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Committee on Economic, Social and Cultural Rights

Information received from Argentina on follow-up to the concluding observations on its fourth periodic report^{**}

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* The present document is being issued without formal editing.
** The annexes to the present document are available on the Committee's website.



I. Methodology

1. This report was prepared by the National Directorate for Matters Relating to International Human Rights Law of the Secretariat for Human Rights of the Ministry of Justice and Human Rights.
2. It was drafted on the basis of contributions from various authorities with specific expertise in this field, including the Ministry of Economic Affairs, the Ministry of Health, the Ministry for Women, Gender and Diversity, and the National Institute of Indigenous Affairs. In order to ensure that the report had a federal focus, the Federal Human Rights Council consulted with the provincial authorities and encouraged them to share information. As a result, information was received from 14 Argentine provinces, which is contained in annexes 1 to 14.

II. Introduction

3. On 10 December 2019, a new national Government took office in Argentina and pledged to strengthen the country's institutions and ensure the full enjoyment of human rights.
4. The current President, Alberto Fernández, acknowledged in his earliest public statements that Argentina, as a democracy, still had pending matters to resolve. He also expressly affirmed that the defence of human rights would be the cornerstone of the policies to be adopted in the country.¹
5. As will be shown below, a number of measures have been adopted in the last 10 months with a view to ensuring that the human rights of the Argentine people, and especially the rights of the most vulnerable groups of society, are promoted and protected.
6. However, it is impossible to overlook the fact that the global crisis caused by the coronavirus disease (COVID-19) pandemic has exacerbated the already precarious situation of economic and social crisis characterized by rising levels of poverty, destitution and external debt in which the country was mired when the new authorities took office. This delicate scenario has forced the Government to espouse various policies designed to mitigate the impact of the COVID-19 pandemic on the human rights of the entire population.
7. It is against this backdrop that the follow-up report on paragraphs 6 (a) and (e), 19 (a) and 5 (a) of the concluding observations is presented, as requested by the Committee in document E/C.12/ARG/CO/4.

III. Follow-up information

Replies in follow-up to paragraph 6 (a) and (e) of the concluding observations (E/C.12/ARG/CO/4): Austerity measures

8. When the new Government took office in December 2019, the decision was taken to tackle the economic and social crisis starting with the most disadvantaged sectors of the population, who had been adversely affected by the economic policies of previous years, by macroeconomic instability and by the rising rate of inflation.
9. In the first month of the new administration, the Government decided to restructure social spending on the most disadvantaged sectors of society, including retirees, pensioners and lower-income households. At the same time, tools were developed that allowed for tax revenues to be restructured so that this increased expenditure could be absorbed without affecting fiscal sustainability. The main measures adopted to improve the situation of the

¹ Speech made by the President on 1 March 2020 at the opening of the 138th ordinary session of Congress, available at: <https://www.casarosada.gob.ar/informacion/speeches/46746-discursodel-presidente-alberto-fernandez-al-encabezar-la-opertura-del-periodo-138-de-sesiones-ordinarias-del-congresode-la-nacion>.

most disadvantaged groups are set out in Act No. 27.541 on social solidarity and the revival of production. They included:

