



# Economic and Social Council

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## Committee on Economic, Social and Cultural Rights

### Concluding observations on the fifth periodic report of Uruguay

Addendum

### Information received from Uruguay on follow-up to the concluding observations\*

[Date received: 17 December 2018]

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



## Introduction

1. On 31 May and 1 June 2017, the delegation of Uruguay participated in the forty-seventh session of the Committee on Economic, Social and Cultural Rights to consider the fifth periodic report of Uruguay. On 23 June 2017, the Committee issued its concluding observations (E/C.12/URY/CO/5) and requested information on action taken in follow-up to the recommendations within 18 months.
2. The present report provides information on the steps taken by Uruguay in follow-up to the recommendations on ensuring a life free of gender-based violence (recommendation contained in para. 16 (c)), employment opportunities for persons with disabilities in the private sector (recommendation contained in para. 20 (b)), and the mental health bill (recommendation contained in para. 54 (a)).
3. Information relating to the Committee's recommendations:

## Equality between men and women

**The Committee recommends that the State party intensify its efforts to achieve substantive equality between men and women and, in particular, that it:**

**Complete the process involved in the adoption of the comprehensive bill designed to ensure that people can enjoy a life free of gender-based violence, make certain that the resulting law meets the best international standards in this respect, continue to implement the 2016–2019 Plan of Action for a Life Free of Gender-based Violence and allocate the necessary human, technical and material resources for the effective implementation of these instruments.**

### **Act on gender-based violence against women**

4. Act No. 19580<sup>1</sup> on gender-based violence against women was adopted in 2017. Its purpose is to ensure that women can exercise their right to a life free of gender-based violence, irrespective of their age, sexual orientation or gender identity (including transgender women), socioeconomic status, territorial affiliation, beliefs, cultural or ethnic origin, race or disability. To this end, comprehensive mechanisms, measures and policies for prevention, care, protection, punishment and redress are established.
5. The Act defines gender-based violence against women as a form of discrimination that directly or indirectly affects the life, freedom, dignity, physical, psychological, sexual or economic integrity, property or personal safety of women. It is understood as any behaviour, act or omission in the public or private sphere which, based on an unequal relationship of power based on gender, has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise by women of human rights and fundamental freedoms. This includes acts perpetrated by the State or its agents and by private organizations or individuals.
6. The Act recognizes different forms of violence, including physical, psychological or emotional and sexual violence. Sexual violence includes marital rape and the involvement of children and adolescents in sexual activity with an adult or any other person who has an advantage over them by virtue of age, physical or cognitive development, family ties or a relationship of trust or power. It includes sexual abuse, sexual exploitation and use in pornography. The Act covers such manifestations of violence whether carried out on grounds of sexual orientation, gender identity or gender expression. Other types of violence include economic, property-related, symbolic or obstetric violence; violence in politics, education, employment or the media; femicide; sexual harassment in the street; domestic, community, institutional and ethnic or racial violence.

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<sup>1</sup> <https://www.impo.com.uy/bases/leyes/19580-2017>.

7. The Act contains seven chapters on the inter-agency response system. The corresponding public policy guidelines instructing State institutions to undertake programmes, actions, protocols, registers and investigations for the elimination of gender-based violence. It also establishes a network of social services; procedures for protection, investigation and prosecution; and administrative and judicial proceedings. In addition, it provides for the amendment of the Criminal Code through a set of updated criminal provisions on sexual offences and gives courts the power to exempt women from being sentenced for homicide of a partner or former partner in particularly serious cases of domestic violence.

8. Furthermore, Act No. 19580 establishes the Observatory for Gender-Based Violence against Women to monitor, collect, produce, record and systematize, on an ongoing basis, data on violence against women. It is operated by an inter-agency commission comprising the Planning and Budget Office, whose representative also acts as chair, the Ministry of the Interior, the National Women's Institute and the Uruguayan Network against Domestic and Sexual Violence. The commission has already commenced its work on the design and launch of the Observatory.

