



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

Distr.: General
16 January 2023
English
Original: Spanish
English, French and Spanish only

Committee against Torture

**Seventh periodic report submitted by Chile under
article 19 of the Convention pursuant to the
simplified reporting procedure, due in 2022*, ****

[Date received: 14 November 2022]

* The present document is being issued without formal editing.

** The annexes to the present report may be accessed from the web page of the Committee.



I. Introduction

1. Chile hereby presents its seventh periodic report on the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which was prepared in accordance with the simplified reporting procedure. The report provides responses to the list of issues prior to reporting ([CAT/C/CHL/QPR/7](#)) that highlight the progress made by the State, together with the gaps and challenges it has encountered, as it works to align its laws and public policies with the Convention. This report covers the period July 2018–2022.
2. The report was prepared by the Ministry of Justice and Human Rights with support from the Ministry of Foreign Affairs and is the result of the cooperative efforts of the judicial branch; the Ministry of the Interior and Public Security; the Ministry of Finance; the Office of the Secretary-General of the Presidency; the Ministry of Defence; the Ministry of Health; the Ministry of Social Development and the Family, along with its affiliated services (National Service for Persons with Disabilities (SENADIS), National Service for Older Persons (SENAMA), National Service for the Protection of Children and Adolescents (MEJOR NIÑEZ)); the Ministry for Women and Gender Equity; the Public Prosecution Service; the Public Criminal Defender Service; the National Service for Minors (SENAME); the Forensic Medical Service; the Prison Service; the Legal Assistance Agency; the State Defence Council; the National Customs Service, Carabineros (police); and the Investigative Police Force.
3. In addition, a meeting was held with civil society on 7 October 2022 and with the National Human Rights Institute, the Office of the Children’s Ombudsman and the national mechanism for the prevention of torture on 11 November 2022, all of which are autonomous human rights agencies, to review the main conclusions of this report.
4. During the forthcoming constructive dialogue with the Committee, the State party hopes to provide further information on any issues about which it has not been able to provide a comprehensive response in this report.

II. Replies to the list of issues prior to reporting

Issues identified in the course of follow-up on previous concluding observations

Replies to the questions raised in paragraph 1 of the list of issues ([CAT/C/CHL/QPR/7](#))

5. Regarding paragraph 17 of the concluding observations, Act No. 21154, by which the National Human Rights Institute was designated as the national mechanism for the prevention of torture, was published in the Official Gazette on 25 April 2019 and entered into force six months after that date. The mechanism is now in operation and all its experts have already been appointed.
6. In accordance with Act No. 21395 (the 2022 budget), the funding allocation for the National Human Rights Institute (\$12,552,515,000) is established in Public Treasury line No. 50, chapter 01, programme 03, subheading 24, item 03, allocation 133.¹ These resources will be used to defray all expenses, including staffing costs. The above sum includes \$964,491,000 to finance the implementation of Act No. 21154, by which the National Human Rights Institute was designated as the national mechanism for the prevention of torture. In addition, the 2020 Budget Act (Act No. 21192) allocated \$10,371,962,000 for the Institute, including \$1,020,958,000 of funding for the national mechanism for the prevention of torture, and the 2021 Budget Act (Act No. 21289), allocated \$11,635,816,000 for the Institute, including \$923,842,000 of funding for the national mechanism for the prevention of torture.

¹ The monetary amounts cited in this report are denominated in Chilean pesos. The Central Bank exchange rate was US\$ 1 to Ch\$ 893.54 as of 11 November 2022.

7. Information on compliance with paragraph 37 (a) and (b) of the concluding observations is detailed in the section on paragraph 22. Nevertheless, in terms of general background information, it may be noted that Chile is updating its institutional framework for the delivery of services for children and adolescents. Along with the establishment of the Office of the Undersecretary for Children and Act No. 21430, on guarantees and comprehensive protection for the rights of children and adolescents, the MEJOR NIÑEZ Service was established by Act No. 21302. MEJOR NIÑEZ has taken over the responsibilities of SENAME for the care of children and adolescents whose rights have been violated, while SENAME continues to be responsible for the care of adolescents deprived of their liberty under the Adolescent Criminal Responsibility Act; for the management of the country's closed, semi-closed and temporary detention centres (article 43 of Act No. 20084); and for the administration of non-custodial penalties and measures. In September 2022, however, Congress passed a bill authorizing the creation of the National Juvenile Social Reintegration Service and amending Act No. 20084, on the criminal responsibility of adolescents, and a number of other regulations (Bulletin No. 11174 07). The National Juvenile Social Reintegration Service is to take over these functions from SENAME.

8. With respect to the topics dealt with in paragraph 39 and the situation of persons with disabilities, SENADIS and SENAME have entered into a technical cooperation agreement (RE No. 2861 of 30 September 2021, annex II) for the administrative transfer to SENADIS of responsibility for the provision of services for persons with disabilities and dependent adults cared for by the State at alternative centres run by SENAME and accredited cooperating agencies. SENADIS is therefore running the Residential Models for Adults with Disabilities Programme, which is designed to provide support for independent decision-making to persons with disabilities between 18 and 59 years of age who are institutionalized in homes for children and adolescents. This is done with the help of a comprehensive service model tailored to their needs. SENADIS began to implement the above-mentioned programme in August 2019. Under this programme, funding is provided to persons with disabilities between the ages of 18 and 59 and other persons in that age group who are in a situation of dependency and who are housed in residences administered by SENAME and/or by cooperating or private agencies under the terms of financial transfer agreements. Currently, SENADIS has signed agreements with 27 residences nationwide, benefiting 1,088 people (459 women and 629 men). In conjunction with these agreements, SENADIS has prepared protocols to be followed by these residences in connection with the departure of persons with disabilities from the residences (RE No. 163, 27 January 2021, annex III); interventions in cases of violations of such persons' rights and/or the commission of acts constituting criminal offences in residential contexts (RE No. 164, 27 January 2021, annex IV); and the death of a person with disabilities in a residential context (RE No. 175, 28 January 2021, annex V). SENADIS periodically carries out technical and administrative supervisory inspections to ensure that the above-mentioned protocols are being followed. Non-compliance constitutes grounds for the termination of the agreement. The protocols delineate the actions to be taken by such residences in the event of violations and establish that, when any such violations constitute criminal offences, the institution in question, in addition to taking actions to prevent any further violations, is required to file a report so that the establishment of criminal responsibility may be pursued. All of the above must be reported to SENADIS. A failure to do so constitutes a serious breach of the agreement and grounds for early termination, reimbursement of funds and legal action where appropriate.

9. Pursuant to the protocol on interventions in the event of rights violations and acts constituting a criminal offence, 23 reports were filed in 2021. Regarding the number of deaths that have occurred since the launch of this programme, including those deaths occurring prior to the implementation of the relevant protocol, 10 deaths were reported in 2019, 12 in 2020 and 42 in 2021.

10. With respect to the situation of older adults, SENAMA has developed a protocol for actions to be taken in the event of reports of abuses in State-run or private long-stay residences for dependent older adults (Directive on abuse in long-stay residences, DGCT-SENAMA, April 2021, annex VI). In accordance with this protocol, upon receiving information regarding possible abuses or rights violations in a residence, the information is to be examined with a view to the referral of the case to the Regional Office of the Ministry of Health so that an inspection of the residence may be carried out; to the appropriate COVID-

19 technical supervisory team(s) of SENAMA, where appropriate, so that the team(s) can oversee service delivery in the residence in question; or to the local network, if applicable, so that it can locate any prior reports concerning the residence. If, during the inspection, serious and evident situations of ill-treatment and/or the violation of the rights of older adults are observed, the appropriate legal actions will be taken and support measures will be coordinated with local networks.

11. To provide more comprehensive protection for older adults living in long-stay residences, a monitoring system was launched in September 2022. The system is designed to detect abuse and/or violations of the rights of older adults in long-stay residences run by SENAMA. Two-person socio-legal teams deployed by SENAMA in these residences help to provide residents with greater access to justice and opportunities for social integration. Other preventive measures include the adoption of quality standards for the residences, a protocol that outlines preventive and other action to be taken when older persons are determined to be in a state of agitation, and the development and implementation of a virtual platform for long-stay residences for older adults in Chile that provides an efficient channel for information concerning the status of residents.² A total of 1,215 open centres that house 22,991 older adults are registered with the platform.

12. Members of the public can post queries and requests on the Public Information and Assistance System (SIAC) Platform (a computer system used by SENAMA staff to register queries and to enter case information).³ A screening of communications submitted under the heading “ill-treatment in long-stay residences for older adults” shows that 504 communications on this subject were registered between May 2019 and July 2022 (134 in 2019, 100 in 2020, 91 in 2021 and 104 in 2022).^{4,5} Although the statistical data include a description of each query or report, information on the outcome of these cases is not always provided.

13. A total of 12 complaints concerning the violation of older adults’ rights in long-stay residences run by SENAMA have been filed since 2017.

14. The Public Prosecution Service has made headway in implementing the high-priority recommendations made by the Committee in paragraphs 37 and 39 of its concluding observations. In 2021 and 2022, two sets of instructions and action guidelines were issued at the national level concerning the investigation of crimes of institutional violence and sex crimes. These directives incorporate international human rights standards, with special consideration for the duty to provide greater protection for the rights of persons and groups in vulnerable situations, such as older adults, children, adolescents and persons with disabilities.

15. Regarding torture and cruel, inhuman or degrading treatment, Public Prosecution Service Directive No. 618 (General instructions for action to be taken in cases involving crimes of institutional violence, 28 July 2021, annex VII) updates the guidelines established for cases of institutional violence. The updated version addresses the complex challenges that arose concerning violence committed by representatives of the State in connection with the October 2019 crisis and the exponential increase in complaints concerning such crimes. Those cases were still under investigation by the Public Prosecutor’s Office at the time of writing. The instructions concerning investigative procedures and guidelines for the legal characterization of such acts have also been updated in order to further the fulfilment of due diligence requirements in the investigation and punishment of such offences. This document incorporates provisions on the use of force for the maintenance of public order; prohibits officials from stripping persons who are being arrested, searched, jailed or held in custody in police stations; includes a section on enforced disappearance; updates the guidelines on the Istanbul Protocol and their application in investigations of crimes of torture and cruel, inhuman or degrading treatment; and updates the guidelines on the Minnesota Protocol and its application in cases in which people die while in State custody. The implementation of these guidelines has made a decisive contribution to investigations of acts of violence in

² <https://www.eleamchile.cl/>.

³ <https://buenratosiac.senama.cl/Senama.BuenTrato.Spa/index-publico.html#!/consulta>.

⁴ May–December 2019.

⁵ January–July 2022.

residential centres and of crimes of institutional violence. At the present time, there are persons who have been formally charged with offences involving cruel, inhuman or degrading treatment of children with disabilities residing in homes run by cooperating agencies of the National Specialized System for Children and Adolescents. These are landmark cases in terms of the progress being made in the investigation of incidents of institutional violence inasmuch as they extend the scope of criminal prosecution for such offences to include private individuals.

16. Public Prosecution Service Directive No. 277 (General instructions for action to be taken in cases involving crimes of sexual violence, 8 April 2022, annex VIII) sets out guidelines in which children, adolescents, persons with disabilities and older adults are recognized as groups in need of special protection from this type of crime. The guidelines set out the standards of due diligence to be met by State bodies in such cases and calls for investigations to be conducted in accordance with a human rights approach and for the immediate, exhaustive, energetic and impartial prosecution of such cases. The directive also covers protection measures for victims; places special emphasis on the importance of conducting risk assessments in cases involving children, adolescents, adult victims of domestic violence and LGTBIQ+ adults; and delineates service models for their care. This directive supplements Directive No. 618 on institutional sexual violence, establishing guidelines for the legal characterization of cases in which the offenders are State agents, private individuals exercising public functions or private individuals acting at the instigation or with the consent or acquiescence of a public official.

17. In the case of the Investigative Police Force, general order No. 2647 (Police procedures for the investigation of crimes of torture, unlawful coercion or other cruel, inhuman or degrading treatment or abuse, 19 June 2020, annex IX) clearly outlines the specific steps to be taken in the investigation of these crimes.

18. Finally, Investigative Police Force general order No. 2689 of 19 May 2021, annex X, approves the Strategy for the Promotion and Full Respect of the Rights of Children and Adolescents.

Articles 1–4

Replies to the questions raised in paragraph 2 of the list of issues

19. Article 150 A has not been amended during the reporting period, and the characterization of acts constituting torture under that article does not include the infliction of such treatment on a person for the purpose of intimidating a person other than the person being subjected to torture.

20. The crime of torture is punishable by a term of rigorous imprisonment of from 5 years and 1 day to 10 years. The sentence may be increased if other crimes, such as homicide, rape or other forms of sexual violence and/or serious injury, are committed in conjunction with the torture. In such cases, the penalty is increased to ordinary or aggravated medium-term, maximum-term or even life imprisonment. No changes have been made in the statute of limitations applicable to the offence of torture since the sixth report.

Article 2

Replies to the questions raised in paragraph 3 of the list of issues

21. Regarding safeguards for detained persons from the moment of their arrest, in response to the serious events that occurred in the country in October and November 2019, the Public Criminal Defender Service began to develop a strategy to deploy public criminal defenders in police stations to assist detained persons from the outset of their detention. To that end, the Service signed a cooperation agreement with the Carabineros in January 2021 to pilot the practice of stationing criminal defence units in police stations, thereby allowing for the gradual roll-out of criminal defence services in stations in the Antofagasta, Libertad or General Bernardo O'Higgins, Maule and Los Ríos regions from 1 July 2021 and in the communes of Santiago, San Joaquín, La Florida and San Bernardo, within the jurisdiction of the Northern and Southern Regional Public Defender's Offices of the Metropolitan Region,

from 1 August 2021. As of January 2022, the Public Criminal Defender Service had provided assistance in police stations on 5,292 occasions.

