definitions and expert appraisal methods to ensure that SML experts and health professionals carrying out forensic examinations in the fields of forensic psychiatry and psychology use approved procedures and apply them in a uniform manner. To that end, the definitions of forensic psychiatry and psychology and the specialities of forensic child psychiatrist and forensic child psychologist were incorporated. Finally, complementing the aforementioned regulations, Exempt Resolution No. 12949 (31 December 2012) was issued, reorganizing the Department of Mental Health, establishing a child psychiatry unit within its structure, in order to have a specific area for analysing forensic mental health cases in which children are assessed by qualified professionals for these purposes.

401. In the field of forensic sexology an expert technical guide on sexual assault was drafted, and approved by Exempt Resolution No. 9487 (30 September 2010), with the aim of updating the technical regulations to bring them into line with current criminal legislation on sex offences, “since it requires activities that can serve as a basis for legal or medical appraisal or as a first indication, while safeguarding the dignity of the person in each of its procedures, and avoiding re-victimization after repeated inspections, examinations or biological tests”.

402. SML also established a working group with the Public Prosecution Service, in order to improve the efficiency of appraisals, meeting periodically, and including on its agendas the protection of child rights in the processes of victimization and expert appraisals, which are quite closely related.

403. In July 2012, the President of the Republic announced the implementation of 10 measures against sexual abuse: submission of the bill to reorganize the institutions responsible for the issues of childhood and adolescence; implementation of the Act providing for the establishment of the register of paedophiles; increase in the budget for SML; expediting the implementation of electronic tagging; increased penalties for the offence of marketing, importing, exporting, distributing, disseminating or exhibiting pornographic material; stricter requirements for granting parole to sex offenders against minors; creating a single system for interviewing victims, for subsequent use during all stages of criminal proceedings; a bill will be proposed to extend to other people the aggravating circumstances set out in the Criminal Code, currently applicable to sex offenders who have parental, religious or educational links with minor victims; creation of the National Comprehensive Child Protection System; and a review of parliamentary motions on the protection of minors.

## **C. Sale, trafficking and abduction (art. 35), including the Optional Protocol on the sale of children, child prostitution and child pornography**

### **Legal and policy measures taken for the implementation of the Optional Protocol**

404. In compliance with the Committee’s recommendation No. 24 (d) on the Optional Protocol (CRC/C/OPSC/CHL/CO/1), Act No. 20507 criminalizing the smuggling of migrants and trafficking in persons and laying down rules for preventing and more effective criminal prosecution of those offences. It also criminalizes the offence of facilitating or promoting the entry into the country of persons to engage in prostitution, and transferring,

holding or receiving persons for the purpose of subjecting them to sexual exploitation or organ trafficking. Furthermore, it punishes anyone associating with them with a view to committing the crimes described above. It also introduces rules for the protection of victims, including the right to apply for a temporary residence permit for at least six months either to settle legal action in their favour or to regularize their stay in Chile.

405. Regarding the Committee's recommendation No. 23, which states that the sale of children is not fully covered yet under Chilean criminal law, and recommendation No. 70 on the second periodic report, which recommends bringing legislation fully into compliance with the Convention and the Optional Protocol mentioned above, it should be mentioned that the law does currently prohibit and punish it as a criminal act, though not in a single legislative instrument. To determine which legislation is applicable, we must distinguish whether the sale is for the purpose of adoption, in which case it is punishable under articles 41 and 42 of the Adoption Act, which lays down penalties for anyone who gains possession of a minor in order to take him or her out of the country, for the purpose of adoption, or who requests or accepts any form of consideration for facilitating the transfer of a minor for adoption. If the sale is for other purposes such as exploitation, slavery or to obtain organs, it is punishable under Act No. 20507.

406. In the case of smuggling of migrants and trafficking in persons, the observation states that not all forms and types of these are prohibited. In that connection, note that Act No. 20507 repealed the former article 367 *bis* of the Criminal Code and inserted new articles into the Criminal Code punishing smuggling of migrants and trafficking in persons in their various forms: for sexual exploitation, for work, slavery or servitude or to take organs. It also penalizes both trafficking abroad and in Chile, with an aggravated penalty for the offence in particular where the victim is aged under 18, and does not require any of the qualifying circumstances, such as deceit, violence, coercion, intimidation, abuse of power or exploitation of a vulnerable situation, to be a criminal offence. To provide protection for victims of these crimes who are under the age of 18, public services responsible for protecting children and adolescents must facilitate access to any specialized services they may require. In addition, where the judge considers that the interests of the child or adolescent are inconsistent with those of the person representing them, he is to appoint a guardian *ad-litem* of any institution for the defence, promotion or protection of child rights.

407. Domestic trafficking for prostitution is punishable in respect of victims aged under 18 because article 367 of the Penal Code has remained in force.

408. Finally, regarding recommendation No. 24 of the Optional Protocol on the sale of children, child prostitution and child pornography, which refers to punishing the possession of pornographic material, Chilean law sanctions, under the term "storage", any conduct involving the malicious keeping or possession of child pornography, in other words, it makes storage and possession synonymous because it punishes anyone keeping or storing child pornography with intent to possess it. This is to distinguish it from mere possession — even accidental — of child pornography which is not punishable or penalized, because there is no intent to possess or store pornographic material.

409. In addition to criminalizing these offences, the State, in cooperation with international organizations and civil society, has been promoting a number of measures designed to report, raise awareness of and prevent the occurrence of the crime of trafficking in persons, as outlined below:

(a) Establishment of the Intersectoral Panel on Trafficking in Persons, coordinated by the Aliens and Migration Department of the Ministry of the Interior (Decree No. 2821, 2008), which will be responsible for coordinating the activities, plans and

programmes of the various institutional players to prevent, suppress and punish trafficking in persons, especially women and children.