### **2016–2019 Plan of Action for a Life Free of Gender-based Violence**

9. On 16 November 2015, the Government adopted Decree No. 306/015, “2016–2019 Plan of Action for a life free of gender-based violence, with a generational perspective”.<sup>2</sup> The Plan provides a comprehensive view of gender-based violence, based on an interdisciplinary and intersectoral approach. It affords a broad definition of the inter-agency response system by providing for – at the national level – promotion and prevention activities, a network of support services, access to justice, follow-up initiatives and redress for victims, and the resocialization of male perpetrators of violence. All the members of the Advisory Council are committed to upholding the right to a life free of gender-based violence against women.

10. Under this Plan, Act No. 19538 was adopted in 2017, amending articles 311 and 312 of the Criminal Code and thus establishing femicide as a specific aggravating circumstance in murder. Femicide is defined as “the killing of a woman that is motivated by hatred or contempt on grounds of her status as a woman”.

11. Moreover, in order to strengthen the enforcement measures laid out in the Plan, the gender-based violence response system of the National Women's Institute comprises a range of mechanisms. It applies to all women over the age of 18 years residing in Uruguay, including women of African descent, women with disabilities and women migrants, refugees and asylum seekers.

12. Although the network of services established to help people to enjoy a life free of gender-based violence has grown exponentially in the last three years, it remains inadequate. The number of care facilities for women in situations of gender-based violence have increased from 18 to 31. In addition to the 18 local cooperation units, there is now an additional team in Montevideo; the number of teams offering services for male perpetrators of violence has increased from 3 to 12. The nationwide services provided by the unit for women victims of trafficking for the purpose of sexual exploitation, the short-stay shelter for women whose life is at risk from domestic violence, and the temporary housing alternatives programme, which is carried out together with the Ministry of Housing, Land Management and Environment, continue to be provided and have been expanded. Over the same period, a halfway house, a transitional centre and an entry portal to 24-hour centres were added. In addition, training for employment and entry in the labour market was conducted in conjunction with the National Institute of Employment and Vocational Training.

13. Support offices maintain systematic administrative records on action taken. In 2018, these records were compiled into a unified system, known by the acronym “SMART”, to facilitate the processing and analysis of the violent incidents that had been addressed. To date, the offices providing support to women victims of gender-based domestic violence

<sup>2</sup> <http://www.impo.com.uy/bases/decretos-originales/306-2015>.

have conducted two qualitative assessments, which have made it possible to establish a better profile of the affected population and to review the mechanisms for gaining access to services. Work on the second national survey on the prevalence of gender-based violence and generations, to be conducted in 2019, is expected to be completed by December; the survey will focus on issues such as childhood, racial and ethnic origin, gender identity, age, place of residence and disability.

14. The Ministry of the Interior has launched an electronic ankle-tagging programme for high-risk perpetrators of domestic violence as an alternative way to protect victims of high-risk domestic violence. It involves monitoring compliance with protection orders issued in connection with cases of high-risk domestic violence by way of ankle-tags, psychosocial support and legal counselling for victims and perpetrators. The programme's nationwide coverage has been instrumental in ensuring its efficiency and effectiveness. As of the date of this report, 459 ankle tags were in use in the country. In addition, the role of the police has been expanded over the past four years across the country – there are now 19 departmental directorates for gender-based and domestic violence and 56 units specializing in domestic and gender-based violence.

#### **Allocation of resources**

15. Although the Government has allocated resources for both the Act and the Plan, more funds are needed to ensure the effective implementation of both instruments.

### **Right to work for persons with disabilities**

**Based on its previous recommendation (E/C.12/URY/CO/3.4, para. 8), the Committee calls on the State party to:**

**Expedite the consideration and adoption of the bill mentioned by the delegation that would introduce a meaningful quota for the employment of persons with disabilities in the private sector and expedite the approval of the National Plan for Equal Opportunities and Rights of Persons with Disabilities.**

16. Act No. 19691 on the inclusion of persons with disabilities in the private sector workforce<sup>3</sup> was promulgated on 29 October 2018. It is a key instrument to promote the active participation and full inclusion of persons with disabilities in society.