22. The Prison Service has had regulations in place since 2018 aimed at preventing behaviour that could constitute torture or ill-treatment and regulations setting out the action to be taken if such offences are nonetheless committed. Directive No. 171 (13 May 2019, annex XI) provides instructions relating to the mandatory reporting of events that constitute crimes in Prison Service facilities and the required action to be taken to assist victims and witnesses. Such action includes medical care, transfers to other areas or special units within the prison, transfers to other prisons, special custody arrangements, specialist care, family support, the submission of reports to the Public Prosecution Service, legal advice and measures to prevent retaliation against victims by the prison staff involved. Other safeguards are set out in Directive No. 302, including the right to make a telephone call, the use of closed-circuit television and portable cameras in all prisons and immediate access to an independent doctor, in addition to any medical examination that may be carried out at the request of the authorities (articles 34 to 36 of Supreme Decree No. 518).⁶ Additionally, a circular on the rights and responsibilities of persons deprived of liberty has been in use in at least one prison per region since 2022. The circular is read out by the admissions officer when a prisoner enters a prison, and the arriving prisoner is then asked to sign a printed copy. This practice will be rolled out to all prisons in 2023.

23. With regard to safeguards for groups requiring special protection, in addition to the measures described in paragraph 22, MEJOR NIÑEZ has developed a technical standard for the promotion of well-being and the prevention and comprehensive treatment of emotional and behavioural maladjustment in children and adolescents in alternative residential care (Directive No. 1830, 15-04-2019, annex XII); a protocol on the action to be taken in response to the commission of illegal acts inside residential facilities (annex XIII); and a framework for collaborative coexistence in those facilities.

24. SENAME has a series of safeguards in place to prevent torture. Of particular note are Circular No. 5 on the separation of minors from the rest of the group in a residence (10 June 2014, annex XIV), Circular No. 12 on the right of adolescents to be housed separately from adults (23 May 07, annex XV), Circular No. 17 on guaranteed legal assistance (07 June 2007, annex XVI), memorandum No. 681 on guidelines for a rights-based approach to dealings with adolescents and young persons in detention centres (24 August 2018, annex XVII), exempt resolution No. 1145 on a protocol for cooperation with the Prison Service (08 May 2014, annex XVIII), exempt resolution No. 310/B on the entry of goods and prohibited goods and food (07 June 2007, annex XIX) and exempt resolution No. 312/B on handling critical conflicts, visits and transfers (07 June 2007, annex XX).

25. An agreement was signed between SENADIS and the Carabineros in June 2020 on protection, assistance and training for persons with disabilities, the promotion of their human rights and the dissemination of information about their rights. The Carabineros have worked with SENADIS to review the directive on the use of force,⁷ the protocol for maintaining public order and the guidelines on police action involving persons with disabilities. SENADIS also has an active cooperation agreement with the Prison Service, and the Service, among other measures, has instituted a technical committee on disability to address the needs of persons with disability who are deprived of liberty (exempt resolution No. 4348, 01 September 2021, annex XXI). In general order No. 2604 of 2019,⁸ which introduces a policy on respecting and promoting human rights, the Investigative Police Force gives express consideration to the particular needs of persons with disabilities and their acceptance. Moreover, Circular No. 01 of the General Inspectorate of the Investigative Police Force, issued in 2020, provides instructions for its staff regarding the rights of persons with disabilities.

⁶ <https://www.bcn.cl/leychile/navegar?idNorma=123280&idParte=8491404&idVersion=>

⁷ <https://www.bcn.cl/leychile/navegar?i=1129442&f=undefined>.

⁸ <https://ordenesgenerales.investigaciones.cl/Archivo/Descarga/?file=7A3C8B3639FE6D2F62020269C421582E4F10B2F9>.

26. Article 17 of Act No. 21331 of 2021⁹ on the recognition and protection of the rights of persons receiving mental health care prohibits subjecting involuntarily hospitalized persons to irreversible procedures or treatments such as sterilization or psychosurgery. It also regulates the use of restraints, prioritizing emotional containment and environmental methods. Physical, mechanical and pharmacological restraints and continuous observation in individual rooms may be employed only when a doctor has confirmed that it is therapeutically indicated and only for the amount of time that it is strictly necessary. All means possible must be used to minimize the harmful effects on the individual's physical and psychological well-being, and the measure must be subject to continuous medical supervision. Such measures can under no circumstances be used as a means of torture, illegitimate coercion or other cruel, inhuman or degrading treatment. The use of such measures to restrain involuntarily hospitalized persons must be communicated to the competent family court.

27. SENAMA has quality standards for long-stay residences for dependent older adults (exempt resolution No. 2459, 27 October 2016); a handbook on residents' rights;¹⁰ a protocol for guidance, referrals and support for older women and men who are victims of domestic violence or abuse; and procedures for assessing abuse in long-stay residences. In January 2022, SENAMA brought in health professionals to serve as technical supervisors to provide support for visits to those residences. Each region has one supervisor, with the exception of the Metropolitan Region, which has two.

28. Regarding disciplinary measures taken in respect of State agents, the Carabineros¹¹ undertook 189 disciplinary proceedings relating to possible torture, ill-treatment or the excessive use of force between 2018 and 2021, 67 of which are ongoing (4 date from 2018, 6 from 2019, 7 from 2020 and 50 from 2021). Eleven of these cases relate to incidents that occurred during demonstrations (four from 2019, two from 2020 and five from 2021). Of the 122 administrative proceedings that have been concluded, 31 related to events that occurred during demonstrations; 19 of those cases did not result in any disciplinary action. Of the total disciplinary proceedings (122), 70 did not result in the imposition of a penalty (15 in 2019, 2 in 2020 and 53 in 2021). Annex I-i provides further details on the results of those proceedings and the type of penalty issued in each case.

29. The Investigative Police Force has undertaken 61 administrative proceedings: 17 internal investigations, 28 summary investigations and 16 administrative inquiries. Of those cases, 60 have been concluded; in 59 of those cases, no human rights violations were found to have been committed and the charges against a total of 162 officials were dismissed. In the remaining case, three officials were found to have committed human rights violations and were penalized.

30. The Prison Service does not have a specific complaints procedure. In practice, persons deprived of liberty communicate their complaints directly to an official or through family members, support networks or non-governmental organizations (NGOs). Between 1 January 2018 and 8 September 2022, the Prison Service became aware of 253 complaints from inmates relating to incidents in which an official suspected to be responsible was identified. (These figures are broken down by year and region in annex I-ii-a.) From 2018 to July 2022, 783 administrative inquiries were conducted, of which 527 have been closed. The following corrective measures were applied: fines in 14 cases, reprimands in 5 cases and suspension in 8 cases (broken down by subject matter in annex I-ii-b).

31. The role of the Legal Assistance Agency is to realize the right of access to justice and effective legal protection. A distinction must be made between persons deprived of liberty who were tried following the reform of the country's criminal procedures, whose defence falls to the Public Criminal Defender Service, and persons tried under the previous system, who were defended by the criminal defence departments of the Legal Assistance Agency. Since 2019, those departments have not registered any cases involving victims of torture, ill-treatment or unnecessary violence resulting in injuries, nor has any such case been referred to the human rights department of the Legal Assistance Agency. The Agency also provides

⁹ <https://www.bcn.cl/leychile/navegar?idNorma=1159383>.

¹⁰ <http://www.senama.gob.cl/storage/docs/GuiaResidente%281%29.pdf>.

¹¹ Management Audit Department of the Administrative Prosecution Service.

in-person assistance to persons deprived of liberty in non-criminal matters. Furthermore, through its specialized human rights department, it has taken action intended to guarantee their fundamental rights.

32. In May 2022, with technical assistance from the Regional Programme for social cohesion in Latin America (EUROsociAL+), the Public Criminal Defender Service established a system for registering victims of institutional prison violence, communicating with them and affording them comprehensive services. The system is intended to safeguard the rights and access to justice of accused and convicted persons deprived of liberty who are represented by the Public Criminal Defender Service in the event that they are subject to institutional acts of prison violence committed by public officials responsible for their custody. Between 16 May and 3 October 2022, the system recorded 45 cases of institutional prison violence directed at 6 women and 39 men. In 18 cases, the persons in question stated that they did not wish to report the incident or for any action to be taken, mainly for fear of reprisals.

33. SENADIS is continuing to develop the Access to Justice Programme with the assistance of offices of the Legal Assistance Agency throughout the country.¹²

Replies to the questions raised in paragraph 4 of the list of issues

34. This information is provided in paragraphs 5 and 6 as part of the reply to the questions raised in paragraph 1 of the list of issues.

Replies to the questions raised in paragraph 5 of the list of issues

35. The Government's agenda includes further progress in the institution of pending reforms in this area aimed at restricting military jurisdiction to offences that are strictly military in nature and have been committed by military personnel.

36. On 2 April 2019, a parliamentary motion was submitted on a bill to amend the Code of Military Justice to remove common crimes committed by military personnel from military jurisdiction and place them under the jurisdiction of the ordinary justice system. The bill, which was posted in parliamentary bulletin No. 12.519-02,¹³ has been presented for its first reading. The guidance provided by the National Defence Committee of the Chamber of Deputies is under discussion. The executive is monitoring the bill's progress in its role as a co-legislator.

Replies to the questions raised in paragraph 6 of the list of issues

37. The State has adopted several measures to combat gender-based violence. The relevant legislative measures include Act No. 21212 of 2020 ("Gabriela's Law"),¹⁴ which broadens the definition of femicide to include crimes committed by partners with whom the victim does not live and with whom they have or may have had a child, as well as gender-based femicide, and also provides for harsher penalties in some cases. Also of note are Act No. 21378 of 2021,¹⁵ which provides for electronic tagging to enforce court-issued restraining orders in relation to crimes under Acts Nos. 20066 and 19968, and Act No. 21153 of 2019,¹⁶ which amends the Criminal Code to include the offence of sexual harassment in public spaces.¹⁷ The bill on the right of women to a life free of violence¹⁸ was introduced in January

¹² CAT/C/CHL/CO/6/Add.1, para. 37.

¹³ <https://www.camara.cl/legislacion/ProyectosDeLey/tramitacion.aspx?prmID=13050&prmBOLETIN=12519-02>.

¹⁴ <https://www.bcn.cl/leychile/navegar?idNorma=1143040>.

¹⁵ <https://www.bcn.cl/leychile/navegar?idNorma=1165983>.

¹⁶ <https://www.bcn.cl/leychile/navegar?idNorma=1131140>.

¹⁷ The Act amends the Criminal Code to expand the definition of the crime of sexual abuse against persons aged over 14 years, defines sexual harassment in public places or places accessible to the public as a minor offence, and classifies the making and disseminating of audiovisual recordings with sexual content without the victim's consent in a public place or a place freely accessible to the public as an ordinary offence.

¹⁸ <https://www.camara.cl/legislacion/ProyectosDeLey/tramitacion.aspx?prmID=11592&prmBoletin=11077-07>.

2017 and moved to the second reading stage in 2019. This matter is a priority for the Government, which, in its role as co-legislator, has highlighted the urgent need for passage of the bill and provided guidance on improving the definitions of different forms of violence contained therein and on establishing a mechanism for inter-agency coordination, among other matters.

38. The Carabineros have received 383,364 complaints of gender-based violence since 2018. That figure is broken down in annex I-iii. The Investigative Police Force, meanwhile, recorded 10,264 complaints of the crime of domestic violence¹⁹ involving 10,722 victims between 2018 and 2022. Those figures are broken down in annex I-iv. The Public Prosecution Service does not collect statistics on complaints of gender-based violence disaggregated by the victims' age, ethnicity or nationality. However, between 2018 and 31 December 2021, it dealt with 485,595 female victims of crimes of gender-based violence; those cases led to 219,364 convictions and 62,353 acquittals, figures that are broken down in annex I-v. Lastly, the judicial branch dealt with 62,126 cases relating to gender-based violence²⁰ during the period under review. The breakdown given in annex I-vi details the offences in question, the year and the status of the cases.

39. The Public Prosecution Service issued Directive No. 1032 (03-12-2021, annex XXII), which provides guidance on the action to be taken in cases of gender-based and domestic violence and brings the guidelines for criminal prosecution into line with international human rights standards, giving particular consideration to the duty to provide enhanced protection for the rights of women and persons of diverse sexuality. As stated in the replies to the questions raised in paragraph 1 of the list of issues, in directives Nos. 618-2021 and 277-2022, the Public Prosecution Service also provides guidance on the action to be taken in the event of institutional sexual violence.

40. Of the total number of investigated cases of torture and cruel, inhuman or degrading treatment during the period under review, around 20 per cent involved female victims; 69 complaints of torture of a sexual nature, aggravated torture involving rape, and aggravated cruel, inhuman or degrading treatment involving rape or another form of sexual aggression were received. Progress made in this regard includes the outcome in the case of the rape of a woman in a psychiatric hospital in Santiago in which, following an investigation and a hearing in 2021, the paramedic responsible for the victim's care, who was a public health official, was convicted of torture of a sexual nature under article 150 A owing to discrimination against the victim on grounds of gender and health status.

41. In the area of prevention, the Supreme Court approved the judicial branch's gender equality and non-discrimination policy by means of a decision dated 5 February 2018 (AD 1450-2017). The Technical Secretariat for Gender Issues and Non-Discrimination is responsible for coordinating activities to enforce this policy. Annex I-vii contains a breakdown of the activities carried out each year. These include, among others, the formulation of a protocol on access to justice for vulnerable groups.

42. With regard to programmes for women victims of violence, the National Service for Women and Gender Equity, through the Programme for Care, Protection and Reparation for Women Victims of Violence, provides care, protection, reparation and access to justice through a network of outpatient centres that offer psychosocial and legal assistance to women victims of violence perpetrated by their partners or former partners. Re-education services are also available for men who have committed violence against women. In addition, the Service offers residential protection through which women victims of serious acts of violence can receive psychosocial and legal assistance, along with an extreme violence hotline that provides specialized legal representation to women victims of attempted femicide, persons involved in cases of gender-based violence that have been made public and family members of women victims of femicide. The Investigative Police Force, Public Prosecution Service and Carabineros are working to implement a project to protect victims and witnesses in complex cases.

¹⁹ This category includes crimes of abuse, threats, injury, repeated abuse and psychological harm.

²⁰ The statistics comprise general data on the crimes and are not disaggregated by sex, ethnicity or other sociodemographic variables.