(b) Campaign for the prevention of trafficking in women: “In Chile we Respect all Women” (2008). Participants: SERNAM, Aliens and Migration Department of the Ministry of the Interior and the Ministry of Public Works, at the International Airport.

(c) Two geographical and social mapping exercises in the Republic of Chile in 2006 and 2007, with the aim of detecting routes that might be used for trafficking in persons. The activities were organized by NGOs Save the Children and Raíces, with the participation of officials from the Investigative Police, the Carabineros and the migration department of the Ministry of the Interior. The results of the work were delivered to the authorities of the Ministry of the Interior, as input for policy-making and adopting measures to prevent, suppress and punish trafficking in persons.

(d) Fifteen small projects initiated in 2007 by SENAME, designed to prevent and care for children at risk of commercial sexual exploitation, seeking to address this issue from the family prevention standpoint.

(e) Protection of and granting of residence permits to victims of trafficking who cooperate in the respective judicial proceedings.

(f) In December 2009 a cooperation agreement was signed between the Ministry of the Interior and SENAME, for the review of all residency applications made in Chile for children unaccompanied by their parents; this initiative formalizes coordination that has been in progress with positive results since 2006.

(g) First Summit of Ibero-American Public Prosecutors’ Offices on Human Trafficking (2008), organized by the Public Prosecution Service of Chile by the German Cooperation Agency (GTZ) and the Chilean International Cooperation Agency (AGCI).

(h) Approval of a document entitled “Santiago Guidelines on Victims and Witness Protection”, which establishes the minimum standards of conduct for Ibero-American prosecutors’ offices in dealing with victims of human trafficking and trial witnesses. This document, which had been finalized at a meeting of Ibero-American public prosecutors’ offices held in Santiago, Chile, in April 2008, was approved unanimously at the Sixteenth General Assembly of the Ibero-American Association of Public Prosecutors (AIAMP), held in July 2008 in the Dominican Republic.

### **Prevention and promotion**

410. SENAME has carried out the following communication activities:

(a) Since 2009, it has been in charge of the “No Excuses” communication campaign designed to prevent violation of these rights. This implies celebrating the “World Day against Commercial Sexual Exploitation of Children and Adolescents” with a public activity that has media coverage, together with the distribution of material bearing the messages “No excuses” and “Commercial sex with children under 18 is a crime”. This activity is replicated in the capital cities of all regions of the country.

(b) In conjunction with Corporación Opción and the Vocational Institute of Chile, in April 2012, the “Let’s all say NO to child pornography” campaign was launched, designed to inform owners of internet cafés and seek their commitment to prevent their facilities being used for serious child rights violations.

(c) In September 2009, together with the Investigative Police, SERNATUR and ILO, a dissemination day was held at Santiago International Airport issuing new migration cards to foreigners entering the country with the slogan “In Chile, commercial sex with children is a crime”, in accordance with recommendation No. 70 (f) on sex tourism.

### **Physical and psychological recovery and social reintegration of the child**

411. This matter has been dealt with in the section on “exploitation and sexual abuse”. Additionally, regarding recommendation No. 20 (c) on the review of the Protocol, note that both the Observatory on Child Commercial Sexual Exploitation and technical discussions have always taken account of boys, promoting a gender focus both in direct treatment and awareness-raising activities. In 2007, of a total of 1,028 children and adolescents treated in specialized programmes on commercial sexual exploitation, 23.8 per cent were males, and in 2011, of a total of 1,168 children and adolescents 217 (18.6 per cent) were male. It is worthy of note that in 2007, ILO and Corporación Opción — a collaborating institution of SENAME — conducted the study “Characterization and systematization of the experiences of child victims of commercial child sexual exploitation, and a model of rehabilitation from a gender perspective”, providing important lessons on the subject, which have been used to improve the technical bases for intervention with children in this field.

### **Protection of victims and/or witnesses**

412. In response to recommendation No. 49 (c) on the third report and recommendations Nos. 30 and 32 on the review of the Optional Protocol, the following measures have been implemented.

413. The Victim Assistance Network (RAV), headed by the Ministry of the Interior, brings together all the bodies that make contact with the victims after the crime has occurred. Its goal is to optimize the response of the institutions that are part of the circuit that victims must follow to receive proper treatment at all stages, from the lodging of a complaint until they receive psychological, social and legal support and care. It comprises the following organizations: the Ministry of the Interior, the Ministry of Justice (SENAME and the legal aid agencies), the Ministry of Health, SERNAM, the Carabineros, the investigative police and the Public Prosecution Service. The main areas of the network are set out in the RAV Working Plan for the period 2011, currently in progress.

414. In 2008 the Public Prosecution Service initiated a project to improve the care given to victims and witnesses of crimes by implementing a model based on the delivery of guidance, protection and support services, the characteristics of which will depend on the type of user, type of crime and current stage of the proceedings. In this context, a specialized care service has been implemented for child and adolescent victims of sexual abuse and/or domestic violence, and witnesses who have to testify in oral proceedings.

