



# Convention on the Rights of the Child

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Committee on the Rights of the Child

## Combined fifth and sixth periodic reports submitted by Chile under article 44 of the Convention, due in 2021\*

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



## I. Introduction

1. This document contains the responses of the State of Chile and highlights the progress achieved and challenges faced between 2015 and 2020 in the observance of the rights established in the Convention. The report was prepared by the Office of the Undersecretary for Children of the Ministry of Social Development and the Family pursuant to its functions as set out in law.<sup>1</sup> The information used in the report, which reaffirms the commitment of Chile to the protection and promotion of human rights, was provided by more than 35 government ministries and services, the Public Prosecution Service and the judiciary.
2. In April 2018, the President of Chile convened a working group to formulate what became the National Compact for Children.<sup>2</sup> The working group engaged in a political and technical dialogue that provided a range of opportunities for participation. In May 2018, 94 proposals were delivered in the form of a road map for moving forward. The proposals take account of the work that has already been done and seek to build agreements on the foundations laid by previous Administrations, such as the National Policy for Children and Adolescents for 2015–2025 and its Action Plan, a number of bills that have been sent to Congress and the recommendations made by the Committee on the Rights of the Child. The Compact is founded upon a recognition by the State and society that Chile has failed to protect its children and adolescents and that they are owed an apology.
3. The present report was prepared in 2020 during the global health crisis caused by the coronavirus disease (COVID-19). It summarizes the progress made prior to the crisis and covers preliminary actions taken in response to the COVID-19 pandemic.

## II. New developments (paragraphs 2 and 3 of the list of issues prior to reporting)

4. In line with the recommendations made by the Committee, and within the framework of the National Policy for Children and Adolescents for 2015–2025, the related Plan of Action and the National Compact for Children, the Government is committed to the progressive establishment of a system for the comprehensive protection of children's rights.
5. Progress has been made in establishing institutions that make up the structure required for such a system. The Office of the Undersecretary for Children (Act No. 21.090 amending Act No. 20.530 establishing the Ministry of Social Development and the Family, 18 April 2018) is responsible for upholding the rights of children. Its functions<sup>3</sup> will include advising the President on matters relating to the comprehensive protection of children's rights pursuant to the National Policy and its Action Plan; administering, coordinating and supervising the intersectoral management systems and subsystems for addressing children's issues; providing training and raising awareness about children's rights and the enjoyment thereof; promoting children's participation; conducting studies and research relating to children; and contributing to the preparation of reports on the rights of children and their families requested by specialized bodies and committees.
6. The amendment of the Act establishing the Ministry of Social Development to change its name to the Ministry of Social Development and the Family<sup>4</sup> highlights the role of the family, irrespective of its composition, as the immediate environment that shapes children and adolescents and that can enhance their well-being and development. This approach involves a shift in the way public policy issues are addressed and places the family at the centre.

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<sup>1</sup> Act No. 20.530, art. 3 bis (h).

<sup>2</sup> <https://www.losninosprimero.gob.cl/>.

<sup>3</sup> <https://www.bcn.cl/leychile/navegar?idNorma=1030861>  
<https://www.bcn.cl/leychile/navegar?idNorma=1130640>.

<sup>4</sup> Act No. 21.150 amending Act No. 20.530 and establishing the Ministry of Social Development and the Family, 16 April 2019.

7. The new institutional framework has been strengthened by the creation of the National Service for the Specialized Protection of Children and Adolescents (Act No. 21.302, 5 January 2021), which, together with the National Juvenile Social Reintegration Service (bill published in Bulletin No. 11.174-07), will replace the National Service for Minors (SENAME). The aim of the National Service for the Specialized Protection of Children and Adolescents is to ensure that children and adolescents whose rights have been seriously undermined or violated, and their families, receive specialized protection, restitution of their rights and reparation for harm suffered and for the prevention of new violations. A number of changes are being introduced, the main ones being greater specialization; the strengthening of the role of the family; more stringent requirements for partner organizations; enhanced oversight and monitoring; increased requirements for staff; and programming improvements.

8. Another step forward is the establishment of the Office of the Children's Ombudsman (Act No. 21.067, 29 January 2018). The Office's objective is to disseminate, promote and protect children's rights<sup>5</sup> in accordance with the Constitution, the Convention, other international treaties ratified by Chile and national legislation and to safeguard their best interests. The Office of the Children's Ombudsman is an autonomous public institution with legal personality and its own assets.

9. Relevant laws promulgated in 2018 and 2019 include the following (in chronological order):

(a) Act No. 21.120 (10 December 2018), which recognizes and protects the right to gender identity. It regulates the procedures for changing one's sex and registered name. For persons aged over 14 years and below 18 years, the Act sets out a special procedure for making such changes and accessing support programmes.

(b) Act No. 21.155 (2 May 2019), which institutes measures to protect breastfeeding. It recognizes the fundamental value of motherhood, establishes the right of children to free access to breast milk through breastfeeding and guarantees freedom to breastfeed.

(c) Act No. 21.160 (18 July 2019), which establishes that sexual offences committed against minors are not time-barred. It amends the Criminal Code to set out those sexual offences committed against persons under 18 years of age to which the statute of limitations does not apply.

(d) Act No. 21.182 (22 October 2019), which amends the rules set out in Act No. 21.057 on access to the records of videotaped investigative interviews and judicial statements. It seeks to prevent the secondary victimization of children and adolescents who are victims of sexual offences and other serious crimes and to avoid any negative consequences that might arise for them as a result of criminal proceedings.

(e) Act No. 21.140 (31 December 2019), which amends Act No. 20.032 and Decree-Law No. 2.465/1979. The amendments are designed to expand subsidies for residential programmes, thereby doubling government funding for partner organizations, and to introduce new requirements and grounds for disqualification and additional obligations and responsibilities.