43. The awareness-raising campaigns organized by the Ministry for Women and Gender Equity include the “No lo dejes pasar” (“Speak Up”) campaign, which ran for three weeks from 8 November 2018 and focused particularly on bringing an end to all forms of violence against women; the “Nada justifica la violencia contra la mujer” (“Nothing Justifies Violence against Women”) campaign, which ran for three weeks from 16 December 2019 and promoted a zero-tolerance approach to violence against women;²¹ the “No más violencia contra la mujer” (“No More Violence against Women”) campaign, which ran for 15 days from 25 November 2020 and raised the profile of gender-based violence, improved awareness of it and increased society’s involvement in its prevention; the “Hazlo por ellas” (“Do It for Them”) campaign, which ran for two weeks from 20 May 2020 as part of a contingency plan that, *inter alia*, improved the services provided by the 1455 violence against women hotline;²² and the “La violencia de género, primero te saca de tu vida y luego te la quita” (“Gender-Based Violence: First It Overturns Your Life and Then It Takes Your Life”) campaign, which ran from 1 November 2021 for 25 days. The Investigative Police Force has also organized four campaigns on the crime of femicide and a media campaign on sex crimes.

44. Regarding measures to strengthen institutional training programmes, between 2018 and 2022, 1,300 public officials benefited from the various forms of training provided by the Public Prosecution Service to strengthen the gender perspective and promote interculturality. Similarly, the Investigative Police Force ran an introduction to gender equity policies training course in 2021, in conjunction with the Ministry of the Interior and Public Security and the Ministry for Women and Gender Equity. The two versions of the training course were attended by 336 officers. Additionally, 50 officers received a human rights diploma on gender equity after completing a course on security and the gender approach for protecting human rights in policing, and 120 officers attended a 2022 seminar entitled “Ethics and Human Rights: Policing and Gender-Based Violence”. The judicial branch, through the Judicial Academy and the Technical Secretariat for Gender Issues and Non-Discrimination, has carried out a series of training activities. The Judicial Academy’s professional development programme includes seven courses for 2022 and 2023, details of which may be found in annex I-viii.

Replies to the questions raised in paragraph 7 of the list of issues

45. The State continues its efforts to eradicate trafficking in persons. Regarding the criminal prosecution of perpetrators of this crime, between 2018 and 2022 the Public Prosecution Service received 312 complaints of trafficking in persons; 43 per cent of those complaints related to trafficking for the purpose of forced labour and 56 per cent related to trafficking for the purpose of sexual exploitation. Regarding the progress made in investigations, 25 cases of human trafficking have been opened during the period under review, 48 per cent of which relate to forced labour and 52 per cent to sexual exploitation. Eighteen judgments were handed down between 2018 and 2022: 15 convictions and 3 acquittals. Of the convictions, 8 were for trafficking in persons for the purpose of forced labour and 7 for the purpose of sexual exploitation. (A breakdown by year and type can be found in annex I-ix.) The judicial branch dealt with 599 cases of trafficking in persons²³ between 2018 and 31 May 2022; a breakdown of those cases appears in annex I-x.

²¹ This campaign promoted the 1455 hotline, which provides assistance and guidance to victims and witnesses of gender-based violence. During the campaign, calls increased by 77 per cent compared to 2018.

²² The initiative’s main achievements were the establishment of new communication channels for requesting help and guidance in cases of violence: the Mujer WhatsApp service, available by contacting +5699700700, and the 1455 web chat service, available on the website of the National Service for Women and Gender Equity. This is in conjunction with the “Mascarilla 19” code word initiative for requesting assistance in person at pharmacies in cases of violence. The 1455 hotline is free of charge, operates 24 hours a day and can contact the Carabineros directly in the event of an emergency. There is also a hotline to the Carabineros for situations and complaints of this kind. The Carabineros 149 family helpline is also free of charge and operates 24 hours a day.

²³ These offences are: the smuggling of migrants (article 411 *bis* (1), (2) and (3)); trafficking in persons; unlawful association for the purpose of trafficking in persons (article 411); trafficking in persons for

46. General order No. 2693 of 14 January 2021 of the Investigative Police Force approves the procedure used for investigating the crime of trafficking in persons.

47. As part of the country's efforts to combat trafficking in persons, the membership and organization of the Intersectoral Panel on Trafficking in Persons have been updated.²⁴ The Panel currently comprises 22 State agencies, civil society organizations and international organizations. Regional panels have also been established. The agencies on the Panel have provided funds from their general budgets for activities to raise awareness of the crime, assist victims and launch prosecutions. Funding for protection measures has been provided by the Public Prosecution Service and the Social Action Department of the Office of the Undersecretary for the Interior.

48. The National Service for Women and Gender Equity has earmarked funding for the operation of a shelter for exploited women victims of human trafficking and migrant smuggling²⁵ and provides places in shelters in other areas. International cooperation, funding provided by victims' countries of origin and the participation of national actors and embassies all play an important role in assisted and protected return processes. As well as the telephone and electronic assistance service of the National Service for Women and Gender Equity, women in shelters receive priority access to telephone assistance via an emergency telephone service for use in cases of serious or life-threatening risk. That service operates 24 hours a day, 365 days a year.

49. When a child victim of human trafficking is identified, the family court may refer the child to alternative or outpatient care under the guardianship of MEJOR NIÑEZ. Additionally, once the victim assistance panel has begun to contact the relevant agencies, the National Directorate of MEJOR NIÑEZ provides support for the necessary coordination with consulates and counterpart services in the child's country of origin. Specialized protection programmes for child and adolescent victims of commercial sexual exploitation continue to be implemented in 11 regions, many of which are in the northern part of the country.

50. With regard to international cooperation to prevent and combat trafficking in persons, Chile has participated actively in the Forum for the Progress of South America, the Southern Common Market (MERCOSUR), the Organization of American States and the Quito Process. It has also joined the Group of Friends against Trafficking in Human Beings, participated in the Working Group on Trafficking in Persons and, in March 2019, became a Pathfinder Country of Alliance 8.7. At the bilateral level, Chile has signed multiple memorandums of understanding on cooperation in the prevention, investigation and monitoring of human trafficking and migrant smuggling and on assistance for victims. Such memorandums were signed with Colombia in 2013, Ecuador in 2015, Peru in 2017 and Argentina in 2018. Memorandums were also signed in 2021 with Paraguay and the Plurinational State of Bolivia, and the final preparations for their entry into force are under way.

51. On 19 January 2021, Chile ratified the International Labour Organization Protocol of 2014 to the Forced Labour Convention, 1930, by which it commits to adopting effective measures to prevent and eliminate forced labour and afford victims protection and access to legal action and compensation. A road map for 2022–2025 is under development.

Article 3

Replies to the questions raised in paragraphs 8 and 9 of the list of issues

52. Chile has enshrined the principle of non-refoulement in article 4 of Act No. 20430²⁶ on the protection of refugees. Refugees and asylum-seekers, including persons at risk of

the purpose of sexual exploitation; trafficking in persons for the purpose of forced labour and others (article 411 *quater* (1)); causing or facilitating the entry or exit of persons into or out of the country for the purpose of prostitution; trafficking in persons aged under 18 years (article 411 *quater* (2)) and the trafficking of immigrants by public officials.

²⁴ Exempt decree No. 1817 of 2021: <http://tratadepersonas.subinterior.gov.cl/media/2021/09/Decreto-1817-de-2021-modifica-MITP.pdf>.

²⁵ The shelter assisted 86 women between 2018 and 2022.

²⁶ <http://www.bcn.cl/leychile/navegar?idNorma=1012435&idParte=0&idVersion=>.

torture, must not be expelled to a country where their life or freedom would be in danger or subjected to any other measure that would give rise to refoulement, including refusal of entry at the border. This principle applies from the moment that a person informs the relevant authorities, either verbally or in writing, that he or she intends to submit a formal asylum application. To ensure compliance with these rules, the National Migration Service, with support from the Office of the United Nations High Commissioner for Refugees (UNHCR), has delivered training on the asylum procedure to police officers in the northern macrozone, which receives the largest numbers of migrants.

53. In addition, the State has adopted measures to extend the application of the principle of non-refoulement and of the exceptionality of the expulsion of foreign nationals who are not recognized as refugees but have subsidiary protection. Article 10 of Act No. 21325 (previously referred to in Bulletin No. 897-06) incorporated into the current regulations the concept of subsidiary protection for foreign nationals whose request for asylum is denied. Such persons can opt for a residence permit in accordance with the requirements and visas described in the National Policy on Migration and Foreign Nationals. The regulations prevent such persons from being expelled or returned to a country where their right to life, physical integrity or personal liberty are at risk as defined on the basis of a series of categories.

54. Chile does not use detention as a penalty for asylum-seekers or migrants who are in an irregular situation, including those who have entered the country without authorization. The new Act No. 21325 on Migration and Foreign Nationals, which entered into force on 12 February 2022,²⁷ enshrines the principle that migrants should not be treated as criminals. Article 9 of the Act stipulates that irregular migration is not a criminal offence.

55. With regard to refugee status, between 2018 and July 2022, 15,447 applications have been received, and 240 persons have been granted refugee status (see the breakdown in annex I-xi). Pursuant to article 6 of Act No. 20430, administrative sanctions cannot be imposed on refugees who enter the country without authorization. In 2022, 3,814 people who entered the country without authorization sought asylum. Entering the country without authorization, in violation of immigration laws, has not been used as grounds for denying or limiting the right to submit an asylum application or the right to receive international protection and the associated visa.

56. Article 5 of Act No. 20430 establishes expulsion as an exceptional measure to be used only for reasons of national security or public order, in accordance with the provisions of the Convention relating to the Status of Refugees. Expulsion is implemented in accordance with due process of law. The affected party has the right to submit evidence to clear himself or herself and to appeal against the measure through administrative and judicial channels. In addition, the refugee or asylum-seeker must be granted a period of 30 days, from the time that he or she is notified of the expulsion order, to arrange for legal entry to another country.

57. If a person against whom an expulsion order is in place wishes to submit a formal asylum application, the National Migration Service arranges for the suspension of the order so that the application can be submitted and international protection can be provided. In 2022, 55 expulsion orders have been suspended so that formal asylum applications can be processed.

58. Article 9 of Act No. 20430 also incorporated the principle of family reunification, establishing that a refugee's spouse or cohabiting partner, ascendants, descendants and/or children under guardianship or trusteeship have the right to be granted refugee status by extension. Such family members are also protected by the principle of non-refoulement. The Act and its implementing regulations establish a special procedure for the recognition of refugee status for children, irrespective of whether they submit the application themselves or through a representative. In the case of children who are unaccompanied or who have been separated from their family, the competent authority must immediately inform the child protection authorities so that the necessary protection, care and support measures can be put in place. To this end, a cooperation agreement was signed on 26 February 2014 between

²⁷ <https://www.bcn.cl/leychile/navegar?idNorma=1158549>.

SENAME and the Ministry of the Interior and Public Security to establish a protocol for the management of asylum applications for unaccompanied or vulnerable children.²⁸

59. Asylum-seekers, refugees and their families have the right to obtain health services, education, housing and work, either on an employed or self-employed basis, on an equal footing with other foreign nationals. To facilitate access in these areas, they are granted an eight-month temporary residence visa free of charge. The visa can be extended for successive periods of eight months while their application is being considered. If refugee status is granted, refugees receive permanent residence.

60. The Ministry of the Interior and Public Security allocates resources in the Public Sector Budget Act (note No. 05) to the Regional Social Welfare Organization Fund (ORASMI) to provide support for the integration of refugees, asylum-seekers and immigrants who are in vulnerable situations. The funding is used for integration programmes operated by public and private non-profit institutions, including the Inclusion Support Programme for migrant populations and the Basic Humanitarian Assistance Programme for refugees and asylum-seekers. Between 2015 and 2021, Ch\$ 508 million was allocated to provide support to 483 vulnerable asylum-seekers and refugees, 54 per cent of whom were women.

61. The judicial branch has implemented a series of measures (see the breakdown in annex I-xii) for the timely protection of the rights of migrants, including a protocol on access to justice for migrants; a protocol on access to justice for migrants granted international protection; the establishment of the Subcommittee on Access to Justice for Vulnerable Groups; the completion of user satisfaction surveys by foreign nationals who have contact with the judicial branch via the Quality of Justice Index; the Online Court Translation Service; and an inter-institutional technical committee on the situation of migrant children who are unaccompanied or who have been separated from their families.

62. Under Act No. 21325, foreign nationals who turn to a Chilean diplomatic mission or enter the country, with or without authorization, to request political asylum if they fear for their personal safety because of the prevailing political situation in their country of residence. In such cases, the principle of non-refoulement and the prohibition on expelling someone to a country where his or her freedom is in danger because of his or her race, religion, nationality, membership in certain social groups or political opinions also apply. If political or territorial asylum is granted, the refugee and his or her family have the right to receive a temporary residence visa and travel documents that allows them to leave and re-enter the country.

63. Act No. 21325 guarantees the right to due process in administrative expulsion procedures. The Act establishes the State's duty to ensure a rational and fair procedure and investigation to establish penalties under immigration law and provides for the granting of free legal advice and defence counsel to those who cannot afford it. Collective expulsion is expressly prohibited. The authorities have a duty to evaluate and decide on each case individually. In addition, penalties for violations of immigration rules may not be imposed on children who are foreign nationals.

64. In appeals against expulsion orders, the Legal Assistance Agency is obligated to provide migrants with the services of a public defender, pursuant to Act No. 21325. Currently, the Agency's Human Rights Office is representing migrants in 47 open cases concerning challenges to expulsion orders. Assistance is provided in the form of legal advice and administrative or judicial representation. In the context of expulsion proceedings, the Office has not been made aware of any claims of torture or cruel, inhuman or degrading treatment made by the persons it represents. As of August 2022, the Office is providing extrajudicial and judicial support to migrants and asylum-seekers in 565 cases. In addition, in criminal proceedings brought against foreign nationals that result in the issuance of an expulsion order, the Public Criminal Defender Service can file challenges using the constitutional remedy of *amparo*, given that the expulsion is a direct effect of a criminal sanction. This procedure is detailed in the manual setting out the minimum actions that must be taken to provide migrants

²⁸ Applications for refugee status received from children, by year: 619 in 2018; 190 in 2019; 166 in 2020; 379 in 2021; 222 in 2022. Children granted refugee status, by year: 50 in 2018; 15 in 2019; 3 in 2020; 4 in 2021; 6 in 2022.

and foreign nationals with a defence. The manual was approved by exempt resolution No. 38, dated 7 February 2019, issued by the National Public Defender.

65. With regard to procedural rules, the law establishes that, prior to issuing an administrative expulsion order, the relevant authority must consider, at a minimum, the following factors: the seriousness of the facts on which the expulsion order is based; the foreign national's criminal record, if any; the seriousness of the infraction committed; any repeated migration infractions; the length of legal residence in Chile; family connections; the best interests of the child; and any contribution that the person has made to the country. The competent authority must weigh the aforementioned factors in substantiating the expulsion order and ensure that it is proportionate in terms of the purpose for which it was issued and that any circumstances relevant to the guarantees of non-refoulement are evaluated.