415. Specialized Intervention Model for child and adolescent victims of sexual offences and/or in the context of domestic violence. Based on article 19 of the Convention on the Rights of the Child, the model is designed to make a timely assessment of the risk to underage victims of sexual offences and offences in the context of domestic violence, implement protection measures to put a stop to the abusive situation, provide guidance on psychosocial and criminal matters to children and their guardians, facilitate their participation in criminal proceedings, and assess the need for a rehabilitation process, making referrals to public or private institutions engaged in this type of intervention. Given the nature of this intervention, it should be performed by specialized professionals of the regional victim and witness support units (URAVIT), who contact complainants and/or the guardians of the children within 72 hours of the complaint reaching the Prosecutor. This information, supplemented by other information (police report or complaint, previous cases involving the victim or the accused, criminal record of the accused) is used to determine what immediate protection measures are required, whether autonomous or judicial, whether the situation need be reported to the Family Court, and actions designed to put a stop to the abuse or ill-treatment. As the intervention continues, the assessment gets more detailed, so as to determine whether the protection strategy should be maintained or changed, which

from the beginning is reported to and coordinated with the prosecutor in charge of investigating the case.

416. Any child victim of these crimes is entitled to rehabilitative care. To that end, the Support Units make an appropriate referral to the institutions in the specialized network. If no appropriate care is available in the public network, a referral is made to the private network, with funding from the Attorney-General's Office. The responsible adult may also be referred to improve his or her protective capacities, if appropriate. The specialized guidance to the child and family takes account of psychosocial and criminal aspects, depending on the needs of the users and the potential effects of experiencing criminal proceedings in these fields. It requires a context that helps both the victim and the guardian to gain a general understanding of the offence suffered, and its potential impact on the person and/or family, and the ongoing criminal proceedings.

417. This intervention is supported with resources from the Victim of Crime and Witness Assistance and Protection Fund of the Public Prosecution Service, which can fund protection measures, and support services such as therapy, travel, accommodation, etc. This model was implemented nationwide from January 2012, and during the first quarter specialized care was delivered to 4,751 children and adolescents, accounting for 73 per cent of revenue. The necessary measures are being taken to increase this percentage.

418. During 2012 the Public Prosecution Service published and distributed the Guide to Investigative Interviews with Children and Adolescent Victims of Sexual Offences, with the aim of supporting the statement taken by prosecutors, thereby maximizing the quantity and quality of information that can be recorded in this investigative procedure and ensuring that the process victimizes the child as little as possible.

419. Intervention model for victims and witnesses who have to testify in oral proceedings. Model taking account of contact with all victims and witnesses who have to testify in oral proceedings, to assess their risk, willingness to testify and organize the provision of the necessary support. In the case of a child or adolescent victim or witness, contact is made with the guardian. All situations assessed as highly intimidating, or where there is reluctance to make a statement, are referred to the Support Units, whose professionals handle the direct specialized intervention with users, implementing the required security measures. When the child that has to make a statement is a victim of sexual offences and/or in the context of domestic violence, the Support Units contact the child's guardian to arrange a face-to-face interview. In this interview the professional explains the procedure, content, etc. of the trial to the guardian in particular and to the child if appropriate. He also assesses their needs and coordinates any support measures to be implemented, methodological preparation for the victim, the interview with the prosecutor, and any protective measures deemed necessary (for example, CCTV is always used when minors testify in the trial), and assesses the need for support in the trial.

420. All SENAME projects involved in tackling this violation support children during the criminal justice process, with the hope of reducing secondary victimization.

421. The Victim Support Programme of the Ministry of the Interior and Public Security is part of the Chilean Government's Secure Chile Plan 2010–2014, and aims to help repair the damage caused by the offence through rapid and timely contact with the victims, providing comprehensive specialized care from professional psychologists, lawyers and social workers.

422. In this context, the Victim Support Centres of the Ministry of the Interior seek to help repair the damage caused by the offence through rapid and timely contact with the victims, providing comprehensive specialized care from various professionals, including emotional support, guidance and information, counselling and advice. When a complaint is made to the Carabineros, the institution sends the background to the Victim Support



Centres to enable specialized professionals to contact those affected and to offer guidance and information, and facilitate access to the free comprehensive care service. Support may also be requested via the toll-free helpline number 1000 600 818. The victim can go directly to any of the 34 care centres, distributed throughout the country, or be referred from other RAV institutions. At the Victim Support Centres, assistance is available to anyone who has been a victim of violent crime, such as: robbery, robbery with violence, sexual offences, bodily harm and grievous bodily harm, homicide, patricide, kidnapping, child abduction, robbery with rape and robbery with homicide.

423. The legal aid agencies, reporting to the Ministry of Justice, deliver psychological, social and legal guidance at their care centres for child and adolescent victims of crime.

#### **International cooperation on the implementation of the protocol**

424. The establishment of the Commercial Sexual Exploitation Observatory has contributed to progress on joint State-civil society thinking on the issue.

425. In addition to their joint work on the project “Strengthening Borders with Bolivia, to reduce smuggling and trafficking of children and adolescents”, SENAME, together with the Bolivian Vice-Ministry for Equality of Opportunities, conducted a bilateral cooperation programme between 2007 and 2010, aimed at preventing the worst forms of child labour, with emphasis on trafficking in border areas, holding four binational workshops attended by representatives of the public sector, civil society and international organizations.

### **D. Children in conflict with the law, victims and witnesses**

#### **Administration of juvenile justice (art. 40)**

426. As indicated in the previous report, in June 2007 Act No. 20084 entered into force, providing for the establishment of a specialized criminal justice system for juvenile offenders. This system is based on full recognition of the criminal capacity and of the procedural rights of juvenile offenders and, at the same time, on the particular circumstances of the individual since it concerns young people in development. The pillars of this major reform are the accountability and social reintegration of adolescents committing a crime.

427. Owing to the need for specialization, the administration of juvenile justice has been entrusted to SENAME. It manages custodial sanctions exclusively and directly, ensuring that the necessary programmes are in place to provide for non-custodial measures, through a system of non-profit specialized external collaborators, who tender in public procurement procedures for the award of projects, successful tenderers being subject to SENAME supervision and technical and financial assistance.