10. With regard to intersectoral coordination of policies relating to children and adolescents, the National Policy for Children and Adolescents for 2015–2025 was published in March 2016. The Action Plan for 2018–2025, which translates the guidelines and thrust of this policy into operational terms, was completed in December 2017. As soon as it had been set up in 2018, the Office of the Undersecretary for Children began to implement and monitor the Action Plan. To that end, it convened the Intersectoral Technical Board, which is made up of more than 30 public institutions that have committed to carrying out specific actions. To date, the Technical Board has met four times and has reviewed the progress made in implementing those actions and added new ones linked to the National Compact for Children and programmatic priorities. In accordance with the relevant law, the Interministerial Committee for Social Development, Families and Children approved the update of the Action Plan prepared by the Office of the Undersecretary for Children and the Intersectoral

<sup>5</sup> <https://www.bcn.cl/leychile/navegar?idNorma=1114173>.

Technical Board (16 December 2019). The updated version follows the structure of the original, with actions grouped into 4 main clusters and 18 strategic results along with their associated activities. This updated plan also includes new actions, reformulates others and modifies some of their deadlines; in all, it sets out 327 actions for the period 2018–2021. According to the information reported for 2019, 30.6 per cent of the actions are yet to be initiated, 51.4 per cent are being implemented and 18 per cent have been completed. The second reporting process will take place in February 2021, when institutions will provide an update on progress made in 2020.

11. A noteworthy development at the programmatic and management level is the extension of the age group covered by the “Chile Grows with You” (*Chile Crece Contigo*) Subsystem for Comprehensive Early Childhood Protection. Since 2016, that subsystem has set up two new programmes covering children up to 9 years of age, as will be described below.

12. In the context of the COVID-19 health crisis, the State has had to take steps to protect the population, prevent the spread of the virus and ensure continuity of public services so that access to State programmes and benefits is not interrupted.<sup>6</sup> During 2020, the suspension of in-person classes for approximately 3,000,000 students necessitated a rapid switch to remote teaching via the “I Learn Online” (*Aprendo en Línea*) platform, which was used by 4,605,974 people between March and June 2020. To compensate for gaps in connectivity, the authorities undertook other initiatives such as the distribution of printed materials to more than 380,000 students in 3,800 schools and the creation of short educational videos under the “I Learn on TV” (*Aprendo TV*) label, which were broadcast on the TV Educa Chile channel. The school meals programme continued to operate, and between March and July 2020 alone, 8,564,737 individual meals were delivered. A number of special measures have also been put in place for children and adolescents who are in the care of the State.

13. The judiciary has taken steps to ensure the continued operation of mechanisms for receiving complaints concerning domestic and gender-based violence and has put in place special measures for judicial proceedings involving the adoption of protection measures.

14. With regard to the 2030 Agenda for Sustainable Development, the second voluntary national review,<sup>7</sup> submitted in 2019, sets out a number of public actions that address children’s issues, particularly in relation to Sustainable Development Goals 4, 8, 10 and 16.

### III. Rights enshrined in the Convention and the Optional Protocols

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

##### Laws

15. Proposals for the adoption of a comprehensive law to protect children’s rights in accordance with the Convention have been put forward, and bills on the comprehensive protection of children were submitted in 2005, 2013 and September 2015. The last of these – a bill on a system for guaranteeing and fully protecting the rights of children and adolescents (Bulletin No. 10.315-18) – is currently under consideration.

16. The obstacles that have hindered the adoption of the bill submitted in 2015 include the fact that its first reading lasted 17 months and that the Chamber of Deputies voted against almost all of sections III and IV, as the bill called for the creation of an administrative protection system without providing for its funding. Furthermore, its territorial scope was not defined, it would have given rise to interference in private family life by granting judicial powers to State agencies such as the Ministry of Social Development, and it dealt with children as subjects of law in isolation whose interests were often cast as being in conflict with those of their parents. The second reading of the bill began in 2017 and has been going on for almost four years now.

<sup>6</sup> <https://www.gob.cl/coronavirus/>.

<sup>7</sup> [http://www.chileagenda2030.gob.cl/storage/docs/Informe\\_Nacional\\_Voluntario\\_CHILE\\_2019.pdf](http://www.chileagenda2030.gob.cl/storage/docs/Informe_Nacional_Voluntario_CHILE_2019.pdf).

17. In 2018 and 2019, the executive branch, in fulfilment of commitments set out in the National Compact for Children, the Government's platform and the National Policy for Children and Adolescents for 2015–2025, attached addenda to the bill to establish a series of rights, principles and guarantees along with a nationwide administrative protection system to be implemented at the communal level by local children's offices. The funding for these offices provides for their operations to be phased in over a five-year period. The initiative is currently under discussion in the Senate.

18. With regard to the obstacles that have hampered efforts to replace SENAME, two similar bills were submitted but have not been taken up: a bill aimed at closing down that agency and establishing two new services for children and adolescents (Bulletin No. 8.487-07, 2012) and a bill aimed at establishing a specialized national service for the protection of children (Bulletin No. 11.176-07, 2017).

19. Consideration of a bill on the establishment of a national service for the social reintegration of young persons (Bulletin No. 11.174.07) began on 4 April 2017. This bill, which is currently in its second reading, is intended to establish a new specialized agency responsible for administering and implementing the measures and sanctions provided for in Act No. 20.084.