66. The law provides that, when the immigration authority becomes aware of the existence of grounds for expulsion, it must notify the person concerned that a sanctions procedure is being initiated against him or her so that he or she can present any pertinent arguments within 10 days. The person must also be informed that, if an expulsion order is issued, he or she has the right to appoint a representative to defend his or her labour and/or social security rights and assist with arrangements for the fulfilment of his or her pending obligations. If the authority determines that an expulsion measure is appropriate, the order is made by means of a substantiated decision issued by the Director of the National Migration Service or, in cases involving internal or external security matters, the Undersecretary of the Interior. In view of the nature of the sanction, the law establishes that the Investigative Police Force must always provide notification of the administrative expulsion measure in person and must present the recipient with a full copy of the decision. The official who serves the notice and the recipient of the notice must both sign a document detailing where and when notification was given.

67. Given that expulsions are an administrative measure, the legal system provides a number of avenues for challenging expulsion orders. These include a special appeal against expulsion, which can be filed within 10 days of notification of the expulsion order pursuant to article 141 of Act No. 21325, and the constitutional remedies of protection and *amparo*, as provided for in articles 20 and 21 of the Constitution. With regard to the remedy of *amparo*, the President of the Supreme Court (AD 596-2021, 10 June 2021) has instructed the appeals courts to put in place a system that allows them to issue decisions in a timely manner when *amparo* appeals are filed on non-working days or outside normal working hours and to make arrangements for courts to sit in a timely manner, including on non-working days, where necessary.

68. In addition to administrative expulsion, judicial expulsion²⁹ can be ordered by courts with competence in criminal matters, either ex officio or at the request of one of the parties, in respect of foreign nationals who are present in Chile unlawfully and who have been sentenced to up to five years' rigorous imprisonment or to the maximum duration of ordinary imprisonment. In such cases, the sentence can be converted into an order for the person's expulsion from the country. Expulsion can also be ordered as a substitute measure in respect of a foreign national who is lawfully present, unless the judge finds sufficient grounds to show that he or she has substantial ties to Chile. There are certain offences for which expulsion cannot be ordered as a substitute for a custodial sentence.³⁰ The foreign national remains in detention until the Investigative Police Force enforces the expulsion order.

69. In addition to expulsion, the new law governs the return or removal of a foreign national who enters the country while subject to an expulsion order and cases in which the person has been banned from entering the country or ordered to leave the national territory. Removal or return procedures can also be applied when a foreign national is caught trying to evade immigration controls when entering the national territory via authorized or unauthorized crossings or by using forged or falsified documents or documents issued in the

²⁹ Article 34 of Act No. 18216, which establishes penalties that can be substituted for deprivation or restriction of liberty.

³⁰ Violations of Act No. 20000, of articles 168 (2)–(5) of the Customs Ordinance, and of paragraph V bis, on the smuggling of migrants and trafficking in persons, in book II, chapter 8, of the Criminal Code.

name of another person. Such persons have the right to be heard by the border control authority before being removed or returned; to be informed in writing of the grounds for the measure applied, the removal procedure to be used and the appeals that may be lodged against it; to communicate with any family members present in the national territory; and to be assisted by an interpreter. Persons who show signs of being victims of human trafficking, kidnapping or any other life-threatening offence must not be deported. In addition, border officials must determine whether the foreign national requires international protection in accordance with Act No. 20430. Measures of removal or return can be appealed before the National Migration Service from abroad. An appeal must be submitted in writing through a Chilean consulate within 15 days of the date of notification. The form of appeal is independent of any other applicable remedy or legal procedure.

70. With regard to children, exempt resolution No. 39798 of the National Migration Service (28 April 2022)³¹ prohibits the removal of children who enter the country unlawfully, irrespective of whether they are unaccompanied or accompanied by their parents or one or more other responsible adults. Such children must be allowed to enter the national territory. Cases of unaccompanied children must be brought to the attention of the competent family court so that the relevant protection measures may be put in place. During the reporting period (as of May 2022), no expulsion orders have been issued in respect of a minor.

71. Between 2018 and August 2022, 7,477 foreign nationals have been expelled (1,342 administrative expulsions and 6,135 judicial expulsions). Annex I-xiii includes details of the number of persons expelled, disaggregated by year, nationality and type of expulsion.

72. Since the entry into force of Act No. 21325 in February 2022, 1,447 foreign nationals caught by the authorities attempting to enter the national territory by evading immigration controls have been removed from the country in accordance with articles 131 et seq. of that Act (see the breakdown in annex I-xiv). Those persons were returned to Peru and the Plurinational State of Bolivia.

Articles 5 and 9

Replies to the questions raised in paragraph 10 of the list of issues

73. No list of extraditable offences has been drawn up. The extradition system operates on the principle of a minimum threshold of severity, namely the requirement that only offences that are punishable by a minimum sentence of one year of imprisonment are considered extraditable. Only a few treaties include a list of extraditable offences (the treaty with Colombia is one example). Between 2018 and 2022, the Public Prosecution Service reports that five extraditions were carried out for the offence of torture: one in 2019, two in 2020 and two in 2021. In 2020, one active extradition request was made to the United States of America. In 2019, Mexico submitted one passive extradition request; in 2020, Colombia submitted one such request and Peru submitted two. In addition, the Supreme Court reports that three trials are in progress in connection with cases of torture and ill-treatment (see the breakdown in annex I-xv).

74. An extradition treaty with China was concluded on 21 March 2022. No other extradition or judicial assistance treaties were concluded during the reporting period. (Annex XXIII contains a list of related treaties.) Chile processes extradition requests relating to offences of torture that are submitted by third States on the basis of the Convention against Torture.

Article 10

Replies to the questions raised in paragraph 11 of the list of issues

75. The Judicial Academy has supplied information on its training activities. The Academy's training programme includes a mandatory 80-hour course on international human rights law and vulnerable groups. As part of the in-service training programme, 20 courses

³¹ The protocol for the removal of foreign nationals is approved in exempt resolutions No. 17548 and No. 39798 issued by the National Migration Service.

on human rights were delivered between 2019 and 2021. Within the outreach programme, eight informational and training activities have been conducted to share information on human rights issues with officials in the judicial branch and with the general public (see annex I-xvi for details of these activities).

76. In 2016, the Carabineros set up a national human rights training programme with specific modules on the prohibition of torture. To date, 53,417 individuals have completed the training. (Annex XXIV contains a breakdown by year, as well as details of the curricula of the training programmes, including the national human rights training programme.)

77. Since 2014, the Public Prosecution Service has conducted ongoing training and capacity-building in human rights initiatives, including diploma courses and specialized courses and workshops. Between 2016 and 2021, more than 50 activities were held, delivering training to almost 1,000 civil servants. Training was offered every six months between 2018 and 2022. Internal training sessions have been designed to strengthen knowledge and investigative tools, while external sessions have been conducted in collaboration with other institutions to provide human rights training to law enforcement and security officers. Training has been delivered on human rights issues, the inter-American and universal human rights protection systems, the new definition of the offence of torture, unlawful coercion and other cruel, inhuman or degrading treatment, memorandum No. 932 on offences of torture, the investigation of torture and the Istanbul Protocol. In 2022, training sessions addressed such topics as case law relating to offences of torture and other cruel, inhuman or degrading treatment, and the investigation of deaths occurring in State custody. In August, training was also provided to officers from the Carabineros and the armed forces on human rights and principles of the use of force.

78. The Prison Service conducted an assessment from a human rights perspective of the procedures in place regarding the use of force with a view to developing a plan to update the working methods of the regulatory bodies involved. With regard to the methodology for evaluating the effectiveness and impact of training programmes, an assessment was launched in 2020 of human rights training, with technical assistance and support from the Office of the Undersecretary for Human Rights. In 2021, an observational assessment was made of the extent to which aspiring officers applied their human rights training during their professional practice. An evaluation was then conducted of how the training content was put into practice. At the same time, work began on a study, which is currently being evaluated, on knowledge of and attitudes towards human rights. Since 2018, the curriculum for officers and non-commissioned officers has included two training courses covering the Convention against Torture, the Inter-American Convention to Prevent and Punish Torture, the Istanbul Protocol and Act No. 20.968. Since 2018, 193 days of training on human rights and the prohibition of torture have been delivered to a total of 5,572 Prison Service officials. Since 2018, the Prison Service has made a diploma course available to all its officials. The course, which includes a module on the use and abuse of force and the offence of torture, has been completed by 145 officials. In terms of the actual use of force on the ground, officers are instructed to act in accordance with exempt resolution No. 9681/15.09.14, which sets out the relevant procedures (annex XXV).

79. In 2016 and 2017, the Ministry of Defence developed a suite of core human rights training modules. A set of specialized human rights modules are set out in exempt resolution No. 3752/353 (14 November 2019, annex XXVI). The modules are designed to incorporate human rights content into the in-service training courses delivered by the armed forces that is tailored to the specific needs of trainees in each programme and curriculum. The modules include units on the following topics: principles and legal regulations governing human rights; international and national human rights organizations; State obligations in regard to the respect for and the promotion and protection of human rights; and human rights in the planning and conduct of non-wartime military operations. The Army trained 3,440 officers and 4,384 non-commissioned officers; the Air Force trained 295 cadets, 898 students, 139 officers and 660 permanent staff members (a total of 1,992 individuals); and, in 2021, the Navy trained 96 cadets, 667 apprentices and 53 officers (a total of 816 officials). The Ministry also organized nine conferences on human rights and international humanitarian law in which 490 sergeants received training.

80. Between 2020 and 2022, SENAME delivered a number of courses, including one on national and international principles for the prevention of torture that was an offshoot of the Prevention of Torture Forum and that was attended by 112 employees. At the Forum, held in 2020, officials from the institutions involved participated in a train-the-trainer course on the prevention, investigation and punishment of torture. Between 2018 and 2022, courses were delivered on a range of topics, including a human rights-based approach to the provision of support for adolescents deprived of their liberty; gender considerations in situations of ill-treatment, workplace harassment and sexual harassment; sexual diversity; and the prevention and management of critical situations (for further details see annex I-xvii).

81. General order No. 2615 (2 October 2019, annex XXVII) contains the regulations governing the use of force by Investigative Police Force officers during police operations. The principles of legality, necessity, proportionality and rationality are highlighted in the regulations. Circular No. 4 was also issued (26 February 2021, annex XXVIII, reiterating instructions related to Act No. 21154). With regard to in-service training in the Investigative Police Force, 30 officers received training in human rights and policing in 2018 and 34 did in 2019. In addition, 3,877 officials participated in a range of training courses on human rights issues, including the rights of children, the rights of Indigenous Peoples, production of evidence in criminal proceedings, human rights-based case law and social protests. The document setting out the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials has been disseminated. (The training provided in 2022 on this subject is contained in annex I-xviii.) With regard to non-coercive investigation techniques, work is under way to promote and ensure legal and morally responsible conduct through the application of rules, human rights principles and values, and ethical standards applied in the police force. Specifically, this approach is applied in modules taught at the School for Investigative Police, including modules entitled “Introduction to human rights” and “Human rights and policing”. At the Higher Academy for Police Studies, modules are taught on human rights and on human rights in police investigations. At the Professional Training Centre, the following modules are taught: “Introduction to Human Rights I and II” and “Human Rights for Vulnerable Groups”.

82. In general, with some exceptions, no evaluations have been conducted to assess the effectiveness of the training provided by the aforementioned institutions. This represents a challenge to be met in the area of human rights education.

Replies to the questions raised in paragraph 12 of the list of issues

83. The application of the Istanbul Protocol has been central to the human rights-based approach used by the Forensic Medical Service in its work at the community level. Between 2018 and 2022, 371 of the Service’s employees participated in a range of human rights training and capacity-building initiatives, including training activities related to the Istanbul Protocol (230 participants). The judicial branch reports that 28 officials received training on the application of the Protocol in October 2021 in coordination with the Service.

Article 11

Replies to the questions raised in paragraph 13 of the list of issues

84. The Carabineros are covered by general orders of the Directorate-General of the Carabineros No. 2490 of 11 May 2017, which approves the Level I Manual of Policing Techniques for Carabineros (annex XXIX), and No. 1832 of 1 March 2019 on the use of force, which reflects international standards and provides instructions in this regard. The Department of Investigation of Criminal Organizations is specifically covered by general order of the Directorate-General of the Carabineros No. 1822 of 30 June 2008, which approves the Department’s Investigation Manual. Compliance with institutional human rights standards is supervised by the Directorate of Human Rights and Protection of the Family through technical inspections of police units conducted in accordance with the powers and authorities of that high-level department (general order of the Directorate-General of the Carabineros No. 2640 of 29 March 2019).

85. With regard to instructions, practices and procedures relating to detention, Investigative Police Force general order No. 2604 of 12 July 2019, annex XXXI, approves

an institutional policy for safeguarding human rights that establishes guiding principles such as the principles of non-discrimination, protection of life and prohibition of torture and approves the instruction on the searching of detainees' clothing, in force since 19 June 2021, annex XXXII. Every officer must know and apply all instructions; the instructions are issued in each police station and compliance with them by all officers is overseen by the General Inspectorate of the institution.

Replies to the questions raised in paragraph 14 of the list of issues

86. Regarding occupancy of the country's prisons, the Prison Service reports 33 juveniles, all of them male, deprived of liberty in juvenile sections, with no reports of overcrowding. (Details by region and capacity of each facility as of 12 August 2022 are provided in annex I-xix.) In adult prisons, the national occupancy rate is 105.2 per cent (68.7 per cent in women's prisons and 109.6 per cent in men's prisons). The lowest and highest rates, respectively, are in the regions of Bío Bío (72.3 per cent) and Maule (146.4 per cent). (Occupancy data, disaggregated by region, occupancy rate, age group, ethnicity, nationality and measures adopted to address the occupancy rate, are provided in annex I-xx.) As of 22 September 2022, there are 43,928 persons deprived of their liberty in adult facilities managed by the Prison Service. In order to address situations of overcrowding, the Prison Service transfers prisoners to facilities that have the capacity to accommodate additional persons and avoids admissions to overcrowded facilities.

87. The Prison Service has a basic-service prison hospital in the Metropolitan Region, which is the national referral hospital for persons deprived of their liberty (52 beds, normally with places available). A Ch\$ 257,000,000 accreditation project aimed at ensuring quality in health care is currently under tender.