428. The requirement for a specialized justice system is set out in article 29 of the Act, calling upon each participating institution to strive to safeguard the specialization mentioned. Much progress has been made, such as the Juvenile Criminal Defender Service, the Children’s Unit of the Public Prosecution Service and the specialized chambers in the Guarantees Courts.

429. While criminal courts are not yet being established for adolescents, guarantees judges investigating the cases of minors have carried out special training programmes and constant refresher courses in conjunction with the various institutions involved. Hearings for minors have been organized in specialized blocks, with transit sectors and staff designated for minor suspects, at the same time working to implement chambers specializing in adolescent criminal responsibility, known as RPA chambers, with

permanent trained officials. This project is being carried out on a pilot basis, currently in at least nine chambers in the country.

430. The age limits for criminal responsibility in adolescents are laid down in article 3 of Act No. 20084, which sets the lower and upper limits of such responsibility at 14 and 18 respectively, in line with the suggested international standards. It could also be regarded as a dual system of age limits, because although anyone over age 14 can have criminal responsibility, age is an important factor for determining the maximum applicable custodial sentence, as there are maximum limits by age bracket. For young people aged over 14 and under 16, these are up to five years, and for those who are over 16 and up to the ceiling of 18 years, the maximum applicable custodial sentence is 10 years, which can always be reduced as objectives are achieved.

431. SENAME has issued an instruction (Exempt Resolution No. 0225/B, 23 May 2007) referring to the “procedure for adolescent aliens subject to a measure or sanction for having infringed criminal law”. It states that all adolescents subject to a measure or sanction are entitled to decent treatment, specifically: the right to equal treatment and non-discrimination; the right to be informed of their rights and duties, through an interpreter if the adolescent does not understand the official language (Spanish); the adolescent’s right to confidentiality and discretion regarding the private history provided; the duty to have identification for a Chilean or foreign adolescent, and failing that, the duty to carry out the formalities for obtaining it.

#### **Juvenile detainees (art. 37 (b) to (d))**

432. For the State of Chile, custodial sentences are used either as a precautionary measure or as a sanction, in other words as a last resort. This is clearly enshrined in articles 26 and 47 of Act No. 20048. Meanwhile pretrial detention, a precautionary custodial measure used for adolescents, will be ordered only for offences that would constitute crimes if committed by adults (art. 32).

433. As for the immediate trial, every effort is made to expedite the proceedings, as the Public Prosecution Service requires the investigation to be closed within no more than six months (article 38 of Act No. 20048).

434. The custodial sentence may also be suspended (art. 41, Act No. 20048), converted (art. 53, Act No. 20048) or remitted (art. 55, Act No. 20048), after an analysis of the young person’s conduct and intervention needs. All of these should aim to avoid incarceration of adolescents, opting for alternative outcomes or less onerous measures, to avoid abandoning an ongoing rehabilitation process.

435. Criminal mediation. Since 2010, a legal innovation tool has been used that aims to improve the response of the criminal justice system, through criminal mediation, in cases involving adolescent suspects. The project operates through coordination of various players: the unit specializing in RPA of the Attorney-General’s Office, the four Metropolitan Regional Attorney-Generals’ Offices and the legal aid agency (CAJ). The Attorney-General’s Office refers cases to the latter in order to promote awareness of adolescents’ accountability and increase victim satisfaction.

436. Criminal mediation in offences occurring in the school context. In order to give substance to the alternative outcomes of conditional stay of proceedings and compensation agreements, in the case of crimes committed in the school context, a working process has been established to implement and develop criminal mediation processes between the Attorney-General’s Offices of the Southern and Western Metropolitan Region and Corporación Opción. The latter is a SENAME collaborative body which receives cases referred by the Attorney-General’s Office, and mediates on the basic conflict.

437. Pilot work programme for conditional stay of Public Prosecution Service and Corporación Opción proceedings. In cases of minor offences and suspects who are adolescents with no alcohol/drugs problem, it seeks to contribute to the process of social integration and accountability through mechanisms such as effective school reintegration and community service. The cases are referred by the Attorney-General's Office, in the context of a conditional stay of proceedings, to Corporación Opción. The Attorney-General's Office for the Southern and Western Metropolitan Region are working on these processes as pilots.

438. Intervention model for the control of sexual assault by a conditional stay of proceedings. This programme is intended to be applied to adolescents who have committed a sexual offence and have a low to moderate risk of recidivism in crimes of this kind. There have been referrals to this programme since the last quarter of 2009, in the context of the conditional stay of proceedings, and it is operating in the Attorney-General's Office for the Western Metropolitan Region, specifically in the local Attorney-General's office of San Bernardo. Work with adolescent suspects takes place through the Corporación Opción "Controlling sexual assault" programme.

439. Drug Treatment Courts Programme (TTD-RPA). This programme is designed as a voluntary alternative that allows adolescent suspects to opt for rehabilitation treatment for substance abuse problems. Such treatment is a precondition for a conditional stay of proceedings, thereby avoiding a possible sentence. Its main objective is to reduce recidivism, reduce drug use, and promote social integration of adolescents.

#### *Legal aid*

440. Any action to which a juvenile offender is subject must be taken in the presence of his defender from the first hearing, as guaranteed in article 31 of Act No. 20048.

441. Efforts have been stepped up on access to legal aid, with progress in both the legislative and operational fields. Article 11 of the implementing regulation of Act No. 20048 establishes the right to legal aid, while article 76 of the same Act enshrines the guarantee of legal aid, setting out clear guidelines regarding the obligation of detention centres to provide the means to obtain the necessary legal advice, and to allow direct and constant contact between defender and suspect (art. 77).