### **Allocation of resources**

20. Since 2012, the Office of the Undersecretary for Social Assessment of the Ministry of Social Development and the Family has been monitoring and following up on social programmes and initiatives with a view to overseeing and assessing the effectiveness of the allocation of resources for children and adolescents. It does so by preparing a report on each programme and initiative in which it analyses that operation's targeting, effectiveness and efficiency in accordance with article 3 of Act No. 20.530. These reports are issued annually and uploaded into the integrated social programme databank.<sup>8</sup> The chapter on priority groups in the *Informe de Desarrollo Social*<sup>9</sup> (social development report) contains an analysis of the information on children and adolescents.

21. The Office of the Undersecretary for Social Assessment also conducts ex ante quality assessments of new or reformulated social programmes that are funded out of the Government's annual budget. The Office of the Undersecretary reports on the appropriateness, soundness and coherence of the design of these programmes in accordance with article 3 of Act No. 20.530. The reports are published annually in the integrated databank of social programmes.<sup>10</sup>

22. In response to the recommendation to put systems in place to measure the expenditure associated with protecting children's rights, the Office of the Undersecretary for Children has included mechanisms for estimating and monitoring public expenditure on children and adolescents in its action plan. A study is under way on the development of a method for estimating annual public expenditure on children and adolescents and using those estimates as a baseline. The results of that study will be made available in 2021.

23. In August 2019, the Open Budget Platform<sup>11</sup> was launched with a view to making budget preparation a more participatory process. This initiative represents an important step forward in fiscal transparency and is included on the agenda for modernizing the State. The platform provides citizens with free access to relevant data sets and up-to-date information on the execution of the national budget which are presented in the form of graphic displays of data broken down by institution, service and provider.

### **Data collection**

24. The Office of the Undersecretary for Social Assessment is required to periodically analyse the state of society and the status of the different regions in order to identify the

<sup>8</sup> <https://programassociales.ministeriodesarrollosocial.gob.cl/>.

<sup>9</sup> <http://www.desarrollosocialyfamilia.gob.cl/informacion-social/informes-de-desarrollo-social>.

<sup>10</sup> [https://programassociales.ministeriodesarrollosocial.gob.cl/programas\\_nr](https://programassociales.ministeriodesarrollosocial.gob.cl/programas_nr).

<sup>11</sup> <https://presupuestoabierto.gob.cl/>.

public's needs;<sup>12</sup> these findings then serve as up-to-date social policy inputs. In this connection, the Social Observatory<sup>13</sup> delineates and studies the state of society by collecting, processing, analysing and then disseminating the relevant data. In line with the new institutional framework for children, the Office of the Undersecretary for Children works with the Office of the Undersecretary for Social Assessment to carry out the functions described above in order to ensure that the necessary steps are taken to measure and monitor the living conditions of children and adolescents.

25. The "Growing up with Rights" (*Creciendo con Derechos*) portal<sup>14</sup> is used to monitor the status of the rights of children and adolescents in relation to their living conditions in line with the Convention. This platform is managed by the Office of the Undersecretary for Children and was developed in conjunction with the Office of the Undersecretary for Social Assessment. The United Nations Children's Fund (UNICEF) advises on its implementation. In total, it keeps track of demographic data and over 40 indicators grouped under the 4 core principles of the Convention.

26. The Office of the Undersecretary for Social Assessment has access to a number of sources of information on children and adolescents:

(a) A longitudinal survey on early childhood is used to analyse the development of successive cohorts of children from early childhood through to adolescence and to compile descriptive data on the characteristics of their homes and their immediate environment. In 2017, the third round of this survey was conducted using a sample of 22,810 children;

(b) The National Social and Economic Survey (CASEN) has expanded upon and strengthened the production of relevant information on the situation of children and adolescents;<sup>15</sup>

(c) The second national disability study measured the prevalence of disability among children and was conducted in conjunction with the National Service for Persons with Disabilities (SENADIS) (2015);<sup>16</sup>

(d) The COVID-19 social survey is used to ascertain the emerging needs of households in the context of the crisis. As part of the analysis, an offprint devoted exclusively to the situation of households with children and/or adolescents was published.<sup>17</sup>

### Independent monitoring

27. On 18 March 2019, the Office of the Minister and Secretary General of the Presidency approved the statutes of the Office of the Children's Ombudsman by Supreme Decree No. 15/2018. The Office of the Children's Ombudsman, which was first established in the Metropolitan and Araucanía regions, was launched in the Arica y Parinacota and Aysén regions in 2019 and in the Libertador General Bernardo O'Higgins and Coquimbo regions in 2020.

28. The Office had a budget of US\$ 3.1 million for 2019, US\$ 3.8 million for 2020 and US\$ 3.6 million for 2021.

<sup>12</sup> Act No. 20.530, art. 3 (e), (t) and (w).

<sup>13</sup> <http://observatorio.ministeriodesarrollosocial.gob.cl/>.

<sup>14</sup> <http://www.creciendoconderechos.gob.cl/>.

<sup>15</sup> [http://observatorio.ministeriodesarrollosocial.gob.cl/casenmultidimensional/casen/docs/Resultados\\_nna\\_casen\\_2017.pdf](http://observatorio.ministeriodesarrollosocial.gob.cl/casenmultidimensional/casen/docs/Resultados_nna_casen_2017.pdf)

[http://observatorio.ministeriodesarrollosocial.gob.cl/casenmultidimensional/casen/docs/nna\\_casen\\_2017.xlsx](http://observatorio.ministeriodesarrollosocial.gob.cl/casenmultidimensional/casen/docs/nna_casen_2017.xlsx).

<sup>16</sup> [http://observatorio.ministeriodesarrollosocial.gob.cl/endisc/docs/REVISADA\\_Resultados\\_generales\\_NNA\\_poblacion\\_2a17\\_anos.pdf](http://observatorio.ministeriodesarrollosocial.gob.cl/endisc/docs/REVISADA_Resultados_generales_NNA_poblacion_2a17_anos.pdf).