- Implementing the food card, in application of a new policy of supplementary comprehensive food allowances under which an amount of between US\$ 4,000 and US\$ 6,000, depending on the make-up of the family group, is allocated to over 1.5 million families. The intended beneficiaries are mothers and fathers with children up to 6 years of age who receive the universal child allowance, women who are at least three months pregnant and receive the universal pregnancy allowance, and persons with disabilities who receive the universal child allowance.
- Paying allowances in the amount of \$5,000 to retirees and pensioners for the months of December 2019 and January 2020, benefiting more than 4.6 million older adults. This additional sum represented an increase of 35 per cent on the minimum income for each month.
- Awarding an allowance of \$2,000 for December 2019 to the 4.3 million recipients of universal child allowance and universal pregnancy allowance, representing an immediate increase equivalent to 70 per cent of the monthly allowance.
- Awarding a lump-sum increment to persons working in the private sector (\$3,000 in January and \$1,000 in February in accordance with the 2020 collective negotiations) and the public sector (\$3,000 in February and \$4,000 in March in accordance with the 2020 collective negotiations).
- Suspending the payment of instalments on loans granted by the National Social Security Administration to its beneficiaries, from January 2020 to date, benefiting more than 2.7 million retirees and pensioners.
- Establishing a pricing agreement for all medicines that reduced prices by 8 per cent and froze them until mid-February 2020.
- Launching a new pharmacopoeia that made new products available to all retirees and pensioners affiliated with the comprehensive medical care programme who do not have prepaid health plans. A total of 170 new medicines were added that are completely free of charge for more than 2.3 million members, enabling them to save an average of 3,200 pesos (Arg\$) per month (equivalent to 20 per cent of a minimum pension).
- Establishing a moratorium for small and medium-sized enterprises, self-employed persons and taxpayers under the simplified tax regime that amounts to an average reduction of up to 42 per cent and offers payment terms of up to 10 years.

10. In addition, the Pension Uprating Act, which introduced a scheme linked to past inflation that would have led to an unsustainable deterioration in social security outcomes, has been suspended. It has been replaced by a scheme based on increments aimed at restoring the purchasing power of persons on minimum incomes. As a result, the purchasing power of persons on the average minimum income was 10.5 per cent higher between January and July 2020 than in the same period in 2019, benefiting 74.1 per cent of pension recipients.

11. However, the outbreak of the COVID-19 pandemic around the world has drastically altered the national scenario. Given that there are no vaccines or specific treatments, mandatory preventive social isolation² was introduced in Argentina on 20 March 2020 to protect the lives of the country's inhabitants. As in other economies around the world, the cessation of activities to reduce the flow of people and promote social distancing has brought about an unprecedented fall in economic activity, with the informal economy being hit particularly hard.

² Mandatory preventive social isolation was established pursuant to Decree No. 297/2020 and, for reasons of public health, extended until 11 October 2020 under Decree No. 754/2020. The extension was implemented in different stages in response to the epidemiological situation. The full text of Decree No. 297/2020 and its extensions is available at: <https://www.argentina.gob.ar/normativa/nacional/decreto-297-2020-335741>.

12. In response to this situation, the Government has rolled out a package of support and containment measures designed to protect domestic production, families and provincial governments.

13. Most notably, two new programmes that are the first of their kind in Argentina have been developed, namely, the Employment and Production Support Programme and the Emergency Family Income programme.

14. The Employment and Production Support Programme is designed to protect the productive capacity of the economy and workers' incomes. Under the Programme, the National Social Security Administration pays out an allowance to supplement the salaries of all workers employed by private sector companies who are eligible for benefits. The initiative has three components: the payment of a portion of workers' salaries at the expense of the State; the reduction or postponement of the payment of employers' contributions; and the granting of interest-free loans to independent workers. Five rounds of Employment and Production Support have already been distributed and the sixth is about to be disbursed.

15. Emergency Family Income is an unprecedented measure specifically designed to support informal workers and the unemployed and entailing cash transfers amounting to \$10,000 that have benefited almost 9 million people. This income has provided protection to sectors that had previously been ineligible for any other social security benefit. While the universal child allowance benefited 60 per cent of the poorest 10 per cent of households in the country, the Emergency Family Income has benefited 90 per cent of these households.

16. The Emergency Family Income Programme has also highlighted the need to ensure financial inclusion and access to banking services for groups that fell outside the scope of previous policies such as the universal child allowance. In the context of the pandemic, a number of instruments have been developed to address and resolve this need.

17. From a gender perspective, Emergency Family Income contributes to closing the gender income gap in several ways: it targets persons working in the informal sector, where the gender income gap is highest (36.8 per cent); its distribution is progressive in terms of gender as women are overrepresented in the lower income deciles; it is available to women employed in private homes; and it has the potential to provide recognition for unpaid domestic and care work, as it can be claimed by housewives.

18. The document³ cited below contains a list of the complementary measures rolled out by the Government to mitigate the impact of the pandemic on the most vulnerable sectors of society. The measures in question are in line with the recommendations made by international human rights agencies.