442. SENAME, as direct administrator for the implementation of the measures and sanctions, is making efforts to hire lawyers in all centres throughout the country, who provide ongoing advice to young people and officials, coordinate action with the Public Prosecution Service, Advocacy and Judicial, and drive and carry out important initiatives that demonstrate that this guarantee is effective. One example of these is the videoconferencing system with the Public Defender's Office; in addition to the fortnightly personal visit by the defender in charge, this system enables young people and defenders to communicate online via Skype, using appropriately equipped computers supplied to the centres by the Public Defender's Office.

443. Since even before the entry into force of the RPA Act, the Public Defender's Office has been running the Juvenile Criminal Defence Programme, under which attorneys, psychosocial professionals and administrative assistants hired on a fee-paying basis have handled most of the demand for defence services from charged and sentenced adolescents. This programme has provided empirical data on the operation of the system, the behaviour of demand and the impact on the defence of its obligations under the new system, particularly those from the penalty enforcement system.

444. In the framework of the institutional commitments, the Office of the Public Defender has proposed a "model for the provision of the juvenile criminal defence service" on the basis of a mixed adolescent defence system that has a backbone of local criminal

defenders under contract, and covers the rest of demand, including future growth in demand, through specialized defenders contracted through a tendering process. In this regard the Juvenile Criminal Defence Unit (UDPJ), at the request of the Social Protection Division of the Ministry of Justice, drafted the outlines of a bill incorporating the 50 posts for juvenile defenders, 11 professional support staff and 22 administrative assistants into the institution's resources. The Ministry of Justice has undertaken to submit the bill for legislative approval shortly.

445. In terms of management, even though, for budgetary reasons, not all parts of the country have juvenile criminal defenders, a significant effort has been made in management, succeeding in having the 50 specialized defenders effectively cover most cases involving adolescents. In 2011 the Office of the Public Defender handled 34,578 charged adolescents, bringing the nationwide proportion of adolescents assisted by a juvenile criminal defender to 75.3 per cent. Specialized coverage has steadily increased (2008: 61.7 per cent; 2009: 70.5 per cent; 2010: 70.8 per cent; 2011: 75.3 per cent).

446. During 2010, as part of the process of reviewing and updating the basic standards for the exercise of public criminal defence, standards, objectives and specific targets for juvenile criminal defence were incorporated into these parameters. These include notably the specialized juvenile defence standard and the convicted adolescents' defence standard, and regulations regarding imprisonment, participation in investigative procedures and family care.

447. At the same time, with the aim of specifying needs for an adequate defence of adolescents at the stage of enforcing the sentence, two particular initiatives in the Metropolitan Region were given the go-ahead, which is the region involving the most complexities owing to the high number of convicted juveniles, especially in relation to juvenile detainees. Accordingly, a formal start was made with a defence plan for adolescent women sentenced to imprisonment in a closed institution, by designating two juvenile criminal defenders to handle that work. In turn, the supporting social workers made a diagnosis of the situation of convicted juveniles in the San Bernardo closed detention centre by means of interviews with the vast majority of the juveniles detained there. The conclusions of this work provide important information regarding the human and technical requirements for the provision of a defence to adolescents serving a sentence.

*Other assistance: ongoing review of placement*

448. Article 90 of Decree No. 1378 of the Ministry of Justice (2006), provides for the establishment of the Interagency Oversight Committee for Detention Centre (CISC) pursuant to Act No. 20084 on adolescent criminal responsibility. These committees are supervisory delegations of detention centres for juveniles charged and convicted under that Act, and are composed of: the Regional Ministry of Justice, which coordinates this body; a representative of the accredited partners working in the field of offenders, chosen by the directors or regional representatives of these institutions; a representative of civil society institutions active in the field of children or young people, appointed by the Regional Minister of Justice; a representative from academia, appointed by the Regional Secretary of the Ministry of Justice; a representative of the Public Defender's Office; a representative of the judiciary; a representative of the Public Prosecution Service; and a representative of UNICEF. In their work, CISCs aim to visit the centres of each region at least twice a year, to advise on proper respect for the rights of adolescents and their living conditions inside; to request reports from the relevant public authorities; to make recommendations to the relevant public and private authorities and institutions; and to report to the Ministry of Justice, making any proposals it deems necessary to improve the living conditions of adolescents in those detention centres.

449. CISCs have been in operation since the entry into force of Act No. 20084, issuing the first report during the second half of 2007. Since then, the Regional Ministries of Justice have coordinated the committees and issued the relevant reports, which are published on the Ministry of Justice website. The information provided by CISCs describes the state of the detention centres and the conditions of the juvenile inmates, with significant participation by civil society; improvements of various kinds are also suggested to the National Service for Minors and the Chilean prison service, responsible for the enforcement of sentences in the detention system for adolescent offenders.

#### **Sentencing and alternative sanctions (art. 37 (a))**

450. The death penalty was definitively removed from the Chilean Criminal Code in 2002. Act No. 19804 removed the death penalty from all legislative and regulatory texts in force in the country, establishing life imprisonment, equivalent to 40 years, as the maximum penalty. Despite this, in no circumstances is life imprisonment applied to minors, the maximum term of imprisonment being 10 years, and then only in the exceptional cases explained below.

451. Article 6 of Act No. 20084 establishes a special list of penalties, as alternatives to those specified in the Criminal Code for adults, which differ in their aims and implementation. These penalties are consistent with the Committee's recommendation that penalties be based on a rehabilitative approach, namely: imprisonment in a closed institution with a social reintegration programme, imprisonment in a semi-open institution with a social reintegration programme, special probation, probation, community service, reparation of harm, fine and reprimand.