<sup>17</sup> [http://observatorio.ministeriodesarrollosocial.gob.cl/storage/docs/covid19/NNA-Encuesta\\_Social\\_Covid-19.pdf](http://observatorio.ministeriodesarrollosocial.gob.cl/storage/docs/covid19/NNA-Encuesta_Social_Covid-19.pdf).

### Children's rights and the business sector

29. The purpose of the National Action Plan on Human Rights and Businesses,<sup>18</sup> which was published in August 2017, is to ensure that companies adopt a human rights focus in their work. Although this policy does not contain any regulations or specific measures aimed at children and adolescents, it does provide for other measures that benefit them and promote their well-being.

30. In 2018, the Ministry of the Environment issued new, more stringent environmental standards and plans for the decontamination of the communes of Quintero and Puchuncaví (the Quality Standard on Sulphur Dioxide, established by Supreme Decree No. 104/2018, and the Atmospheric Decontamination and Prevention Plan for the Communes of Concón, Quintero and Puchuncaví,<sup>19</sup> established by Supreme Decree No. 105/2018).

31. In response to the measures ordered by the Supreme Court, steps have been taken to detect emissions of volatile organic compounds and identify their sources and to measure air quality. In order to detect emissions of these compounds, studies are being conducted by international experts, and a study on ways to improve the Air Quality Monitoring Network in the communes of Concón, Quintero and Puchuncaví is being carried out.

32. With regard to water quality, efforts are being made to comply with the commitments assumed in connection with the Supreme Court ruling, and steps are being taken to establish an updated environmental baseline for Quintero bay and to gather other background information with a view to drafting a secondary environmental quality standard for the protection of the bay.

## B. General principles (arts. 2, 3, 6 and 12)

### Non-discrimination

33. The Ministry of Education is implementing the Inclusion Support Plan in an effort to prevent and eliminate discrimination in education. Under the Inclusion Act (No 20.845 of 8 June 2015), the Education for All Unit has designed support tools for educational communities and the school system that emphasize the importance of diversity through the promotion of an inclusive and intercultural approach, thereby helping to prevent discrimination and strengthen inclusive educational communities.

34. The Ministry of Education is implementing the National Policy on Foreign Students for 2018–2022 in order to guarantee those students' right to education and inclusion in the education system, thereby helping to strengthen the quality of education in accordance with the principles of equality and non-discrimination.

35. Pursuant to Act No. 21.120, which provides for the recognition and protection of the right to gender identity, the Ministry of Health and the Ministry of Social Development and the Family have drafted the implementing regulations (Supreme Decree No. 3/2019) for that law. These regulations set out the measures to be included, as a minimum, in support programmes intended to promote and protect the development of the group targeted by the Act.

36. The Aliens and Migration Department has taken steps to promote a culture of openness and non-discrimination towards foreign nationals. Since 2015, it has been implementing a national capacity-building plan to provide tools for supporting and promoting the inclusion of migrants. Training has been provided to staff of the Aliens and Migration Department and of provincial governments, municipalities, ministries, public services and institutions that work with migrants, including consulates, foundations, trade unions, companies and universities. From 2015 to 2019, around 19,000 persons participated in 500 workshops.

37. Since 2015, under the Programme for Access to Justice for Persons with Disabilities, SENADIS has established agreements with legal assistance agencies to hire lawyers to

<sup>18</sup> <https://ddhh.minjusticia.gob.cl/plan-de-accion-nacional-de-derechos-humanos-y-empresas>.

<sup>19</sup> <https://ppda.mma.gob.cl/valparaiso/ppda-concon-quintero-puchuncavi/>.

provide legal assistance to persons with disabilities of all ages. These lawyers may take legal action to put a stop to violations or discrimination and deal with cases related to guardians ad litem in which family courts may issue protective measures to safeguard children or adolescents with disabilities against violations of their rights.

38. The programme makes it possible for anti-discrimination proceedings to be brought under Act No. 20.609 on behalf of children and adolescents, mainly in the area of education, in order to ensure that the necessary accommodation is made or that discriminatory treatment is stopped.

39. With regard to the number of court cases dealing with discrimination against children brought under Act No. 20.609, three of the cases filed between January 2015 and July 2020 involved a person who was under 18 years of age when the complaint was filed. Two of these cases are still being processed. In the third, a final judgment upholding the complaint was issued.

40. Pursuant to General Order No. 2389 of 5 February 2016, the Carabineros (police) adopted a manual of police procedures for dealings with children and adolescents. This document has been reviewed by the Office of the Children's Ombudsman and the National Institute of Human Rights and is in the process of being updated. Under article 12 of Act No. 20.931, persons under the age of 18 years may not be subjected to preventive identity checks. The manual states that investigative identity checks on adolescents over 14 years of age may be performed without a prior order from a prosecutor in cases where there are grounds for doing so, that is, where there is evidence that they have committed, attempted to commit or are about to commit a serious offence, an ordinary offence or a minor offence; where they may be able to provide information relevant to the investigation of a serious offence, an ordinary offence or a minor offence; where the person concerned is wearing a hood or a face covering in order to conceal or disguise his or her identity; or where police officers have information indicating that a person is the subject of an outstanding arrest warrant. The procedure may not take longer than eight hours, and the person's identity may be established only by means of a document issued by a public authority (an identity card, driving licence or passport).

41. The Investigative Police Force has issued instructions for conducting preventive identity checks on persons under 18 years of age. The instructions are set out in Circulars No. 3 of 15 July 2004, which clarifies certain aspects of identity checks; No. 4 of 2 August 2016, which contains instructions on identity checks in connection with article 85 of the Code of Criminal Procedure and article 12 of Act No. 20.931; and No. 4 of 5 February 2018, which contains instructions for institutional staff on the amendments incorporated into a number of legal instruments under Act No. 20.931 of the Ministry of Justice, which facilitates the enforcement of the penalties established for the offences of robbery, theft and receipt of stolen goods and improves criminal prosecution procedures for these offences, especially in connection with preventive identity checks. All identity checks, whether conducted under article 85 of the Code of Criminal Procedure or article 12 of Act No. 20.931, must be recorded in the Skypol system in accordance with paragraph 6 of Circular No. 4 of 2 August 2016.