19. As recommended by the Committee, the economic measures implemented by the State to assist the various sectors of the population are assessed prior to being implemented. The implementation of such measures is also subject to ongoing monitoring and their impact on the different macroeconomic variables, especially those that concern the most disadvantaged groups, is measured. By way of example, a technical study on the implementation of the first round of disbursements under the Emergency Family Income Programme, conducted by the Ministry of Economic Affairs, the Ministry of Productive Development and the Ministry of Labour, was published in early June 2020.⁴ The continuous monitoring of policies has allowed for them to be adapted to different requirements over time. Thus, the Employment and Production Support Programme has been adapted to account for regional differences and the requirements of the most affected sectors, such as tourism or health.

³ *Medidas del Estado argentino para la protección de los derechos humanos durante la pandemia del Covid-19*, prepared by the Office of the Under-Secretary for Protection and International Liaison in Human Rights of the National Secretariat for Human Rights, available at: <https://www.argentina.gob.ar/noticias/medidas-del-estao-argentino-para-la-proteccion-de-los-derechos-humanos-durante-la-pandemia>.

⁴ Available at: https://www.argentina.gob.ar/sites/default/files/el_impacto_del_ife_en_poverty_indigence_and_inequality.pdf.

20. The economic policy measures implemented by the Argentine State since December 2019 are designed to have a progressive bias and to uphold Covenant rights.

21. In this connection, it should be noted that the Special Rapporteur on extreme poverty and human rights recently drew attention to the policies adopted by the Argentine Government to address the needs of workers during the pandemic. The Rapporteur also noted that Argentina was a country that faced the “consequences of the impossible choice between debt and social protection”, which led to the successful restructuring of the country’s external debt in August 2020.⁵

Replies in follow-up to paragraph 9 (a) of the concluding observations: Indigenous territories

22. With regard to the implementation of Act No. 26.160 and its extensions, since the start of the new administration the National Institute of Indigenous Affairs has been pursuing a policy of agreements with the provinces. This is because the provinces have original dominion over natural resources, one of the most significant of which is land.

23. In 2020, the National Institute of Indigenous Affairs endeavoured to reach agreements for the resumption of territorial surveys in the provinces of Río Negro, Chaco, Misiones, Salta and Jujuy as soon as health conditions permit. These efforts gave rise to addenda to the agreements signed with the provinces of Salta (Resolution No. 102/20) and Jujuy (Resolution No. 103/20) which provide for the transfer of funds needed to allow the territorial surveys in these provinces to continue.

24. Meanwhile, the core team of the National Programme for the Territorial Survey of Indigenous Communities continues to employ a centralized implementation model to demarcate land in the provinces of La Pampa, Corrientes, Catamarca and Mendoza, among others.

25. In 2020, without prejudice to the operational restrictions resulting from pandemic-related distancing measures, 47 administrative decisions were issued that pave the way for completion of the territorial survey provided for in Act No. 26.160 and the recognition of the current, traditional and public occupation of the indigenous communities surveyed there.⁶

26. The results of the surveys completed under the National Programme for the Territorial Survey of Indigenous Communities, as of September 2020, are shown below.

| <i>Province</i> | <i>Indigenous communities with completed survey</i> | <i>Approx. No. of hectares demarcated</i> |
|-----------------|---|---|
| Buenos Aires | 23 | 2.9 |
| Catamarca | 2 | 790 009 |
| Córdoba | 6 | 0 |
| Chaco | 21 | 4 352.5 |
| Chubut | 41 | 291 726.07 |
| Corrientes | 0 | 0 |
| Entre Ríos | 2 | 0 |
| Formosa | 1 | 5 179.4 |
| Jujuy | 154 | 1 711 713.25 |
| La Pampa | 10 | 18 102.75 |
| Mendoza | 8 | 121 536.84 |
| Misiones | 57 | 133 587.57 |
| Neuquén | 15 | 478 845 |

⁵ Paper presented to the Human Rights Council entitled “Looking back to look ahead: A rights-based approach to social protection in the post-COVID-19 economic recovery”, available at: <https://www.ohchr.org/Documents/Issues/Poverty/covid19.pdf>.