452. The judge is empowered to order accessory penalties for adolescents, depending on the circumstances and intervention requirements. These sanctions may include: submission to drug treatment; a ban on driving motor vehicles; and confiscation of objects, documents and instruments of crime, pursuant to the Criminal Code, Code of Criminal Procedure and complementary laws.

453. Meanwhile, alternatives and remission are guaranteed by Act No. 20084 (arts. 53 and 55), whereby juveniles are entitled to substitute their penalty for a less burdensome one if this will facilitate their social integration. Remission is the release from the remaining term of the sentence if the objectives specified when it was imposed have been met. This reinforces the remedial and rehabilitative nature of the list of penalties for juvenile offenders, emphasizing the young person's process, achievements and aspirations, rather than a penalty imposed as retribution.

454. SENAME is responsible for implementing the penalties, and administering and supervising them, thereby ensuring that the State of Chile applies the necessary dedication and specialization in this area. SENAME therefore manages the centres for enforcing custodial measures and monitors the collaborating bodies implementing the non-custodial programmes.

#### **Recovery and social reintegration (art. 39)**

455. In line with recommendation No. 72 (a), article 20 of Act No. 20084 establishes the purpose of the penalty, which should be part of a broad socio-educational effort aiming for full social integration.

456. In the field of physical and mental health, a cooperation agreement between SENDA, SENAME and the Ministry of Health was signed in 2007 for the implementation of drug abuse treatment programmes, with imprisonment in a closed institution and non-custodial sentences, which provides for various forms of care, depending on the adolescents' level of biopsychosocial commitment. It is a comprehensive type of work,

complementing the process that the adolescent undergoes in accordance with the measure or sanction being carried out. It is voluntary, except where the judgment involves an accessory drug-related penalty. Moreover, based on national and international evidence of a high level of drug-related crime, the teams specializing in drug treatment, both in a non-custodial context and in closed detention centres, have implemented a system of early investigation of consumption, and screening to categorize the urgency of the demand, to enable timely preventive care.

457. During 2011, new technical guidelines were drafted and issued to the teams working in the closed and semi-open detention centres directly administered by SENAME. These guidelines complement the existing ones, using the risk model, needs and response capacity as a reference, coupled with an eco-systemic approach. This has led to a view focused on the adolescent, implying that intervention must be designed that combines individual and group levels, addressing young people's needs and strengthening their skills. A relevant issue in this context is the importance placed on the mental health care of adolescents, which is a response to the prevalence rates of disorders appearing both in the international literature and in the study on the mental health situation of inmates of closed detention centres (CRC), conducted by the Tierra de Esperanza Foundation and commissioned by SENAME.

458. Using the same model, a clinical supervision system has been implemented that can monitor the teams in the processes of diagnosis, intervention and reflection on the practice of the professionals and technicians involved. Taking as a reference the activity of case analysis and the organization of teams by home, this technique can enhance teamwork and the coordination of interventions, and prevents excessive intervention on adolescents, by making the channels of communication between the various facilities in the centre more effective and expeditious. This has been conceived as a gradual process, and it is estimated that all the centres in the country could be covered by 2013.

459. The above-mentioned Eleven Measure Plan for Youth Rehabilitation not only seeks to hold juveniles accountable for crimes they commit, but also strives to ensure that individuals in their formative years will not resort to a life of crime but rather build a new life plan based on the full development of their potential and opportunities. The plan includes an area on reintegration that seeks to strengthen young people's skills and prepare them for reintegration, delivering quality services in the areas of education, job training, extra-curricular activities, staff specialization, and fostering participation, avoiding recurrence of criminal behaviour and effectively implementing a new life project.

460. Five new detention centres have been designed and are being built to a high standard. To date construction projects for regions I, IV, VII and X have been approved. The Northern Metropolitan Centre is already built and preparations for opening it are under way. All these centres incorporate improved living conditions, range of programmes, security and development of intervention plans that improve the social reintegration outcomes for juvenile offenders.

461. In terms of social reintegration strategies, since 2005 formal education has been provided within the closed and non-custodial centres, based on two models: CEIA (adult integrated studies centre) and ASR (psychosocial support for reintegration).

462. Prior to the implementation of Act No. 20084, SENAME signed a framework agreement with the National Training and Employment Service (SENCE), which is renewed annually; its purpose is to support and develop opportunities for job training and assistance with integration for young people, favouring local and/or regional production environments. This task involved the Service's regional directorates and their links with the private sector to manage real opportunities for entering the labour market.

463. Together with private entities, during 2011 SENAME implemented a pilot job placement and entrepreneurship training project in detention centres and non-custodial programmes (Special Probation Programme, Probation and Programme and Community Benefit Service) of the Metropolitan Region, with executive operation by Proyecto B Foundation. This project was organized and submitted to the National Fund for Regional Development (FNDR) of the Regional Government (GORE). It was selected, thereby ensuring continuity during 2012.

464. Regarding the protection of child victims and witnesses, the section on article 35 gives details of the measures for their physical and psychological recovery, implemented by the Victim Assistance Network and initiatives by its various constituent institutions.

### **Training for civil servants**

465. In line with the Committee's recommendation No. 72 (g) on the third report, among others, the following initiatives were taken.

466. Since 2007, SENAME has offered more than 3,786 places on courses on various subjects, such as crisis intervention, educational activities in closed and semi-open detention centres, clinical intervention and reparation of harm, gender focus, etc., to professionals, technicians and administrators of the SENAME Juvenile Justice Department.