88. Between 2018 and 2022, projects have been carried out to improve the living conditions of inmates in the country's prisons. The total amount invested during this period is Ch\$ 3,156,280,725.

89. From 2018 to date, many activities, including five-a-side football, volleyball and basketball, have been offered as part of the Sports, Recreation, Arts and Culture Programme. The number of persons deprived of their liberty who have participated annually in the programme, irrespective of the number of activities they have participated in, is indicated in annex I-xxi.

90. With respect to health care for women deprived of their liberty, the "menstrual cups" project is open to the entire female population of the country. A total of 1,500 units have been procured and 800 delivered, along with training on their use, in prisons in 10 regions. It is hoped that all regions will be covered before the end of 2022.

91. Regarding the occupancy of SENAME detention centres, the limited number that exceeded their capacity decreased during the period covered by the report. Specifically, 8 out of the 50 centres had an occupancy rate higher than 100 per cent in 2018. As of June 2022, two of them had dropped below 100 per cent occupancy, leaving the number at six. At the same time, between 2018 and 2022, the occupancy rate increased in two of the eight initial centres, both of which are in the Metropolitan Region. Annex I-xxii includes a table indicating the numbers of occupied and available places during each year of the period, broken down by region. The nationwide occupancy rate did not exceed 60 per cent in any given year.

92. Between 2019 and 2022, various improvement, repair, expansion and investment projects have been carried out or are being implemented in directly administered juvenile justice centres. The 2022 projects are under way or have been completed. These projects are detailed, along with their costs, in annex I-xxiii. Projects³² for the construction of two new centres were carried out between 2019 and 2021 and completed and approved in 2022; they have both reached the stage at which modifications are being made in line with the

³² "Construction of Los Lagos closed centre" project with a construction cost of Ch\$ 9,776,625,536; and "Replacement of Antofagasta closed centre, Step I" project with a construction cost of Ch\$ 8,192,587,269.

observations issued by the Ministry of Public Works and equipment is being purchased by SENAME using the budgetary allocation authorized by the Office of the Undersecretary of Justice.

93. Health units run by the public health network provide health and social care facilities in every temporary detention centre and closed centre, ensuring timely, comprehensive and quality care for young persons,³³ as well as monitoring and supporting the health care of young pregnant women. SENAME also has a cooperation agreement with the Ministry of Health and the National Service for Prevention and Rehabilitation of Drug and Alcohol Consumption, under which it delivers a comprehensive treatment programme for adolescents and young persons entering the criminal justice system under Act No. 20084 with problematic alcohol and/or drug use and other mental health disorders. It comprises 18 intensive outpatient programmes for children and adolescents and 5 psychiatric intensive care hospital units in temporary detention centres and closed centres across the country, which are administered by the health services covering the respective regions.

94. The Prison Service reports that the provisions set out in prison regulations³⁴ concerning body searches of inmates and visitors are in line with the standards in this area. Specifically, searches may be carried out only by a person of the same sex as the person being searched. In addition, when body searches are being conducted, it is forbidden to remove all of an inmate's clothing, undertake intrusive searches, perform physical exercises and, in general, carry out any other activity that may undermine the inmate's dignity. To this end, the prison administration gives preference to the use of technology. If past experience suggests that an inmate is concealing a prohibited item in his or her body which could cause harm to the health or physical integrity of the inmate or other persons, or breach the security of the establishment, the inmate will be referred to the respective medical unit to carry out the corresponding procedure. Under no circumstance is the search to be used to punish, coerce or undermine the inmate. The search must also be carried out in a facility that fulfils certain requirements: it must be a closed, private and adequately sized space that has been designated in advance, is out of sight of outsiders and the prison population, and offers protection from the weather to officers and inmates.

95. Directive No. 618 of the Public Prosecution Service incorporates a section on the forced stripping of persons who are being arrested, searched, jailed or held in custody. The Public Criminal Defender Service is also participating in an agreement within the framework of the System for Registration, Communication and Comprehensive Assistance for Victims of Institutional Prison Violence (SIRCAIVI) aimed at protecting persons deprived of their liberty, safeguarding their rights and ensuring their access to justice in cases of institutional violence.

Replies to the questions raised in paragraph 15 of the list of issues

96. The Prison Service's "Growing Together" (Creciendo Juntos) programme seeks to bring a gender approach to family interventions so that parents deprived of their liberty are able to access services that allow them to develop and/or strengthen positive parenting skills. The programme provides care to pregnant women and mothers who breastfeed their infants up to the age of two years. It also provides parenting skills development services to members of the prison population whose children visit them in prison. Between 2018 and July 2022, the programme benefited 1,543 pregnant women and/or women with breastfeeding children. (A breakdown by year can be found in annex I-xxiv.)

97. In order to help women maintain contact with their family members, Circular No. 118/22 (13 April 2022, annex XXXIII) provides for virtual visits by videoconference. Although there are no indicators on its application, 20 out of the 40 prisons around the country that were consulted reported a total of 220 virtual visits to date.

98. Exempt resolution No. 6744 (22 December 2021) approves the protocol for the treatment of pregnant persons deprived of their liberty in closed and semi-open facilities. The

³³ Annex XX contains a document prepared by the Health Unit of the National Directorate of SENAME which covers the procedures and technical regulations of the health units and the resources allocated.

³⁴ The respective articles of the regulations can be found in annex X.

protocol ensures that they have access to specialized health care (perinatal and postnatal gynaecological monitoring) and that their health status is taken into account in the prison system in terms of both their daily routine and the application of relevant security measures.

99. Exempt resolution No. 5716 (20 November 2020, annex XXXIV) approves measures designed to ensure that the gender identity and expression of transgender persons deprived of their liberty are respected and upheld. It provides instructions for Prison Service staff on the treatment of transgender persons deprived of their liberty and transgender visitors to prisons. One of its provisions establishes that transgender persons deprived of their liberty are to be placed in or transferred to prisons that correspond to their gender identity, if that is their wish. No compliance data are currently available, but prisons with LGBTIQ+ inmates are being visited by inspectors in 2022, and a report will be issued at the end of the year. Similarly, exempt resolution No. 5551 (28 October 2021, annex XXXV) approves provisions on respecting and upholding gender identity and expression in open prisons and in the post-custodial system. No statistics or indicators measuring its application are available.

100. Regarding access to health care and services, SENAME exempt resolution No. 0308 (7 June 2007, annex XXXVI) addresses health measures for adolescent and young women in detention centres (health care, treatment of sexually transmitted diseases, reproductive health and pregnancy, and provision of personal hygiene products) and the needs of both pregnant persons deprived of their liberty and their children. Other documents on the subject include an operational guide for intervention with a gender perspective (2021) and a protocol with a gender perspective for meeting the specific needs of women in provisional detention centres, closed centres and juvenile sections in accordance with Act No. 20084, which was prepared by the Ministry of Justice and Human Rights, SENAME and the Prison Service (under revision).

101. The policy for addressing sexual and gender diversity in children and adolescents who are in the care of SENAME (28 January 2021, annex XXXVII) sets out the procedure for acknowledging the gender identity of LGBTIQ+ adolescents in the network, along with guidelines on basic support measures for sexually diverse adolescents in SENAME centres.

102. Regarding the prevention of violence in detention centres, a process focusing on the promotion of interactions based on fair treatment and respect for the rights of young persons has been developed within the framework of the SENAME management model for juvenile detention centres. The aim is to establish fair treatment practices and internal environments favourable to interventions, which must be socialized and carried out together with young persons and staff.

Replies to the questions raised in paragraph 16 of the list of issues

103. The Prison Service Department of Infrastructure and Human Rights Department held working meetings in October and November 2019 to address international standards on habitability and detention conditions. The technical guidelines that were discussed were drawn up by the United Nations Office for Project Services (2016) and the International Committee of the Red Cross (2013) and meet the standards of both the Nelson Mandela Rules and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The observations made to Chile by the Committee against Torture in 2018 and the various observations recorded by the Public Prosecution Service following prison visits in various parts of the country were also taken into account. The information compiled on a sample of 117 visits to detention centres was processed and a total of 274 observations were identified, which were then sorted into 11 areas relating to human rights and prison infrastructure. The observations that were made most frequently related to the general condition of infrastructure (32), electrical equipment (42) and sanitation systems (69). Information was then gathered in 2020 and 2021 on the state of the infrastructure and the habitability of the cells in order to assess their condition under the Nelson Mandela Rules. The process covered all prison cells accommodating male and female inmates detained for 24 hours a day, representing a total of approximately 6,650 cells. This made it possible to identify various issues and shortcomings in the prisons that need to be remedied by means of infrastructure improvement works. In order to meet requirements in this area, Circular No. 408 (29 November 2021) establishes guidelines for the drafting and submission of new projects to the National Fund for Regional Development.

104. In this connection, a total of Ch\$ 15,912,454 was spent between 2019 and 2021 on various direct actions to repair sanitation, hygiene and water supply systems in isolation cells in Quillota, Traiguén and Villarrica pretrial detention centres and in Talca and Chillán prisons.

105. In Chile, solitary confinement is not used for adolescents or young persons subject to Act No. 20084. Article No. 75 of Supreme Decree No. 1378 (regulations applicable to Act No. 20084) on the holding of persons in separate quarters reflects international standards in this area.³⁵ The provision is designed to ensure the personal safety of adolescents displaying behavioural problems or when the integrity of the person has been seriously threatened. Pursuant to this provision, such persons may be kept in their own room or in another facility with similar conditions for a period of no more than seven days.

Replies to the questions raised in paragraph 17 of the list of issues

106. Prison Service statistics indicate that, between July 2018 and July 2022, 592 deaths were recorded in closed prisons (where inmates are in custody for 24 hours a day). Annex I-xxv provides a breakdown of this figure by cause of death, sex, ethnicity, nationality and age range. Likewise, with respect to other State institutions responsible for the custody and/or protection of persons deprived of their liberty or under their care, the Public Prosecution Service reports that, in the period between 2018 and 2022, the Carabineros reported 15 deaths; there were 33 deaths of persons cared for in centres and residences run by SENAME;³⁶ the armed forces recorded 1 death in custody; and 4 deaths were reported in psychiatric hospitals. (A breakdown can be found in annex I-xxvi.)

107. Six tables of data relating to the SENAME temporary, closed and semi-closed detention centres are shown in annex I-xxvii, covering the period from 2018 to 30 June 2022. The information is disaggregated by year of death, type of intervention, region where the sentence was being served, sex, age range, nationality and ethnicity. Information is also provided on the primary cause of death recorded; that information has been obtained through an interoperability agreement with the Civil Registry and Identity Service. The cases refer only to deaths of adolescents and young persons subject to a precautionary measure or a custodial sentence and, for this reason, include records for temporary, closed and semi-closed detention centres. Forty deaths of adolescents and young persons are reported. The cause of death and the legal classification of the incident that resulted in death are determined by the Forensic Medical Service and entered on the death certificates by the Civil Registry and Identity Service. As a result, death certificates do not always record the legal reality as reflected in the subsequent judgment, which determines whether or not a crime was committed. The Service monitors these data on a quarterly basis and provides the information to the Ministry of Justice and Human Rights, which report it to Congress.

108. The Inter-Agency Cooperation Agreement on the Reporting and Investigation of Deaths in State Custody, Control or Care (28 May 2019, in force since 2021) is intended to provide a way to move towards the proper recording and investigation of those cases, in accordance with the investigative standards contained in the Minnesota Protocol, and thus to make effective the obligation to account for potentially wrongful deaths. The process involved in implementing this agreement is under way and, to this end, the Public Prosecution Service is overseeing an inter-agency panel that is working to make case-reporting channels more effective through the activation of an early warning protocol; that protocol is currently being reviewed by the signatory institutions. The purpose of the agreement is to set up a procedure for the proper, timely reporting and investigation of deaths of persons in the custody or under the control or care of State agencies and cooperating institutions and to make a coordinated contribution to a mutual exchange and flow of information so that each institution can duly fulfil its functions and objectives. To this end, the agreement incorporates

³⁵ Regulated in SENAME Circular No. 5 (10 June 2014), which indicates how this measure is to be applied so that it does not, for example, lead to incommunicado detention. In the event of excessive application of the measure, it will be discontinued immediately and the relevant circumstances are to be reported so that possible criminal and official responsibility may be investigated.

³⁶ With regard to the provisions of the agreement (paragraph 107), the Public Prosecution Service is currently aware of 37 deaths of children and adolescents in State residential centres and/or accredited cooperating agencies during this period. Criminal investigations have been opened into these cases.

criteria and standards of international human rights law such as those contained in the Minnesota Protocol. Indicators are not yet available.

109. The Public Prosecution Service has also updated Directive No. 618. In addition, training has been conducted in 2022 to improve compliance with the investigative standard of the Minnesota Protocol.

110. Based on the information reported to the Public Prosecution Service by the institutions forming the Committee, together with the cases it has taken up on its own initiative, progress has been made in compiling statistics for the period in question, with 851 cases having been recorded of persons who died while in the care, custody or control of the State or bodies affiliated with or reporting to the State. The data relating to open criminal investigations correspond to deaths in custody in which, according to the available background information, there is evidence of possible involvement in or contribution to the death by actions or omissions by third parties, whether public officials or private individuals. To date, 179 criminal investigations have been opened, with 108 cases ongoing and 72 completed. (A breakdown can be found in annex I-xxviii.)

111. The State Defence Council has identified a total of 160 cases referred for criminal investigations of Prison Service officials suspected of having committed various offences. Of that number, 88 have been closed by reason of: to provisional suspension (34), a decision not to prosecute (4) or a decision by the State Defence Council not to intervene because of insufficient evidence (50). There are 71 cases under investigation; in 66 of them, the State Defence Council is gathering evidence to determine whether there is a basis for legal action; in the other 5 cases, a complaint has been filed.