42. Data on preventive identity checks provided by the Carabineros and the Investigative Police Force<sup>20</sup> are published in statistical form by the Office of the Undersecretary for the Interior.

### **Best interests of the child**

43. The National Policy for Children and Adolescents for 2015–2025 and its Action Plan are based on the four core principles of the Convention, one of which concerns the best interests of the child. As part of the measures taken under the Action Plan, the Office of the Undersecretary for Children has included specific content on the incorporation of the rights-based approach to issues of concern to children and adolescents in the progress report form. Among other things, respondents are asked to provide information on how they have applied

<sup>20</sup> <https://www.subinterior.gob.cl/control-preventivo/>.



this principle when fulfilling their commitments under the Action Plan. This progress report form was prepared with technical assistance from UNICEF.

44. In keeping with the principle of the best interests of the child, SENAME is pursuing a deinstitutionalization process focused on restoring children's and adolescents' fundamental right to live in a family and ensuring that they do not spend long periods in the residential system. The aims of this process are to reduce the number of children who are institutionalized, especially those under 3 years of age, by prioritizing their placement in foster families and to avoid placing any child in alternative care whose rights have been violated if that child has at least one adult guardian who is available and capable of looking after him or her and supporting his or her recovery. Children are therefore placed in residential care homes only as a measure of last resort and only if this measure is in their best interests because it is deemed to be conducive to their welfare and development.

45. The Aliens and Migration Department promotes the integral development of foreign children and adolescents by enabling them to obtain temporary visas and thus regularizing their immigration status. Under the amended Decree No. 296/1995, it has been possible for children and adolescents to apply for visas, free of charge, since 2017. In addition, children and adolescents have been exempted from any form of punishment for violating migration regulations, and persons caring for children and adolescents who have violated migration laws are not penalized for infractions committed in that connection. In compliance with the Convention, children and adolescents are not deported from the country under any circumstances. A cooperation agreement has been established between the Ministry of the Interior and SENAME which facilitates the access of unaccompanied, separated or orphaned child asylum seekers to the application procedure and takes account of the situation in which they find themselves, ensuring that the necessary protective measures are applied by the family courts and that victims of an offence are identified as such, in compliance with the duty to report.

46. With regard to judicial proceedings and the development and dissemination of procedures and criteria for determining and upholding the best interests of the child, the judicial branch's Working Group on Children is drafting its first policy on children's and adolescents' rights. The policy sets out a series of cross-cutting measures intended to safeguard the best interests of the child in accordance with article 3 of the Convention. Content related to the best interests of the child is also included in the training materials used by the Judicial Academy.

### **Respect for the views of the child**

47. The Office of the Undersecretary for Children and the Office of the Children's Ombudsman are devising a methodology for promoting the participation of children and adolescents in the consultations on a new Constitution.

48. The right of children and adolescents to be heard in different areas of life is gradually being incorporated into various laws related to children and adolescents, including: Act No. 19.968, establishing family courts; Act No. 21.057, regulating videotaped interviews; Act No. 21.120, recognizing and protecting the right to gender identity; Act No. 21.090, establishing the Office of the Undersecretary for Children; Act No. 21.067, establishing the Office of the Children's Ombudsman; and Act No. 21.302, establishing the Protection Service. The right to be heard is also enshrined as a guiding principle of the National Policy for Children and Adolescents for 2015–2025 and its Action Plan and, as such, its observance will be monitored.

49. With regard to forums for participation specifically developed for children and adolescents, the Office of the Undersecretary for Children launched the "For a Good Childhood" (*Por una Buena Niñez*) platform<sup>21</sup> in 2019 to provide guidance on developing opportunities for children and adolescents to meet and exchange views. The platform also serves as a clearing house for information on these kinds of initiatives. In the wake of the protests of October 2019, information gathered from discussions with children and adolescents is being incorporated into "The Chile That We Want" (*El Chile que Queremos*) process. Between October 2019 and March 2020, more than 800 discussions involving over

<sup>21</sup> [www.porunabuenañez.cl](http://www.porunabuenañez.cl).

12,000 children and adolescents were held. The issues most frequently raised by the participants include the lack of public space and green areas and the need for better access to housing, education and health care.

50. SENAME promotes the participation of children and adolescents in democratically run consultative councils. The councils are organized by the Offices for the Protection of Children's Rights, are present in 230 of the country's communes and are formally established by mayoral decree.<sup>22</sup> All of the Offices have access to commune-level studies on children's issues that have helped to inform local policies. The Service has an advisory council for each region and a national council<sup>23</sup> coordinated by SENAME.

51. Under the Centres for Creation and Artistic Development Programme<sup>24</sup> of the Ministry of Culture, ongoing inclusive activities, known as creative listening sessions, are carried out to allow children and adolescents to express their views and wishes regarding the programme and their local environment. A total of 10 regions host children's councils, where children's ideas, projects and proposals for the programme are heard and incorporated into it.<sup>25</sup>

52. As part of the process of establishing a system for the comprehensive protection of children's rights, children's right to participation is being incorporated into the community management activities of the local children's offices that are now being piloted.

53. Measures being taken pursuant to the Action Plan include the incorporation of a section into the progress report form prepared by the Office of the Undersecretary for Children on the rights-based approach to issues of concern to children and adolescents. In that section, respondents are asked to state whether children's and adolescents' right to participate was taken into account in a given activity.