467. In 2009, the 2nd Family Court of Santiago gave periodic training to Carabineros officers, in the context of protection proceedings, the principles underlying the Convention and, in general, proper treatment of children as parties to the various proceedings that they may be involved in.

468. Training activities have been one of the main tasks carried out by UDPJ over the years it has been in operation, owing to the need to implement a quality defence service. Note that it has developed the subject matter in great depth, notably by incorporating its accumulated practical knowledge, and has reached most of the defenders (including those contracted under tender). The aim of such training coverage is that, even though juvenile defenders are not available throughout the country and for all juvenile cases, the institution can guarantee a minimum quality standard for adolescents.

469. As can be seen in the summary below, a major effort has been made to incorporate, in addition to the topics addressed by Act No. 20084, finished content on the Convention and other related international instruments, adolescent development psychology, techniques for interviewing adolescents, among others, all with the goal of ensuring proper care.

470. Between 2007 and 2011, the Office of the Public Defender held 14 training events in the field of adolescent criminal responsibility.

## **E. Other vulnerable groups**

### **Children belonging to a minority or an indigenous group (art. 30)**

471. In September 2008, the Chilean State ratified the ILO Indigenous and Tribal Peoples Convention (No. 169), complying with the Committee's recommendation No. 74 (b) on the third periodic report.

472. The National Indigenous Development Corporation, established pursuant to Act No. 19253, has the mission of promoting, coordinating and implementing State activities on behalf of indigenous persons and communities, particularly in the economic, social and cultural spheres, and encouraging their participation in national life, through intersectoral coordination, the funding of investment initiatives and the provision of services to users.

473. Although CONADI has no established strategic definition for children, it has launched a series of projects that have helped to fund a number of measures for indigenous children, with the aim of: carrying out measures to ensure that children are able to form their own judgment about their rights and express their views freely; fostering the family environment and guidance to parents from the perspective of indigenous cultures and consistent with the child's evolving capacities; providing educational care services to indigenous preschoolers to strengthen cultural identity; providing child and adolescent care services through scholarships and indigenous homes; making efforts to provide access to higher education to all on the basis of ability; fostering regular school attendance and reducing dropout rates; carrying out measures to encourage and promote intersectoral cooperation on issues affecting indigenous children; and supporting indigenous families, strengthening their roles in the care and protection of children.

474. As discussed in detail in section II.D., the Government has decided to implement and develop the Educational Policy for Indigenous Peoples, institutionalizing the indigenous language learning curriculum, which was introduced gradually, starting in 2010 with primary grade 1, moving forward until primary grade 8 is reached in 2017. The Intercultural Bilingual Education Programme (PEIB) is thus designed as an approach to teaching that embodies the particularities of indigenous cultures in the context of educating indigenous and non-indigenous children. The programme also received support from the Ministry of Education, JUNJI, the Integra Foundation, universities and municipalities.

475. According to information from CONADI, the Programme for the application of a bilingual intercultural curriculum and teaching plan has the following components or programmes:

- (a) Interculturalism in preschool and primary education;
- (b) Interculturalism in secondary and higher education;
- (c) Recognition of history and indigenous knowledge in the classroom;
- (d) Intercultural teacher training.

476. To prevent indigenous students in a vulnerable situation dropping out of primary, secondary and higher education, since 1991 JUNAEB has been implementing the indigenous scholarship for indigenous students in primary education (from primary grade 5), secondary education in income quintiles I and II, and higher education in income quintiles I to III. This scholarship gives vulnerable indigenous students a sum of money that varies according to their educational level, which they can spend as they please. In primary education it is \$93,500 a year paid in two instalments; in secondary education, \$193,000 a year paid in two instalments and in higher education, \$607,000 a year paid in ten instalments. In 2012 it will cover 59,270 students in the three levels of education.

477. Meanwhile, the JUNAEB Indigenous Housing Administration Programme seeks to provide accommodation, meals and living conditions to enable higher education students of indigenous descent and in income quintiles I, II and III to continue their studies outside their commune of origin. Students of indigenous descent in higher education who are studying in a commune away from their family home and are in income quintiles I to III are eligible for the JUNAEB Indigenous Residence Scholarship which consists of a cash subsidy to support students renting a room, board or housing in the city where they are studying. The benefit is paid in ten monthly instalments and the amount differs according to the region where the young person is studying: for the region of Magallanes, it is \$1,280,000 a year and for other regions, \$920,000 a year. It is expected that 700 students will receive this benefit in 2012.

478. The Special Programme for Health and Indigenous Peoples, in operation since 1996, currently operates in nearly all regions of the country, with 25 of the 29 health services



taking part. This programme takes an active role in national, regional and local coordination, alongside indigenous organizations and stakeholders, to devise strategies to provide comprehensive health services that are culturally appropriate for regional and local realities. It has a Health and Indigenous Peoples Policy and technical guidelines have been devised for the health services and SEREMI.

479. From 2007 to April 2012, a total of 36,433 children and adolescents belonging to indigenous peoples joined the SENAME network. Of these, 54.1 per cent belong to the Mapuche, 6 per cent are Aymara, 1.1 per cent are Rapa Nui, and 38.8 per cent belong to other peoples. In 2011, the SENAME protection network handled 9,334 children belonging to indigenous peoples. Of these, 52 per cent were girls and 48 per cent were boys, 63.5 per cent belonged to the Mapuche, 5.91 per cent were Aymara and the remainder were from other aboriginal peoples. The regions with the highest concentration of children belonging to indigenous peoples are La Araucanía, Los Lagos and the Metropolitan Region.