112. In the cases of children and adolescents deprived of their liberty, the response to the death of an adolescent or young person in the care of the juvenile justice system continues to be governed by Circular No. 3 (19 January 2018, annex XXXVIII), which amends and establishes new provisions by means of the circular setting out instructions in the event of the death of children, adolescents or adults in the custody of SENAME or its accredited partners. Based on this procedure, which requires the centre or programme responsible for the adolescent or young person to provide notification, a complaint is filed in all cases with the Public Prosecution Service, and the competent court and its assigned defence counsel are informed. Once the information has been communicated to the National Directorate, a report is sent to the Ministry of Justice and Human Rights which provides personal information and information on the legal and other actions taken in the case. The procedure includes a system whereby the centre or programme registers the pre-release simply by inputting the death notice on the SENAME computer platform. That freezes the system and thereafter only the release can be processed. This record generates an email alert that goes to the national director of SENAME, various national and regional headquarters and information operators at the national level, as well as to the centre or programme. If the centre or programme does not register the death of an adolescent or young person in its care, there is a system whereby, once the death is entered, an alert is generated and then sent out in a similar manner to the previous alert. In such cases, the Regional Directorate is responsible for reporting the facts and gathering the background information on the case. The current approach thus entails the filing of a complaint and the reporting of all deaths of young persons and adolescents in the centres and programmes of the SENAME network, regardless of the length of the sentence served, whether the incident occurred inside or outside the place of detention, the cause of death or whether the manner in which the death occurred are known.

113. Suicide prevention strategies and programmes are implemented across the country by psychiatric units whose work includes preventing and detecting suicide risk in persons deprived of their liberty, providing crisis care coverage and ensuring the assessment, treatment and monitoring of the prison population. The health facilities operate as extensions of public hospitals and, as such, report directly to the Ministry of Health. The Government is aware that not enough beds are available, as there are usually waiting lists. The situation is the same for the population as a whole. Where no psychiatric units are provided, patients with suicidal ideation are assessed in the various health facilities and referred to the corresponding general hospital. Due to the increase in suicidal behaviour or suicidal ideation in persons deprived of their liberty, Prison Service Circular No. 402/2021 (24 November 2021) sets out new measures and actions aimed at preventing suicidal behaviour on the part

of prison inmates, along with a joint interdisciplinary approach to these cases in which operational, technical, health and other personnel all participate.

114. Regarding reparations for the families of victims of the fire at San Miguel pretrial detention centre on 8 December 2010, in which 81 inmates died and 13 were injured, a final first-instance judgment awarding compensation was handed down in the civil case and the second-instance judgment is pending.

115. The available records do not provide the requested general information on inter-prisoner violence, because such incidents cannot be identified statistically in the Public Prosecution Service's computer system. However, two investigations are being conducted on crimes committed in prisons involving violence between inmates with the possible involvement of public officials.

116. Protective measures consisting of transferring prisoners to different blocks and separating members of the prison population have been adopted. In relation to the above, 66 deaths occurring in prisons as a result of fighting and violence between inmates have been reported. A breakdown of the number of investigations and their outcomes is provided in annex I-xxix. To date, there have been 12 executory judgments involving prison officers charged with committing crimes of institutional violence in the course of their duties, resulting in 10 convictions and 2 acquittals. Nine of the convictions were for unlawful coercion (article 150D of the Criminal Code) and one for unjust harassment (article 255 of the Criminal Code). Twelve of the victims in these cases are adult males, with only one being LGBTIQ+.

117. Complete statistical series are provided for the period between 2019 and 30 June 2022 on the application of the procedure set out in SENAME Circular No. 6 (6 August 2019, annex XXXIX) for keeping records on acts that may constitute crimes committed against adolescents and young persons in juvenile justice programmes and centres. Annex I-xxx provides statistics on procedures initiated between 2019 and 2022 involving incidents where at least one assailant was another adolescent or young person present in the centre on the date that the incident took place. The circulars may include reports not only of incidents taking place while a sentence is being served or on the premises of detention centres, but also of incidents taking place during periods of release or before the adolescent or young person's sentence had begun.

118. Prison Service exempt resolution No. 4072 (27 June 2019) authorizes the establishment of special fire brigades in closed prisons. Nationally, there are 78 such brigades. Each prison unit has its own emergency plan that directs how the brigade should respond to a critical incident involving fire.

119. In order to prevent incidents that could result in the death of an adolescent in SENAME facilities, article 43 of Act No. 20084 provides for the establishment, under the responsibility of the Prison Service, of an external armed guard unit that will remain outside the facility but is authorized to enter in the event of rioting or situations of serious risk to adolescents and to search the premises for the sole purpose of preventing such incidents from taking place. The Inter-Agency Cooperation Protocol between the Prison Service and SENAME remains in effect.

120. Annex I-xxxi provides a description of how detention centres are monitored by the judicial branch and of the visits made by the Public Prosecution Service during the reporting period. In total, 361 visits were made between 2018 and mid-2022.

121. Between 2018 and July 2022, Prison Service inmates went on hunger strikes 3,588 times. The health of persons on a hunger strike was checked daily, and their vital signs and weight were monitored, unless the person refused those checks. Information is unavailable on the current health status of persons who have carried out hunger strikes from 2018 to date. A person's health condition during a hunger strike is documented in hard-copy records at the time that the daily checks are made. The Prison Service does not engage in force-feeding.

122. Since 2014, SENAME has had in place a health care protocol for young persons on total or partial hunger strikes (12 March 2014, annex XL) which provides guidance on the clinical procedures to be performed when an adolescent or young person decides to voluntarily start a total or partial hunger strike inside a temporary or closed detention centre.

Annex I-xxxii sets out the pertinent data on the 12 cases that took place during the period covered by this review; all correspond to adolescents or young persons who started a process of voluntary abstinence from food intake for a period of less than or equal to 24 hours.³⁷

Replies to the questions raised in paragraph 18 of the list of issues

123. As indicated in paragraph 54 (reply to paragraphs 8 and 9 of the list of issues), irregular migration is not a crime, and detention is not used as a punishment. The law permits detention only for a maximum of 48 hours for the purpose of carrying out an expulsion. In the case of administrative expulsions, once the administrative decision ordering such an expulsion has become final and enforceable, the person concerned may be subject to restrictions and deprived of liberty. This measure may only be applied in the home of the person concerned or on Investigative Police Force premises that are specifically equipped for this purpose; men are held separately from women and persons subject to expulsion are held in separate facilities from those housing persons detained for other legal reasons. Regulatory health, hygiene and habitability standards are observed. In no case may this measure be applied to children or adolescents. Non-nationals subject to expulsion proceedings are informed of their right to contact family members and representatives, receive visits, receive medical treatment, communicate with their consular representative, request an interpreter and receive in writing all the information that must be provided to them as detainees. Where detention in the context of judicial expulsion is concerned, apart from exceptions, as indicated in the reply to paragraphs 8 and 9 of the list of issues, persons are held in a prison.

Replies to the questions raised in paragraph 19 of the list of issues

124. Public Prosecution Service Directive No. 1032 (3 December 2021) provides guidance on the action to be taken in cases of gender-based and domestic violence and brings the guidelines for criminal prosecution into line with international human rights standards, giving particular consideration to the duty to provide enhanced protection for the rights of older persons and persons with disabilities. Referring to the Inter-American Convention on Protecting the Human Rights of Older Persons and the Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities, the directive establishes minimum procedures for the prosecution of such crimes and protective measures to be considered in these cases. There are also the aforementioned Directives Nos. 618 and 277, whose implementation has been decisive in investigating acts of violence committed in residential centres as cases of institutional violence. There are currently a number of persons who have been formally charged with offences involving cruel, inhuman or degrading treatment of persons with disabilities residing in homes run by cooperating agencies of this specialized service. These are landmark cases in terms of the progress being made in the investigation and punishment of institutional violence inasmuch as they extend the scope of criminal prosecution for such offences to include private individuals.

125. It is not possible to provide all of the general data requested concerning ill-treatment and sexual assault with respect to this group of victims because the computer systems of the Public Prosecution Service, which date from the beginning of the reform of criminal procedure implemented in 2000 and are now being updated, do not record the disability status of the victims and/or defendants or whether these events took place in residential institutions.

126. Under the Inter-Agency Cooperation Agreement on the Reporting and Investigation of Deaths in State Custody, Control or Care, the records on persons who have died in custody between 2019 and April 2022 indicate that there have been 557 sudden deaths and 3 suspicious deaths that could potentially be cases of wrongful deaths occurring inside residential institutions for older persons. Three criminal investigations have been opened. (A breakdown by year can be found in annex I-xxxiii.)

127. In the same period, there were four deaths in homes for persons with disabilities and three in psychiatric hospitals (or psychiatric wards in general hospitals). Criminal

³⁷ The definitions of both total and partial hunger strikes refer to abstinence from food for periods of more than 48 hours.

investigations have been opened into all of those cases. (A breakdown can be found in annex I-xxxiv.)

128. Information on complaints concerning abuse of older persons and persons with disabilities is included in paragraphs 25–27 (reply to paragraph 3 of the list of issues). Regarding persons with psychosocial disabilities, the Ministry of Health is drawing up a draft protocol for action to address rights violations in the context of mental health care. Under the terms of that protocol, persons may lodge complaints concerning humiliating treatment and sexual assault of persons with psychosocial disabilities in residential institutions and concerning sudden deaths occurring in those centres. Although the Ministry of Health has records on specific cases submitted to Information, Complaints and Suggestions Offices, court actions and health service records of incidents in outpatient or closed care services, this information is not consolidated.

129. In 2018, SENADIS conducted a national survey of residences for persons with disabilities and functional dependency (8 September 2018, annex XLI). It recorded 221 residences for persons with disabilities serving 3,323 children, adolescents and adults receiving care and assistance either full time or at night only in residential settings. That same year, SENADIS undertook a study on management models, care protocols and standards for the residential care of institutionalized persons with disabilities, in which a characterization tool was applied to residents of 11 homes in the Valparaíso, O'Higgins, Maule and Santiago Metropolitan regions. Detailed information on that study may be found in annex I-xxxv. The survey findings cover all residential homes for persons with disabilities in the country (2018). The Residential Models for Adults with Disabilities Programme (2019), on the other hand, applies only to residences with which SENADIS has agreements. The number of beneficiaries is detailed in paragraph 8 (Reply to paragraph 1 of the list of issues).

130. The databases managed by the Ministry of Health Department of Health Statistics and Information do not make it possible to determine which persons deprived of their liberty in psychiatric hospitals have been there for lengthy periods; this can only be determined once they have left the institution, because the records containing that information are generated at the time of discharge. The Department of Health Statistics and Information does, however, maintain a mental health reporting dashboard³⁸ that is updated monthly and contains information on emergency care, medical consultations, mental health evaluations, suicide mortality and other indicators. Additional information on persons with disabilities in community-based rehabilitation services and other outpatient treatment programmes is also attached (see annex I-xxxvi).

131. Finally, regarding other forms of treatment, SENADIS has been running a programme since 2016 designed to facilitate the transition to independent living.³⁹ Its target group is persons with disabilities and in situations of dependency aged between 18 and 59 years who belong to the most vulnerable 70 per cent of the population. Furthermore, also since 2016, SENADIS has supported the implementation of more than 200 rehabilitation facilities of varying complexity nationwide that take a community-based rehabilitation approach. In 2019, it piloted the Neighborhood and Local Networks for Social Inclusion (REVELO) programme⁴⁰ initially in three communes (two urban and one rural), before being expanded to three additional communes. The aim of that pilot programme was to foster social bonds between persons with disabilities and their communities.

Replies to the questions raised in paragraph 20 of the list of issues

132. Regarding the measures taken in order for visits to be made to places of detention, the Carabineros report that, although no agreement is in place with the national mechanism for the prevention of torture, a large-scale training programme for that purpose has been provided

³⁸ https://informesdeis.minsal.cl/SASVisualAnalytics/?reportUri=%2Freports%2Freports%2Fad0c03ad-ee7a-4da4-bcc7-73d6e12920cf§ionIndex=0&sso_guest=true&reportViewOnly=true&sas-welcome=false.

³⁹ https://www.senadis.gob.cl/pag/647/1575/programa_transito_a_la_vida_independiente_2022.

⁴⁰ https://www.senadis.gob.cl/sala_prensa/d/noticias/8171.

to its officers,⁴¹ and a coordination protocol for visits to the institution's facilities by staff of the National Human Rights Institute has been established.⁴² The Directorate of Human Rights and Protection of the Family has a cellular phone number for requests from institutions authorized to make such visits. In addition, since 2021, the technical monitoring section of the Human Rights Management Department has a checklist that it uses in monitoring police units in Santiago and the regions, supplementing the monitoring efforts of the national mechanism for the prevention of torture.

133. SENAMA has reported that, between 7 and 9 June 2022, the national mechanism for the prevention of torture made a preventive visit to the SENAMA long-stay residence for older adults in Huechuraba. On 23 June 2022, the recommendations resulting from this visit were received, and a response was issued on 8 September 2022.

134. Directive No. 332 of the National Director of the Prison Service (27 September 2021), which concerns visits and recommendations of the national mechanism for the prevention of torture, regulates and supports the tasks entrusted to the Prison Service by article 3 of Act No. 21154. Implementation of the recommendations of the national mechanism for the prevention of torture is directed by means of an inter-agency dialogue. (Prison visits by the national mechanism for the prevention of torture are detailed in annex I-xxxvii.) The Prison Service has provided on information relating to the recommendations only on the visit made by the national mechanism for the prevention of torture to the Colina II prison. Those recommendations concerned the strengthening of preventive measures and the vaccination campaign for the prison population in the context of the pandemic, solitary confinement, the prevention of violence among inmates, a review of the system of disciplinary punishments and the regulation of the complaints and grievances system. Officials were instructed to draw up an action plan to address the shortcomings identified in connection with the recommendations as soon as possible (communication No. 1791/2021 of the headquarters of that facility).

135. SENAME indicates that juvenile justice centres are visited regularly by judges, criminal defenders, the Inter-Agency Facility Supervisory Commission,⁴³ the National Human Rights Institute, the national mechanism for the prevention of torture and the Office of the Children's Ombudsman.

136. The Investigative Police Force, through Circular No. 4 (26 February 2021) and radio message No. 13 (19 February 2021), reiterated instructions and briefed staff on the functions and periodic visits of the national mechanism for the prevention of torture.

Articles 12 and 13

Replies to the questions raised in paragraph 21 of the list of issues

137. From 2017 to 2021, the Public Prosecution Service had 28,060 new cases involving the offences, as currently defined, of torture, cruel, inhuman or degrading treatment and unjust harassment (Act No. 20968). Of that number, 25,481 are now closed. (Disaggregated data on the relevant region and commune and the outcomes of the cases are provided in annex I-xxxviii.)