⁶ The administrative decisions are published in the *Boletín Oficial de la República Argentina* and are available at: <https://www.argentina.gob.ar/derechoshumanos/inai/asuntosjuridicosINAI>.

| <i>Province</i> | <i>Indigenous communities with completed survey</i> | <i>Approx. No. of hectares demarcated</i> |
|---------------------|---|---|
| Río Negro | 54 | 725 155.99 |
| Salta | 196 | 4 053 281.54 |
| San Juan | 5 | 214 421 |
| Santa Cruz | 7 | 78 906.22 |
| Santa Fe | 34 | 277.55 |
| Santiago del Estero | 68 | 1 037 463.88 |
| Tierra del Fuego | 1 | 34 987 |
| Tucumán | 15 | 451 757 |
| Total | 720 | 10 151 305.46 |

27. Lastly, with the aim of ensuring the continuation of the territorial surveys and the completion of the demarcation process in all provinces, the National Institute of Indigenous Affairs will take the necessary steps to draw up a preliminary bill that will serve as the basis for a new extension of Act No. 26.160. This bill will be presented in due course so that its relevance may be assessed and a decision may be taken on whether to send it to the legislature for consideration.

Replies in follow-up to paragraph 56 (a) of the concluding observations: Protocols for legal abortion

28. The realization of sexual and reproductive rights is a priority for the new national Government. At the opening of the ordinary sessions of Congress, the President announced that the National Executive will present a bill designed to guarantee the right to voluntary termination of pregnancy.

29. The ministerial departments with competence in this area have drafted the bill in compliance with international commitments in the areas of public health, women's rights and the rights of persons with other gender identities who are able to gestate. This initiative responds to the historical demands of the women's, gender and diversity movements, which have been the driving forces behind it.

30. According to the competent agencies, the bill is ready to be sent to the legislature for parliamentary discussion when conditions permit, taking into account the unique context of the health crisis caused by the COVID-19 pandemic.

31. One of the first measures adopted by the Ministry of Health when the new Government took office was to adopt, pursuant to Decision No. 1/2019, a protocol for the comprehensive care of persons entitled to legal termination of pregnancy,⁷ the purpose of which is to guide health teams in fulfilling their responsibilities when legally terminating a pregnancy within the current legal framework.

32. The protocol is based on up-to-date scientific evidence and experience of implementing previous versions of national and provincial protocols. From the clinical point of view, it incorporates international recommendations on procedures for legal termination of pregnancy (whether through pharmacological drugs or manual vacuum aspiration) and highlights the importance of swift access to comprehensive care, emphasizing the need to prioritize primary-level solutions and drug-based treatments. It also addresses the question of the administrative, civil and criminal liability of health-care staff who fail to comply with their obligations in the exercise of their profession, incorporating the standards arising from the judgment in the F.A.L. case and the law on patients' rights in respect of conscientious objection.

⁷ Protocol for the comprehensive care of persons entitled to legal termination of pregnancy, available at: http://www.msal.gob.ar/images/stories/bes/graficos/0000000875cnt-protocolo_ile_octubre%202016.pdf.

33. The Government is also working to guarantee access to reproductive health and comprehensive care for persons entitled to legal abortion throughout the country. According to a study conducted by the National Directorate for Sexual and Reproductive Health:

- Nine provinces have subscribed to the National Ministry of Health's protocol for the comprehensive care of persons entitled to legal termination of pregnancy, 2nd edition 2019: Buenos Aires, the Autonomous City of Buenos Aires, Entre Ríos, Jujuy, La Pampa, La Rioja, San Luis, Santa Fe and Tierra del Fuego.
- Ten provinces have laws or protocols whose legal or clinical provisions require updating: Catamarca, Chaco, Chubut, Córdoba, Mendoza, Misiones, Neuquén, Río Negro, Salta and Santa Cruz.
- Five provinces do not have laws governing access to legal abortion: Corrientes, Formosa, San Juan, Santiago del Estero and Tucumán.