480. In 2008 SENAME conducted a study with the University of La Frontera on the circumstances of children and adolescents from indigenous peoples living in SENAME residential centres for older persons. The study concludes that of the 972 cases of children living in the residential system, 11.69 per cent belong to indigenous peoples, 54.6 per cent of whom were girls and 45.4 per cent were boys. While there are children and adolescents from various indigenous peoples, the Mapuche population is highly significant, accounting for 85.5 per cent of them nationwide. The regions with the highest numbers of cases in residential centres are La Araucanía, Los Lagos, the Metropolitan Region and Bío Bío.

481. As a result of this study, SENAME is preparing a “ten commandments” of rights for children belonging to indigenous peoples in Mapudungun, Easter Island and Aymara, for the residences.

482. Since 2007, SENAME has incorporated an intercultural or cultural relevance approach into the technical guidelines for all its programmes and residences, with a view to encouraging the development of interventions appropriate to the world views of the children concerned.

483. Regarding juvenile justice, note that based on the general population handled by SENAME in this area, the breakdown by gender of the population belonging to an indigenous people is 9.4 per cent female and 90.6 per cent male. Of the juvenile offenders handled by SENAME, the largest group of indigenous people are Mapuche. The young Mapuche people served by SENAME are mainly concentrated in regions VIII, IX, X and the Metropolitan Region. Breaking down the data by age range, most of them (51.7 per cent) are aged 18 and above.

### **Street children**

484. In line with the Committee’s recommendation No. 68 on the third report, the following steps have been taken:

485. In April 2012, a Bureau for the Homeless was set up within the Ministry of Social Development, with the aim of devising a public policy for the entire homeless population, including children and adolescents.

486. The Ministries of Social Development and Justice, SENAME and the Don Bosco Foundation celebrate International Day for Street Children as a way of raising the profile of this reality and of raising awareness in the community through a social activity with child victims.

487. SENAME has six non-residential projects (Special Street Programme) and one specialized residence. These programmes operate only in the Metropolitan Region, with six executing agencies and a total of 346 places. The projected investment for 2012 is

\$438 million. Alongside them, there are other specialized non-residential programmes such as PIEs (93) and specialized residences (5), catering for children who are victims of various rights violations, including the homeless.

488. In 2007, SENAME organizes the National Bureau on the subject with the participation of the Ministry of Social Development and the organizations responsible for street projects, which led to the current technical guidelines for the model. The new priorities for 2012–2014 are currently under review.

489. In 2011 the second national survey to register people living on the streets was conducted. The survey took place in 161 of the country's 346 communes, accounting for 86 per cent of the national population. When it was complete, 12,255 street people had been interviewed at a total of 2,129 street points.

490. The fieldwork was conducted from 16 to 21 August 2011, organized at a total of 200 locations nationwide. After the six days of the survey, the work continued until 14 September to finish surveying street children and adolescents, as it was determined that they could only be surveyed by specialists in the subject — linked to SENAME and its network of collaborators — which required more time. As an exception, the deadline for the application of questionnaires in Easter Island and Tierra Amarilla was extended. In total more than 15,000 surveys were completed.

491. The analysis dealt with each man and woman living on the streets at the time of the survey, according to the official definition of the Ministry of Social Development.<sup>18</sup> For children the criterion was the same, sleeping on the street, but in operational terms some additional groups were established: children and adolescents sleeping on the street without the presence of a significant adult, participating in specialized non-residential or residential programmes; children living on the street with or without at least one responsible adult or significant family member; and children who have experienced or are going through processes of family breakdown and spent at least one night during the past month sleeping on the street.

492. The Ministry of Social Development's Pilot Street Children and Adolescents Support Programme is part of an intervention strategy under the new "Security and Opportunities" promotion and protection system. Its overall objective is to enable street children and adolescents to get out of that situation through psycho-social, family and community intervention through alternatives of good use of leisure time, reuniting them with their families and protected living. The specific objectives are to reduce or end the time they stay sleeping on the street; to have them participate in educational and recreational activities instead of staying on the street: strengthening physical, emotional, social and intellectual habits and skills; to provide living spaces to enable a smooth return, where appropriate, to family life, or for them to start an independent life, where necessary; and to connect the participant to a residential programme, if he or she cannot return to family life or start an independent life. Families or significant adults who care for children and adolescents are expected to participate in activities of the process that takes place with the child or adolescent and to improve their parenting skills.

<sup>18</sup> In practical terms, a distinction is made between: people who sleep in public or private places without an infrastructure that can be described as housing, even if it is makeshift (this excludes people living in a camp); people who, for lack of a fixed, regular and adequate place to spend the night, find a night-time residence, for payment or otherwise, in accommodation run by public or private entities providing temporary shelter; people who find themselves without a home or residence and without support from relatives or significant others and depend on social programmes offering permanent or long-term residence and biopsychosocial support; and people who, under the agreement between the Ministry of Planning and the Hogar de Cristo, spent the night in shelters of the 2011 Winter Plan.

493. The programme is intended for males and females, both Chileans and migrants, aged between 5 and 17 who are homeless, sleep on the street at least four times a month, and are not enrolled in any SENAME Specialized Street Project (PEC).

494. This pilot will cover 200 children and adolescents nationwide, using some criteria to target this offer: communes with the most registered street children and adolescents on the street or in makeshift housing according to the 2011 survey; climate as a factor facilitating sleeping on the street; and presence of other problems that complicate the situation of street people (commercial sexual exploitation of children, substance abuse, border areas, micro-trafficking, trafficking, etc.).

495. In 2011 and 2012 the children were included in the Winter Plan, with shelters and specialized routes in the Metropolitan Region, designed to protect the lives of this group during the cold season.

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