54. In August 2018, the judiciary carried out an activity called "If I Were a Judge", where judges met with children and adolescents whose close family members include a person deprived of his or her liberty. Two pilot initiatives arose from this activity: a project to promote children's and adolescents' right to communicate indirectly with parents deprived of their liberty by allowing parents to record a video of themselves reading a book for their children to watch and the "Farewell Rooms" project, whereby courts are provided with an appropriate private space in which children and adolescents can say goodbye to family members who are being deprived of their liberty.

## C. Civil rights and freedoms (arts. 7, 8 and 13–17)

### Freedom of peaceful assembly and association

55. The Carabineros are updating their operations manual on the maintenance and restoration of public order. The manual includes a chapter on police procedures for dealings involving children and adolescents whose rights have been violated and/or who have broken the law. It refers to the best interests of the child, the presumption of minority, the use of force, the identification of injuries, prohibitions related to searches performed on adolescents deprived of their liberty and on the custody of such adolescents, the right to family contact, the principle of separation of different types of inmates, the right to effective communication in accordance with certain needs and coordination with the National Institute of Human Rights and the Office of the Children's Ombudsman, respectively.

56. The Carabineros have conducted a series of training sessions on maintaining public order and engaging with protesters in the context of the crisis of October 2019. Courses on maintaining public order are also held to retrain the members of units responsible for this task and improve their practices. A course on the application of human rights principles to police work was also held for Carabineros instructors. The participants in the course included representatives of the Office of the Undersecretary for Human Rights, the Observatory for

<sup>22</sup> SENAME. Exempt Resolution No. 3662, 15 December 2014.

<sup>23</sup> <https://www.sename.cl/web/index.php/consejo-asesor-de-ninos-ninas-y-adolescentes/>.

<sup>24</sup> <http://www.cecrea.cl/>.

<sup>25</sup> <http://www.cecrea.cl/informes-escuchas-creativas/>.

Citizen Participation and Non-Discrimination of the Office of the Minister and Secretary-General of Government, the National Service for Women and Gender Equity and the Chilean Red Cross.

57. The Investigative Police Force reports that the following institutional regulations govern the development and practical application of police protocols and procedures regarding the detention of children and adolescents, excessive use of force and sexual harassment: General Order No. 2.615/2019 (approval of the handbook governing the use of force by the Investigative Police Force); General Order No. 2647/2020 (approval of police procedures for the investigation of the offence of torture, unlawful coercion or other cruel, inhuman, degrading and unjust ill-treatment); Circular No. 4/2016 (instructions for institutional staff on the performance of identity checks and the establishment of a new legal concept termed “preventive identity checks”); and Circular No. 7/2019 (clarification and instructions for institutional staff on the legal provisions applicable to abuse, harassment at work and sexual harassment in general).

#### **D. Violence against children (arts. 19, 24 (3), 28 (2), 34, 37 (a) and 39)**

##### **Torture and other cruel or degrading treatment or punishment**

58. With regard to the human, financial and technical resources that the Public Prosecution Service has rolled out for use in investigating offences of institutional violence, the Attorney General, by Decision No. 2078 of October 2017, expanded the mandate of the former Special Unit on Sexual Offences and Domestic Violence to include issues relating to human rights and gender-based violence. The new section of the Unit supports prosecutors in the investigation of violent offences committed by public officials.

59. In January 2019, within the framework of Act No. 20.968, which defines the offence of torture and other cruel, inhuman or degrading treatment, the Attorney General issued General Instruction No. 37 of January 2019. This instruction sets out guidelines for prosecutors to follow when investigating torture and other cruel, inhuman and degrading treatment or punishment, as well as other forms of institutional violence.

60. The increase in the number of investigations into institutional violence from October 2019 onward has exacerbated existing investigative difficulties and uncovered problems that had not been identified before that time. In response to this situation, the Public Prosecution Service has designated prosecutors who are to focus primarily on human rights issues in the regional attorney general’s offices of Metropolitana Sur, Metropolitana Occidente, Metropolitana Centro Norte, Arica y Parinacota, Antofagasta, Atacama, Coquimbo, O’Higgins, Biobío, Araucanía, Los Lagos and Los Ríos. The Service has also designated regional attorney general’s offices and human rights teams to devote appropriate attention to all such cases while prioritizing the most serious ones and has arranged for ongoing coordination meetings to be held between the specialized human rights unit of the Attorney General’s Office and the regional human rights teams. In addition, it has arranged for reports, minutes and guidelines, among other documents, to be prepared by the specialized human rights unit of the Attorney General’s Office.

61. Human rights instructors provide ongoing training to members of the Carabineros police force on protection against torture and cruel, inhuman or degrading treatment in accordance with a national training plan. In 2016 the Carabineros introduced a standardized national training plan on policing techniques related to the use of force and firearms; those techniques are designed to uphold human rights and are based on the Carabineros handbook on police procedures. That plan was implemented until the first half of 2019, at which point a new training regime was put in place. The new regime was established pursuant to General Order No. 2.675, which instituted a new national human rights training programme (Order No. 83 of the Carabineros Staff Directorate) that includes a module on human rights and vulnerable groups.

62. According to the Special Unit on Human Rights, Gender-based Violence and Sexual Offences of the Attorney General’s Office, there were a total of 1,362 child and adolescent victims of institutional violence during public protests, including the demonstrations of

October 2019, between 18 October 2019 and 31 March 2020. That figure amounts to 15 per cent of all such victims registered with the Prosecution Support System.

63. The Human Rights Brigade of the Investigative Police Force is based in the Metropolitan Region. To date, this brigade has conducted 1,342 investigations in connection with the public protests of October 2019. A total of 212 of the victims involved in those cases are children or adolescents.