17. The Act provides that, from the moment it enters into force, all private companies with 25 or more permanent staff must employ persons with disabilities. The disability quota shall be progressive, in keeping with the number of staff employed by a company. Three years after entry into force of the Act, all private companies must meet the four per cent quota.

18. The Act, which was backed by the Uruguayan trade union movement, grants workers equal rights for equal work without any distinction other than their tasks. Each employer must ensure the accessibility of workplaces, granting equal opportunities for job performance and career development.

19. Act No. 16095<sup>4</sup> on the establishment of a comprehensive protection system for persons with disabilities, promulgated in 1989, and Act No. 18651<sup>5</sup> on the comprehensive protection of persons with disabilities, promulgated in 2010, provide for the inclusion of persons with disabilities in the public sector workforce.

20. As of the date of this report, the national plan for equal opportunities and rights for persons with disabilities was still at the drafting stage.

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<sup>3</sup> [https://medios.presidencia.gub.uy/legal/2018/leyes/10/cons\\_min\\_733.pdf](https://medios.presidencia.gub.uy/legal/2018/leyes/10/cons_min_733.pdf).

<sup>4</sup> <https://legislativo.parlamento.gub.uy/temporales/leytemp4407689.htm>.

<sup>5</sup> <https://www.bps.gub.uy/bps/file/11976/2/ley-18651.pdf>.

## Mental health

### The Committee recommends that the State party:

**Ensure that the mental health bill now awaiting congressional approval complies with international standards on the protection of the rights of persons with mental health disorders or psychosocial disabilities, that it provides for the allocation of sufficient resources for the implementation of the bill's provisions once they become law and that it guarantees the independence and proper operation of the national mental health care oversight commission whose establishment is provided for in the bill.**

21. In August 2017, the new Mental Health Act (No. 19529<sup>6</sup>), which marked a shift in public policy, entered into force. Following the promulgation of the new Act, efforts have been redirected towards deinstitutionalization in order to satisfy public policy goals.

22. Implementation of the Act has begun, with the issuance of Decree No. 226/018,<sup>7</sup> which regulates hospitalization notification and delineates the powers of the National Oversight Commission. A decision on membership of the National Oversight Commission established pursuant to chapter VI, article 41, of the Act was adopted on 3 September 2018. The Commission's independence is guaranteed by its very composition: two representatives of the Ministry of Health with relevant knowledge and training; three representatives of the University of the Republic (nominated by the Faculties of Medicine, Psychology and Law); one representative of mental health professional organizations; one representative of mental health scientific associations; one representative of mental health<sup>8</sup> patient associations; one representative of associations of families of people with mental illness; and one representative of civil society organizations working in the field of mental health and human rights.

23. The regulatory decree relating to chapter IV of the Act on inter-agency cooperation in regard to housing, employment, inclusive education and cultural inclusion is at the adoption stage. Interdisciplinary teams of mental health specialists are needed at all levels of mental health care, in accordance with the level of complexity of care required and patients' special needs.

24. As of the date of this report, a decree is being drafted on the establishment of a network of basic care facilities. In addition, key national institutions and stakeholders in the field of mental health are seized with the drafting of the national mental health plan.

25. Since the entry into force of the Act, in accordance with article 38, no more single-purpose facilities have been established. No new patients have been admitted to the Medical-Occupational and Psychosocial Rehabilitation Centre, CEREMOS (formerly the Dr. Bernardo Etchepare and Dr. Santín Carlos Rossi psychiatric clinics). The mental health section within the Ministry of Health has taken action in response to complaints of incompliance with article 25 on hospitalization coverage limit. Meetings have also been held with the National Honorary Consultative Council on the Rights of Children and Adolescents to discuss the inclusion of provisions to address the special needs of children and adolescents.

26. On 17 September 2018, a working group was set up comprising representatives of the Supreme Court of Justice, the Attorney General's Office, the National Human Rights Institution and Ombudsman's Office, the State Health Services Administration and the Ministry of Health, with the aim of ensuring enforcement of the Act.