138. The Public Prosecution Service recorded a significant increase in cases of institutional violence in connection with the social unrest that began in October 2019. Between 18 October 2019 and 31 March 2020, 10,954 cases were recorded, of which 6,012 have been closed; only 100 have resulted in the filing of charges. The courts have handed down their final judgments

⁴¹ On 1 July 2022, the national mechanism for the prevention of torture held an in-person and online seminar for Carabineros.

⁴² https://ddhhyprotecfam.carabineros.cl/assets/protocolo_visita_comisaria.pdf.

⁴³ This commission is composed of the Regional Secretary of the Ministry of Justice, a member of accredited cooperating agencies working in the juvenile justice field, a representative of civil society institutions working with children and young people, a representative of the academic world and a representative of the Public Criminal Defender Service (article 90 of the regulations applicable to Act No. 20084). Representatives of the judicial branch, the Public Prosecution Service and the United Nations Children's Fund (UNICEF) may also be present.

in 14 of the cases, with 1 acquittal, 10 convictions and 3 convictions still subject to appeal. One of the convictions was for the offence of unjust harassment (Criminal Code, art. 255), two were for unnecessary violence (Code of Military Justice, art. 330), one was for torture (Criminal Code, art. 150A), six were for unlawful coercion (Criminal Code, art. 150D) and four were for attempted murder (Criminal Code, art. 391 (2)). Eleven of the persons convicted were members of the Carabineros and two were members of the armed forces.

139. In response to this human rights crisis, the Public Prosecution Service adapted existing institutional mechanisms, setting the objectives early on of expanding victims' access to complaint channels – the first step in obtaining access to justice – and of generating statistical data for the quantification and characterization of the criminal conduct observed. In 2021, a plan was established to prioritize and review cases of institutional violence related to the social crisis, with the severity of the cases being determined according to the type of offence and based on whether or not the victim belongs to a specially protected group. Priority is placed on victims that are human rights observers, children and adolescents, women, LGBTQI+ persons, members of Indigenous communities, journalists, photojournalists and health-care workers. To this end, it has been provided that cases related to the social crisis are to be investigated by centralized regional teams comprising special prosecutors for offences involving human rights and civil servants' abuse of authority, assistant attorneys, staff of the Regional Victim and Witness Support Units, teams from the System for Criminal Analysis and Targeted Investigations and dedicated regional police teams, with support from nationwide teams (the Special Unit for Human Rights, Gender-based Violence and Sexual Offences and the System for Criminal Analysis and Targeted Investigations). In addition, the funding allocations for these teams have been increased, with new full-time staff members being hired nationwide. This organization of regional teams is intended to optimize the effectiveness of investigations into cases of recurrent offenses with a view to identifying patterns of institutional violence and making progress in the georeferencing of criminal acts and their characteristics, as well as establishing the criminal responsibility and securing the proper sentencing of the perpetrators and their superiors.

140. Overall, between 2018 and 2022, 68 judgments were handed down in judicial proceedings involving institutional violence, in line with the current definitions under Act No. 20968; 9 of these trials ended in acquittals, 52 in convictions and 7 in convictions still subject to appeal. Fifteen of the judgments were reached using abridged procedures, 12 following a simplified procedure and 41 following a regular trial. Of the convictions, 39 were handed down for unlawful coercion, 5 for torture and 9 for unjust harassment (see the disaggregated figures in annex I-xxxix). The persons convicted included 41 members of the Carabineros, 10 members of the Prison Service, 3 members of the armed forces, 3 persons working in SENAME residential homes and 1 public hospital employee.

141. The following cases can be provided as examples. Case 1: In 2019, two members of the Carabineros were convicted of torture (Criminal Code, art. 150A) for acts committed between 2016 and 2017. While carrying out duties related to the control of unauthorized, informal commerce, the officers had held the victims in a police bus, where they had repeatedly beaten the victims on various parts of their bodies, choked them, insulted them and threatened to kill them. In their judgment, the judges acknowledged that the officers had deliberately caused severe physical and psychological pain and suffering. It was found that the assaults had been intended to punish the victims for challenging the police officers' authority. Case 2: In 2022, three members of the Carabineros were convicted of cruel, inhuman or degrading treatment and unjust harassment for acts involving a child and an adolescent of Mapuche origin. The officers had abused their legal authority in the context of an illegal preventive identity check, taken the victims to a barren site and then forced them to undress, all in connection with discrimination against members of Indigenous Peoples (see the general database of cases 2017–2021 in annex I-xxxix).

142. Additionally, between 2018 and July 2022, the judicial branch opened 8,341 cases involving acts of torture, ill-treatment and excessive use of force (disaggregated by year, offence, procedural status and outcome in annex I-xl).

Replies to the questions raised in paragraph 22 of the list of issues

143. Regarding deaths occurring within the SENAME protection system, 347 deaths that took place between January 2005 and June 2016 have been investigated. In addition, a complete review was carried out of another 532 cases involving the deaths of children and adolescents involved in SENAME programmes. The 347 cases that were investigated involved allegations of manslaughter, torture and unlawful coercion, obstruction of an investigation and falsification of documents (disaggregated by offence in annex I-xli). As of May 2022, 322 of those cases had been closed and 25 were still pending. There were five convictions in the closed cases: two people were convicted of unlawful coercion resulting in death, two of manslaughter and one of producing false documents in court. One of the cases in which convictions were handed down was that of L.V., who was 11 years old at the time of the events. Criminal Court No. 4 of Santiago found two childcare workers at the Galvarino Residential Centre guilty of unlawful coercion resulting in death, it having been demonstrated that both defendants had restrained the girl in a manner that went beyond what was set out in the Centre's internal protocols and that in the end was "more a punishment than a restraint". In the same case, another childcare worker was found guilty of the unintentional infliction of minor bodily injury on another child at the same centre, and three staff members accused of unlawful coercion were acquitted. Information on deaths during the period under review can be found in the section on paragraph 17.

144. Regarding cases of torture, ill-treatment and sexual abuse of children and adolescents in SENAME centres, a preliminary log of the Special Unit for Human Rights, Gender-based Violence and Sexual Offences of the Public Prosecution Service indicates that, between 2019 and 2021, there were 32,700 complaints involving child and adolescent victims who were in residential centres and under the direct care of the State or of partner agencies or who were participating in non-residential programmes of the former SENAME. In order to make progress in uncovering the facts surrounding the deaths of children and adolescents in State custody and the acts of ill-treatment and sexual violence, including acts of commercial sexual exploitation, committed against such children and adolescents, in 2016, the Attorney General appointed two Regional Attorneys General to investigate and gave them nationwide jurisdiction so that a systemic approach could be taken to the cases. One Regional Attorney General was assigned to investigate deaths and ill-treatment and the other to investigate cases of sexual violence.

145. With respect to the subject of children with disabilities, the Public Prosecution Service conducted an investigation and brought charges of cruel, inhuman or degrading treatment in the first case involving the use of mechanical restraints on a person with disabilities. The standards of the Convention on the Rights of Persons with Disabilities and the Convention on the Rights of the Child have been fully integrated into the approach being taken by the Prosecution Service. The case is being prepared for trial.

146. The judicial branch reports that, overall, between 2018 and 31 July 2022, 34,968 cases were opened nationwide for sex-related offences involving children and adolescents (disaggregated by year, offence and procedural status in annex I-xlii).

147. Actions taken with respect to the commercial sexual exploitation of children and adolescents have included investigative measures, measures focused on inter-institutional coordination and steps to make investigations into this type of exploitation more effective. One of these was the aforementioned 2016 appointment of the Regional Attorney General for the Western Metropolitan Area to head investigations nationwide into acts of sexual violence committed against children and adolescents under the protection of the former SENAME. The reason for this measure was to ensure that a systemic approach is taken in this regard. Although certain limitations were subsequently placed on that official decision, the special team formed in this connection has investigated more than 300 cases of this type. As at 31 December 2021, the team had led 162 investigations into acts constituting offences against the sexual inviolability of children and adolescents, including the promotion or facilitation of the commercial sexual exploitation of children and adolescents. Of that number, 69 investigations were still ongoing, 36 of which related to the commercial sexual exploitation of children and adolescents or trafficking in persons.

148. In June 2021, the Public Prosecution Service signed a cooperation agreement with the Ministry of Justice and Human Rights to promote collaborative efforts for the timely detection of offences and improvement of criminal prosecution proceedings involving offences committed in residential contexts. As of May 2022, the agreement had been put activated on 12 occasions in which the My Lawyer Programme of the Ministry had filed a complaint. A joint project was also launched with the Office of the National Coordinator of the My Lawyer Programme and the Ministry to hold regular meetings to review cases under the agreement and identify key issues and areas for improvement. In addition, there are the directives mentioned previously: Directive No. 618, which expressly recognizes all acts committed against children and adolescents in the care of the State as acts of institutional violence; and Directive No. 277, which sets out the relevant human rights standards, with an emphasis on violence against children and adolescents, and indicates that special procedures apply to cases involving children and adolescents in the care of the State.

149. Furthermore, with respect to the 2018 investigation of the Committee on the Rights of the Child, the full bench of the Supreme Court (decision of 27 March 2019, AD-251-2018) approved the implementation of various measures intended to protect the rights of children and adolescents. Additionally, every six months the judicial branch prepares a national report on visits to care centres and residential homes within the protection system that are run either by private entities or by SENAME/the National Service for the Protection of Children and Adolescents. The report offers a compilation of information gathered locally by judges and technical advisers from each jurisdiction in the country. The latest report covers visits to 94 per cent of residential homes, including prisons that are part of the “Growing Together” programme. This report, dated 26 April 2022, can be found in annex XLII.

150. Regarding supervision and complaint procedures, article 39 of Act No. 21302 recognizes the authority of MEJOR NIÑEZ to supervise the technical, administrative and financial aspects of the work of accredited partners implementing special protection programmes and to conduct inspections in those areas. If the technical supervisors notice any irregularities in projects implemented by partners, an inspection will be carried out and any possible violations will then be identified. Such violations may, through sanctions procedures and an investigation into the facts, be associated with one of the minor, serious or very serious infractions indicated in article 41 of Act No. 21302. In that event, a sanction may be applied, with the most serious being the loss of the accreditation to continue implementing the Service’s programmes. If it is suspected that the life or physical or psychological integrity of the children and adolescents in care is at risk, the Service must report the relevant facts to the competent body and may also become a party to or file a complaint in the corresponding proceedings. When complaints are received, through and of the various channels provided, that relate serious occurrences or suggest that offences are being committed against children and adolescents in the care of accredited partners, an inspection will be triggered automatically. Inspectors will visit the project as soon as possible, and information about the circumstances surrounding the corresponding events will be gathered with a view to determining the responsible parties and potentially imposing penalties for acts or omissions attributable to the partner. In addition, upon the occurrence of events that may constitute offences against children and adolescents who are in the care of the State, either directly or through accredited cooperating agencies, the provisions of either exempt resolution No. 154/2022 of 14 March 2022 (annex XLIII), in the case of directly administered projects, or exempt resolution No. 155/2022 of 14 March 2022 (annex XLIV), in the case of accredited cooperating agencies, must be applied. These exempt resolutions describe the procedure and protocol to be followed in the event of infringements affecting persons in care, the appropriate channels to be set in motion and the necessary measures to be taken to mitigate the negative repercussions on the children and adolescents concerned as much as possible. In compliance with article 39, inspections are performed every six months for all programmes implemented throughout the country by accredited cooperating agencies. As at 30 June 2022, 357 inspections had been carried out and 55 sanctions procedures initiated. The latter have resulted in two final decisions to impose sanctions (a written reprimand). The remaining cases in which inspections turned up irregularities are at the preliminary investigation, investigation, defence or final report stage or at the stage where a decision or final decision

is being issued regarding the imposition of a sanction. Between 1 October 2021⁴⁴ and 12 August 2022, 41 regular or summary administrative proceedings were instituted against staff members of the Service for ill-treatment of or assaults on children and adolescents in directly administered centres (directly administered specialized remedial centres and residential homes). According to the Case Tracking System, 6 of those cases have been dismissed, 2 are awaiting the prosecutor's recommendation (with the proposal of the investigator), 1 is at the sanction processing stage and 32 are at the inquiry/investigation or reopening stages.

151. With respect to reports of acts potentially constituting offences against adolescents or young people in juvenile justice programmes and centres, SENAME has procedures in place (Circular No. 5 of 6 August 2019, in annex XLV, and Circular No. 6, in annex, paragraph 17) that apply both to directly administered centres and to programmes run by accredited cooperating agencies. Under the procedure, they must, among other things, comply with the obligation to report any suspected transgressions (Code of Criminal Procedure, art. 175) and take comprehensive measures in their areas of action. The implementation of the circulars was supported by the introduction of a technological tool (the Single Case Registry module) in the SENAME information system that allows for information reported through the Service's primary source to become known immediately and for steps for the verification of that information to be taken. These actions and measures must be supervised by the corresponding Regional Directorate. Digitalization makes it possible to systematize parameters associated with each case and facilitates information analysis for the adoption of policies. Data on the occasions when the circulars were applied between 2018 and 2022, in cases where an assault was carried out by a staff member of a centre or another civil servant, are provided in annex I-xliii and are disaggregated by region, type of institution, year, sex, age and nationality. For the period from 2018 to 2022, SENAME has identified 136 summary or regular administrative proceedings where the reason for their institution was stated to be ill-treatment or assault in centres of deprivation of liberty (116 regular and 20 summary administrative proceedings, disaggregated in the annex by region and the year the proceedings were instituted). Of that number, 71 have been closed (with 23 ending in a sanction and 48 being dismissed) and 65 remain open; a table of the procedural stages of the open cases has been included as an annex. SENAME began to phase in a comprehensive system of technical supervision in 2019.

152. Regarding the prevention of deaths, torture, ill-treatment and sexual abuse, MEJOR NIÑEZ reports that one of the requirements for a partner agency to exist is that it must have a model in place for the prevention of such offences (Act No. 21302, art. 35). The occurrence of an offence affecting the life, health, integrity, freedom or sexual inviolability of children or adolescents or interfering with the proper use of public resources as the result of a failure to apply the model constitutes a very serious infraction under the aforementioned article 41.

153. On the same issue, SENAME has, within the framework of the National Suicide Prevention Strategy headed by the Ministry of Health, been working on initiatives related to the promotion of mental health and the establishment of a suicide prevention strategy for the Service since 2019. Relevant technical guidelines are in place, and committees for the promotion of mental health and the prevention of suicide have been set up at each directly administered centre. A report has been prepared which sets out how the committees are to operate, bringing together good practices and addressing key issues.