64. The judiciary has conducted a review of cases involving unlawful coercion and torture in which at least one victim was under 18 years of age at the time that the case was filed. Cases filed between 1 January 2015 and 30 August 2020 were considered.<sup>26</sup> With regard to the number of cases filed per year, an analysis of 118 cases indicates that unlawful coercion by public officials was the most frequent offence cited. The number of cases involving this offence began to increase in 2018, accounting for over 70 per cent of the total number of cases filed. Most of these cases are still under way, while 49 have been discontinued. The most common grounds for discontinuance have been that insufficient evidence had been gathered, followed by the dismissal of the case and lack of jurisdiction. A total of 143 persons were charged with these offences, only 1 of whom was convicted of unlawful coercion (Criminal Code, art. 150 E (2)).

65. With regard to the violence in La Araucanía, the attorney general's office for that region has set up a unit to investigate offences affecting rights guaranteed by the Constitution.<sup>27</sup> That unit reports to the Prosecutor's Office for Highly Complex Cases of La Araucanía and has jurisdiction over the entire region. It specializes in investigating criminal acts that directly violate fundamental rights which have been committed by public officials in the exercise of their duties and/or private individuals undertaking public duties.

66. The Carabineros have indigenous community patrols that provide preventive police services and that work with their communities to establish security measures that take account of community members' social and cultural identities and needs. FonoDenuncia is a service that allows people to remain anonymous when making complaints or reporting criminal acts involving public officials.

### **Freedom of the child from all forms of violence**

#### *(a) Prohibiting punishment and raising awareness of positive parenting techniques*

67. Act No. 21.013 of 6 June 2017, which defines certain types of abuse as a new offence, provides greater protection for persons in special situations. 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 duty of care or protection for a child or adolescent 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, older persons or persons with disabilities.

68. The "Chile Grows with You" subsystem is intended to raise awareness of the harmful effects of punishment and the benefits of positive forms of parenting and education. The components of the subsystem include the following: a website;<sup>28</sup> Fonoinfancia, which offers free telephone support for parents; the "Nobody Is Perfect" programme, which serves 4,255 children and helps persons caring for children aged 5 years or under to develop childcare skills; the "Triple P Positive Parenting" programme, which has assisted 22,964 children in 25 communes by providing parents with tools proven to be effective in 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 their carers in special settings devoted to the development of respectful parenting practices and positive social parenting (25 *HEPI Crianza* rooms).

<sup>26</sup> Case management systems do not record the offences associated with each victim. Instead, they record all the offences associated with each case and with the accused.

<sup>27</sup> Official Communications No. 339B/2017 and No. 301/2018.

<sup>28</sup> <http://www.crececontigo.gob.cl/>.

69. In 2021, the National Preschool Board is updating its protocols to reflect the instructions issued by the Office of the Superintendent of Education and the accumulated experience of the relevant institutions. It has one protocol for dealing with ill-treatment that may constitute an offence and another for dealing with ill-treatment of children that does not. On the basis of these protocols, it takes steps to put a stop to the situation and ensure the protection of the children concerned.

70. Since 2017, the National Preschool Board has had a policy on supportive environments that has given rise to the development of institutional measures to prevent child abuse and promote positive forms of parenting.

71. The Ministry of Education has established a plan to foster harmony in schools and promote social and emotional learning. This strategy is intended to strengthen the comprehensive education of students and support their personal, emotional and social development by equipping educational communities (parents, teachers and students) with social and emotional learning tools.<sup>29</sup>

(b) *Comprehensive strategies for preventing all forms of violence*

72. In response to a number of incidents of the sexual abuse of children and adolescents, Act No. 21.160 of 18 July 2019 was adopted to establish that sexual offences committed against persons under 18 years of age are not time-barred. The previous law provided for the application of a statute of limitations of between 5 and 10 years after the victim had reached the age of majority.

73. The local children's offices that are currently being piloted are local administrative bodies tasked with the performance of protective functions as part of a new institutional structure for children and adolescents. These offices work to promote and protect children's rights and to prevent those rights from being violated.

74. In April 2019, as part of the Action Plan, the Office of the Undersecretary for Children established the Committee for the Prevention and Eradication of Violence against Children as an intersectoral body responsible for institutional coordination in this area. Around 20 institutions participate in this initiative. A follow-up and review of the measures taken under the Action Plan have been carried out and, in 2020, UNICEF drew up a workplan for the coming years for the Committee's approval.

75. The Ministry of Education and its agencies maintain standing policies and instruments for addressing violence in the education system, gender-based violence and domestic violence.

(c) *Database on forms of violence*

76. The Office of the Undersecretary for Crime Prevention maintains the Unified Data Bank (BUD), which is a computer platform that enables the Public Prosecution Service, the Carabineros, the Investigative Police Force, the Prison Service, SENAME, the Civil Registration and Identification Service, the Ministry of Justice, the judiciary and the Ministry of the Interior and Public Security to exchange information online. This tool is used for the monitoring and development of public policies on situations of violence involving children and adolescents. The information stored in the data bank is disaggregated by offence, age, sex, ethnic group, nationality, socioeconomic status and geographical area.

77. The Office of the Undersecretary for Crime Prevention conducted the third national survey on domestic violence against women and sexual offences in 2016–2017 and the fourth survey on violence against women in the home and elsewhere in December 2019 and March 2020. Both surveys were targeted at girls and women aged 15 years or older residing in urban areas of the country's 16 regions.<sup>30</sup> In 2017, the Office conducted the first survey on the

<sup>29</sup> <http://convivenciaescolar.mineduc.cl/plan-nacional-convivencia-escolar-y-aprendizaje-socioemocional/>.