27. The Mental Health Act will be implemented using a community-based approach and a single network of increasing complexity. The first port of call will be the primary care team, which will ensure coordinated use of existing resources and equal access to benefits

<sup>6</sup> <https://legislativo.parlamento.gub.uy/temporales/docu3484989623860.htm>.

<sup>7</sup> <https://www.impo.com.uy/bases/decretos/226-2018>.

<sup>8</sup> The term "mental disorder" is used in some specific articles as a form of positive discrimination given that specific programmes on housing, education and work, for example, must prioritize assistance to the most vulnerable groups. Article 1, which sets forth the purpose of the Act, and most other articles use the term "mental health service users".

and resources. Well-defined mechanisms will assist with coordination among facilities and levels and sectors of care, thus ensuring lifelong comprehensive and sustainable assistance to beneficiaries in the community. The availability of progressive, complementary services will provide beneficiaries with the most appropriate solution for their current situation, enabling them to reach their fullest potential.

28. The community-based approach to mental health care and the move away from placement in psychiatric institutions, in particular long-term institutionalization, require the establishment of appropriate community-based facilities for persons with mental health problems.

29. The most viable strategy for improving access to mental health care is to integrate mental health services into the general health system. Such integration may in turn help to reduce the stigma attached to using designated mental health facilities. Therefore, inpatient care will be delivered in general hospital units.

30. In order to strengthen community networks and develop the necessary alternative structures, community-based facilities are needed to deliver medical care, psychosocial rehabilitation and treatment of acute cases. In addition, sheltered housing and employment plans are needed for the inclusion of persons with severe mental health problems in the community. This will support deinstitutionalization and the planned closure of single-purpose structures by 2025.

31. The changes proposed in the Act require changes in the structure and organization of the health system, the services provided and the practices employed. The State Health Services Administration plays a key role in this process. It is the largest public provider, delivering health care to over 40 per cent of the population, including high-risk groups, and has a well-developed network of specialized mental health facilities in all parts of the country. It is also the single-purpose institution with the largest number of psychiatric hospital beds reserved for medium- and long-term patients.

32. In order to meet the objective set forth in the Act to close all single-purpose institutions by 2025, while ensuring decent living conditions and health-care services to those patients currently institutionalized, new facilities must be built, resources reallocated and practices changed as a matter of urgency.

33. In January 2018, the general management of the State Health Services Administration, by virtue of decision 374/18, set up a working group tasked with developing a strategy for the implementation of the Mental Health Act, in accordance with the aforementioned conceptual framework and taking into account the current situation, for the reorganization of the Administration's mental health service network.

34. The following strategic objectives are being given priority during the initial phase 2019–2020 to facilitate the proper implementation of the Act:

- Promote a community model of mental health care based on the recovery paradigm at all levels of care delivered by the State Health Services Administration
- Proceed gradually with the replacement of single-purpose facilities (psychiatric hospitals and wards) with alternative facilities in accordance with the provisions of articles 24, 26, 37 and 38 of Act No. 19529
- Strengthen the structure of the Department of Mental Health and at-risk Populations of the State Health Services Administration to facilitate compliance with the strategic objectives proposed

35. In June 2018, a draft implementation plan for the period 2019–2020 was submitted to the State Health Services Administration.<sup>9</sup>

36. Expenditure projections for the implementation of this plan have been revised downward, because the plan was not considered in the latest Accountability Act and thus the resources are insufficient to fund implementation fully. Approximately 30 per cent of the necessary resources could nevertheless be procured through reallocation of the

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<sup>9</sup> <http://www.asse.com.uy/contenido/Documentos-de-Referencia-Ley-de-Salud-Mental-10377>.

Administration's own funds, which will facilitate the creation of two assisted living facilities with 20 places each, two halfway houses (20 and 10 places, respectively) and eight short and medium-term hospital beds in the psychiatric unit of the General Hospital by 2020.

37. The State Health Services Administration is also collaborating with foreign experts regarding procedures for moving inpatients of psychiatric units into alternative residential settings in the community, thus integrating, exchanging and applying good practices in the field of mental health.

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