34. In the context of the pandemic, the National Directorate for Sexual and Reproductive Health has confirmed the classification of sexual and reproductive health services, especially contraception and legal abortion, as essential health-care services. The Directorate has issued recommendations for adapting procedures for access to contraception and legal termination of pregnancy to ensure that they remain available during the pandemic.

35. Several provinces (Salta,⁸ Buenos Aires,⁹ Jujuy,¹⁰ the Autonomous City of Buenos Aires,¹¹ Chubut,¹² Entre Ríos¹³ and Santa Fe¹⁴) have made statements to the effect that it is necessary to maintain the provision of contraception and legal abortion services during the pandemic.

36. The establishment of the Ministry for Women, Gender and Diversity, in December 2019,¹⁵ reflects the commitments made by the State with respect to women's rights and diversity and shows that gender issues are being treated as a priority on the national agenda.

37. This new Ministry is mandated to adopt measures aimed at dismantling the structural inequality that affects women and LGBTI+ persons and ensuring that these groups can effectively exercise their rights, including their economic, social and cultural rights.

38. As Argentina is a federal State, the Ministry has a Federal Council which brings together the most senior officials with expertise in gender issues from all provinces of the country to discuss the experiences and specific needs of each region and establish consensus for the development of national policies.¹⁶

⁸ Secretariat for Health Services of the Province of Salta. Memorandum on the pandemic and access to contraception and legal termination of pregnancy.

⁹ Ministry of Health of the Province of Buenos Aires. Recommendations for the care of persons entitled to terminate pregnancy and access to contraception during the pandemic.

¹⁰ Ministry of Health of the Province of Jujuy. Recommendations for ensuring the availability of contraception and care for women undergoing abortions during the pandemic.

¹¹ Coordination Office for Sexual Health, AIDS and Sexually Transmitted Diseases of the Government of the Autonomous City of Buenos Aires. Specific recommendations for hospitals and health centres for ensuring access to contraception and abortion.

¹² Ministry of Health of the Province of Chubut. Reorganization of sexual and reproductive health care within the framework of the COVID-19 pandemic.

¹³ Ministry of Health of the Province of Entre Ríos. Working recommendations for primary health-care centres in the Province of Entre Ríos within the framework of the provincial health emergency and in relation to the new coronavirus (COVID-19) during the current containment phase.

¹⁴ Provincial Directorate for Sexual and Reproductive Health and Diversity Programmes of the Ministry of Health of the Province of Santa Fe. Comprehensive sexual health-care network within the framework of the COVID-19 pandemic.

¹⁵ The Ministry for Women, Gender and Diversity was established in December 2019 pursuant to Decree No. 7/2019, available at: <https://www.boletinoficial.gob.ar/detalleAviso/primera/223623/20191211>.

¹⁶ For more details, see Decision No. 4/2020, which provides for the establishment of the Federal Council, available at: <https://www.boletinoficial.gob.ar/detalleAviso/primera/229439/20200518>.

39. The Ministry developed the National Action Plan for Combatting Gender-Based Violence (2020–2022)¹⁷ within the framework of Act No. 26.485.¹⁸ One of the main actions envisaged under this plan is the strengthening of sexual and reproductive health services as part of the comprehensive care of persons entitled to legal termination of pregnancy. Within this framework, awareness-raising campaigns on sexual and reproductive rights will be carried out, training on the protocol for the comprehensive care of persons entitled to legal termination of pregnancy will be provided, and mechanisms for coordinating with the provinces will be established in order to manage the inputs required to implement the protocol.

40. Annex 15 contains a document prepared by the Ministry for Women, Gender and Diversity that sets out the main actions taken by the Ministry in connection with the Committee’s concluding observations.

¹⁷ For more information on the National Action Plan for Combatting Gender-Based Violence (2020–2022), see: https://www.argentina.gob.ar/generos/plan_nacional_de_accion_contra_las_violencias_por_motivos_de_genero.

¹⁸ The Act on comprehensive protection to prevent, punish and eradicate acts of violence against women within the scope of interpersonal relationships, available at: <http://servicios.infoleg.gob.ar/infolegInternet/anexos/150000-154999/152155/norma.htm>.