154. Regarding shortcomings in the management and administration of these centres, MEJOR NIÑEZ made it a priority in 2022 to set up professional teams to provide technical support and advice and case analysis services for the teams working in residential care centres with a view to reviewing and providing feedback on standards of care, cases in which warning signs are detected, decisions regarding lengths of stay, the resumption of family ties and family reintegration, suicide prevention plans and other matters.

155. Information on SENAME juvenile justice centres can be found in the section on paragraph 14.

⁴⁴ Entry into operation of MEJOR NIÑEZ.

Replies to the questions raised in paragraph 23 of the list of issues

156. In relation to the progress of cases, annex I-xliv contains information from the National Coordinating Office for Human Rights Cases 1973–1990 of the judicial branch on new cases opened, charges filed, prosecutions initiated and judgments handed down at first instance between 2018 and June 2022.

157. With respect to the Amnesty Decree-Law, the State is aware of the need for normative harmonization. However, in their decisions, courts consistently do not apply the amnesty, in observance of international standards, and enforce neither criminal nor civil statutes of limitations with respect to claims regarding crimes against humanity. Bulletins No. 9748-07⁴⁵ and 9773-07⁴⁶ (the constitutional reform to prevent the use of amnesty laws in judicial proceedings concerning past human rights violations) are at their first reading in the Senate. Bulletin No. 4162-07,⁴⁷ providing for the annulment of the Amnesty Decree-Law, has been closed. Bulletin No. 10883-17,⁴⁸ which would amend Act No. 19992 with respect to the handling of the information gathered by the National Commission on Political Prisoners and Torture, is at its second reading in the Senate.

Article 14

Replies to the questions raised in paragraph 24 of the list of issues

158. The State Defence Council reports that, between 2018 and 2021, the State was ordered to pay Ch\$ 72,239,191,059 million in connection with judicial proceedings instituted as a result of civil claims filed regarding serious human rights violations committed between 11 September 1973 and 11 March 1990. Specifically with respect to cases of illegal detention and torture, the State paid Ch\$ 32,938,000,574 million. During the same period, there were 2,790 new court cases relating to serious human rights violations committed during the civilian-military dictatorship, of which 2,233 are active and 1,943 relate to torture or unlawful coercion.

159. The National Coordinating Office for Human Rights Cases 1973–1990 of the Supreme Court has provided information on the 87 appeals in cassation – relating to either substantive points or substantive and procedural points – that the Supreme Court has heard or is hearing in cases involving tort claims based on acts constituting human rights violations that were carried out by organs of the State between 1973 and 1990 (see annex I-xlv).

160. A protocol was prepared for public institutions that provide support to the judicial authorities in the search for and identification of victims of enforced disappearances committed between 11 July 1973 and 10 March 1990. It was signed on 3 September 2021 by the judicial branch, the Ministry of Justice and Human Rights, the Public Prosecution Service, the Carabineros and the Investigative Police Force. The protocol establishes common rules governing the actions of institutions that play a role in judicial investigations aimed at locating and identifying persons disappeared during the dictatorship.

161. The Human Rights Programme is preparing a proposal for a national plan for the search for victims of enforced disappearances in Chile during the dictatorship, and it is now running a project under which 61 legal complaints will be filed for victims of political executions and disappeared detainees whose cases had not led to the institution of criminal proceedings.

162. On 3 August 2022, it was announced that a committee had been set up to address the issue of full reparation for victims of human rights violations committed during the period of

⁴⁵ <http://www.camara.cl/legislacion/ProyectosDeLey/tramitacion.aspx?prmID=10193&prmBL=9748-07>.

⁴⁶ <http://www.camara.cl/legislacion/ProyectosDeLey/tramitacion.aspx?prmID=10192&prmBL=9773-07>.

⁴⁷ <https://www.camara.cl/legislacion/ProyectosDeLey/tramitacion.aspx?prmID=4555&prmBOLETIN=4162-07>.

⁴⁸ <https://www.camara.cl/legislacion/ProyectosDeLey/tramitacion.aspx?prmID=11367&prmBoletin=10883-17>.

social unrest. The committee is to use a participatory, victim-centred process⁴⁹ and will hold meetings at the local level in all regions. Its work will focus on determining what form full reparation should take and what criteria should be used to classify victims. The committee will issue a report setting out its recommendations regarding full reparation and the identification of victims of human rights violations committed during the period of social unrest. On the basis of the agreements reached in that connection, reparation is to be made by means of the appropriate legislative and administrative measures in 2023.

163. The eligibility determination process for the Compensation and Comprehensive Health-Care Programme⁵⁰ is still open, so the number of participants is still changing; as of June 2022, there were 892,726 recognized participants. A budget of Ch\$ 6,875,128,000 was allocated for 2022. The Programme's 337 staff members provided services and/or benefits in 75,889 instances during the period in question. The Programme launched a national structural review process in 2020 to update, improve, provision and strengthen the clinical care services furnished by the health-care teams. Training, experience-sharing and case analysis activities are organized for the attending practitioners on the Programme's clinical teams on an ongoing basis.

164. With respect to the scope and implementation of the Plan for the Support and Care of Victims of Ocular Trauma (PACTO), formerly known as the Comprehensive Vision Rehabilitation Programme, the services provided under that plan were initially centralized at the Ocular Trauma Unit of El Salvador Hospital. Thirteen PACTO staff members are employed at that centre, and the budgetary expenditure in the Unit from January to July 2022 totalled Ch\$ 252,413,348. The budget for 2022 amounts to Ch\$ 1,506,957,000. As cases exist in different regions of the country, resources were requested in 2021 to decentralize PACTO services so as to facilitate users' access to comprehensive health care, ensure the continuity of care and allow people to continue their daily lives and remain in their social environment. The programme has three areas of focus in 2022: strengthening the Hospital del Salvador, decentralization and training. To promote the decentralized implementation of the programme, technical guidelines (annex XX) have been developed, focusing both on people already receiving treatment and people who, for various reasons, have not yet started to receive treatment. According to the National Health Fund (FONASA) registry, 397 people at 27 health services are now covered by PACTO. An additional 60 people who have not entered the programme are receiving treatment for eye trauma in various health facilities.

165. With respect to *Ordines Guerra et al. v. Chile*, the Inter-American Court of Human Rights is of the view that the measure relating to publications has been satisfied. Most of the payments have been made, while the calculation of adjustments and interest is pending.

Article 15

Replies to the questions raised in paragraph 25 of the list of issues

166. In addition to the relevant provisions of the Constitution and Code of Criminal Procedure on due process, procedural safeguards and grounds for the exclusion of evidence obtained in violation of fundamental guarantees, prosecutors and assistant prosecutors have received training concerning the standard of the absolute prohibition of torture as recognized in the aforementioned Directive No. 618.

Article 16

Replies to the questions raised in paragraph 26 of the list of issues

167. Act No. 21013⁵¹ was promulgated in 2017. It defines a new offence of ill-treatment and affords increased protection for persons in special situations. In particular, it is intended to punish persons who subject a child or adolescent to a significant degree of physical abuse and establishes that an aggravating circumstance may be invoked if a person with a special

⁴⁹ <https://www.derechoshumanos.gob.cl/mesa-de-reparacion-integral-para-victimas-de-violaciones-a-los-derechos-humanos-ocurridas-durante-el-estallido-social-en-chile/>.

⁵⁰ <http://prais.redsalud.gob.cl/leyes-y-norma-tecnica/>.

⁵¹ <https://www.bcn.cl/leychile/navegar?idNorma=1103697&idParte=9803587&idVersion=2017-06-06>.

duty of care or protection is responsible for the ill-treatment or the failure to prevent it. The Act also establishes the additional penalty of temporary or permanent absolute disqualification from positions, jobs, trades or professions in the fields of education and health or that involve direct contact with children and adolescents, older persons or persons with disabilities. This stipulation represents a further step towards the provision of protection from all types of violence.

168. Regarding the application of Act No. 21013 and Act No. 20066, on domestic violence, the judicial branch indicates that, during the period under review, it opened 634 cases concerning the offence of degrading treatment of vulnerable persons (art. 403 Ter), of which 464 have been concluded (see the disaggregated statistics in annex I-xlvi).

169. Article 36 of Act No. 21430 sets out the right to protection from violence and states that no child or adolescent may be subjected to violence. The Office of the Undersecretary for Children is working on a comprehensive plan of action to combat all types of violence against children and adolescents. The plan calls for the development of a bill on the matter.

170. There are also noteworthy initiatives under the “Chile Grows with You” (Chile Crece Contigo) programme: Fonoinfancia, which offers free telephone support for parents; “Nobody Is Perfect”, which serves 4,255 children and helps persons caring for children aged 5 years or under to develop childcare skills; “Triple P Positive Parenting”, which has assisted 22,964 children in 25 communes by providing effective tools for managing everyday parenting problems; and the Programme for the Provision of Public Places for Children (Programa HEPI Crianza), which promotes and strengthens interaction between children and adolescents and their carers in special settings devoted to the development of respectful parenting practices and positive social parenting (25 facilities). The National Preschool Board has had a policy on supportive environments⁵² since 2017 and updated its protocols on ill-treatment in 2021. The Ministry of Education has a plan in place to foster harmony in schools and promote social and emotional learning.⁵³

Replies to the questions raised in paragraph 27 of the list of issues

171. The current law on the voluntary termination of pregnancy has not been amended. Between 2018 and June 2022, there were 3,333 cases meeting the requirements of the law, in 2,793 of which there is a record of the pregnancy being terminated.⁵⁴

II. Other issues

Replies to the questions raised in paragraph 28 of the list of issues

172. In 2019, a bill was introduced to amend the Code of Criminal Procedure to allow the use of undercover agents to investigate conduct falling under the legal definition of terrorism (Bulletin No. 12589-07);⁵⁵ that bill is still moving through the legislative process. During the period, there were no amendments to the legislation in force.

173. The Carabineros report that terrorism was one of the topics covered in the training received by 367 human rights instructors pursuant to an agreement with the International Committee of the Red Cross. In connection with its work in the region of Araucanía, the Public Prosecution Service has had an ongoing training plan for police officers since 2019, with 196 officers, 164 members of the Carabineros and 32 members of the Investigative Police Force receiving training that year. Training sessions were held for approximately 750 members of the armed forces officers in October 2021 and June 2022 in connection with the constitutional states of exception declared in the area. These training sessions covered

⁵² <https://www.junji.gob.cl/wp-content/uploads/2017/08/Politica-de-Ambientes-Bientratantes.pdf>.

⁵³ <https://bibliotecadigital.mineduc.cl/bitstream/handle/20.500.12365/14520/072020-fundamplandetrabajo.pdf?sequence=1&isAllowed=y>.

⁵⁴ https://informesdeis.minsal.cl/SASVisualAnalytics/?reportUri=%2Freports%2Freports%2F382105c8-521f-4356-b1b8-6bad21ba8b08§ionIndex=0&sso_guest=true&reportViewOnly=true&reportContextBar=false&sas-welcome=false.

⁵⁵ <https://www.camara.cl/legislacion/ProyectosDeLey/tramitacion.aspx?prmID=13121&prmBL=12589-07>.

equality and non-discrimination and the prevention of discrimination based on ethnic origin in contexts of rural violence in southern Chile.

174. The judicial branch reports that it opened 1,033 cases on this issue between 2018 and June 2022. The offences corresponding to the highest number of new cases during the period under review were the following: attack on a head of state or public authority (360); attack involving explosives or arson (289); and, lastly, other offences under Act No. 18314 (288). During the period in question, 702 cases were closed by courts of first instance. The cases that were closed primarily involved the following offences: attack on a head of state or public authority (337); attack involving explosives or arson (189); and, lastly, other offences under Act No. 18314 (125). Cases were most often closed because there was insufficient evidence (216, or 31 per cent), they had been dismissed (165, or 24 per cent) or, lastly, a judgment had been handed down (112 or 16 per cent). Annex I-xlvii contains data on the number of cases opened, disaggregated by year, offence, outcome and the reasons for the outcome.

Replies to the questions raised in paragraph 29 of the list of issues

175. During the reporting period, measures were adopted in response to the coronavirus disease (COVID-19) pandemic to protect people, including persons deprived of their liberty, and prevent violations of their rights. With respect to persons deprived of their liberty, Act No. 21228,⁵⁶ which granted a commutative general pardon because of the pandemic, should be noted.

176. SENADIS developed mechanisms to facilitate the access of persons with disabilities to information (by, for example, providing information in easy-to-read formats) and appropriate health-care services and residential health facilities, carried out public awareness campaigns on the human rights of persons with disabilities, prepared institutional instructions on identifying the needs of persons with disabilities in connection with the implementation of health measures and designed measures to support caregivers.

177. The efforts of MEJOR NIÑEZ involved the development of guidelines and recommendations on remote work, self-care and psychosocial aspects of the pandemic; the updating of health protocols for directly administered alternative centres and partner facilities and, in 2021, the addition of enrichment components and the development of play areas for children and adolescents; administrative measures to ensure the continuity of diagnostic services and treatment for children and adolescents; and special funds for the provision of personal protective equipment to staff of alternative care centres and partner facilities.

178. SENAME prepared a protocol on prevention measures and changes in routines and visiting regimes that was implemented in all directly administered juvenile justice facilities.

179. SENAMA had working groups monitoring both permitted and non-permitted long-stay residences for older adults for the implementation of preventive health measures (tracking of infections, free delivery of personal protective equipment, media-based and on-site training courses and preventive testing) and mitigation measures during outbreaks (setting up temporary residences and providing replacement staff free of charge).

180. The Prison Service prepared instructions covering the movement of inmates within prison facilities, which were regulated for health reasons; virtual visits; humanitarian visits; the use of cell phones and trips outside the prison. These instructions were issued in the light of the restrictions placed on face-to-face visits owing to the pandemic. The Prison Service also issued instructions concerning the process of resuming in-person activities and visits and the treatment of detained older persons and detainees with chronic illnesses during the COVID-19 pandemic.

⁵⁶ <https://www.bcn.cl/leychile/navegar?idNorma=1144400>.

III. General information on other measures and developments relating to the implementation of the Convention in the State party

Replies to the questions raised in paragraph 30 of the list of issues

181. As the citizenry did not approve the draft of the new Constitution, no progress can be reported on constitutional provisions regarding the prevention of torture.