<sup>30</sup> <http://cead.spd.gov.cl/estudios-y-encuestas/>.

polyvictimization of children and adolescents in order to determine the extent of their exposure to violence and polyvictimization at the regional and national levels.<sup>31</sup>

(d) *Therapeutic services and support for child victims of violence, abuse and neglect*

78. In 2018, national authorities worked with UNICEF to redesign non-residential services and establish new technical guidelines for specialized and residential protection programmes with a focus on the therapeutic effect of family and individual interventions. Residential projects have been strengthened with the addition of specialized protection programmes staffed by mental health professionals (psychologists, occupational therapists and nurses) to support the rehabilitation of children and adolescents.

79. The joint efforts of SENAME and the Ministry of Health focus on the need for specialized care for children and adolescents in the network, with priority being given to non-residential and hospital care. Since the fourth quarter of 2017, SENAME has been allocating resources for the exceptional emergency provision of personalized, specialist care to children in residential institutions when public health services are unable to provide the necessary mental or physical health care. Between the fourth quarter of 2017 and the second quarter of 2020, total spending on these emergency treatment plans amounted to US\$ 2.4 million, spread across 125 cases.

(e) *Measures taken to address violence committed by criminal groups*

80. The Carabineros have implemented the “Studying without Drugs” plan in response to violence by drug trafficking organizations aimed at children and adolescents. The purpose of the plan is to combat small-scale trafficking in the schools most exposed to this scourge, thereby facilitating the work of other State agencies involved in prevention (the National Service for Prevention of Drug and Alcohol Use and Rehabilitation of Users and SENAME).

81. In 2016 and 2017, the technical guidelines for all non-custodial programmes were updated and comprehensive methodological frameworks were established for dealing with juvenile offenders in accordance with the Act on Adolescent Criminal Responsibility.

82. Drug trafficking is a risk factor associated with trafficking in persons. The Office of the Undersecretary of the Interior serves as the Executive Secretariat of the Intersectoral Panel on Trafficking in Persons, a standing intersectoral advisory committee that coordinates efforts to prevent this offence, protect the victims and punish the perpetrators.

**Harmful practices**

83. Circular No. 18 of 22 December 2015 of the Ministry of Health contains instructions on certain aspects of health care for intersex children and draws attention to their rights and the recommendations of the World Health Organization and the Committee. In this regard, it includes a directive for the cessation of any unnecessary treatment for the purpose of “normalizing” such children, including irreversible genital surgery, until they are old enough to make their own decisions about their bodies. Furthermore, each health service is instructed to set up a working group to review and analyse such cases.

**E. Family environment and alternative care (arts. 5, 9–11, 18 (1) and (2), 20, 21, 25 and 27 (4))**

**Family environment**

(a) *Parental responsibilities*

84. Under the education programme of the “Chile Grows with You” subsystem, nationwide efforts are being made to raise awareness of the need for parenting responsibilities to be shared. These activities involve publishing content on Facebook, YouTube and the organization’s website and radio broadcasts.

<sup>31</sup> <http://cead.spd.gov.cl/estudios-y-encuestas/>.

85. The longitudinal survey on early childhood<sup>32</sup> has provided information on the distribution of childcare responsibilities between parents and with other adults. This survey was conducted in 2010, 2012 and 2017 and is to be conducted again in 2022. The survey results shed light on gaps in care and serve as a guide for the development of public policies to address those shortcomings.

86. The Ministry for Women and Gender Equity carries out a series of annual awareness-raising campaigns on the importance of mothers' and fathers' assuming joint responsibility for domestic and care work.

87. Under the Good Labour Practices and Gender Equity Programme, steps are taken to raise corporate teams' awareness of gender stereotypes, violence against women in the workplace and the importance of promoting shared responsibility within the workplace and extending that practice to the family setting.

(b) *Labour policies and regulations to promote a better balance between professional and private life*

88. Act No. 21.220 of 26 March 2020, amending the provisions of the Labour Code that relate to telecommuting, provides for a new approach based on agreements between employers and employees under which the latter can work remotely, allowing parents to carry out their work without neglecting their childcare and family responsibilities.

89. The purpose of Act No. 21.129 of 17 January 2019 is to reinforce the rights of female officers of the armed forces and the forces responsible for maintaining public order and security by establishing their entitlement to maternity leave. In April 2019, Act No. 21.155, establishing measures to protect breastfeeding, was enacted.

(c) *Family support services*

90. The Security and Opportunities subsystem enables 45,000 new families to join the Families Programme every year. It currently assists 352,646 people, 43.6 per cent of whom are children or adolescents.

91. Every year, the Pathways (*Abriendo Caminos*) Programme provides support to 2,500 new children and adolescents whose close family members include an adult deprived of his or her liberty. It is implemented in 37 territories in the country's 16 regions.

92. The purpose of the Mental Health Care Support Programme is to provide mental health care to children and adolescents who have untreated mental health conditions and their carers. It is implemented in centres of the public health network and is targeted at children and adolescents whose close family members include an adult deprived of his or her liberty. The programme is active in eight of the communes in the Metropolitan Region, which also provide technical assistance in coordination with the Ministry of Health.

93. Within the framework of the "Chile Grows with You" subsystem, the budgets and coverage of the following programmes have been increased since 2015: the Biological and Psychosocial Development Support Programme, whose budget has risen from US\$ 24.5 million in 2015 to US\$ 28.4 million in 2020; the Newborn Support Programme, whose budget has risen from US\$ 19.1 million to US\$ 22 million; the Child Development Assistance Fund, whose budget has risen from US\$ 3.5 million to US\$ 5.8 million, and the Child Mental Health Programme, whose budget has risen from US\$ 0.6 million in 2016 to US\$ 4.6 million in 2020.

(d) *Support for parents while their children are in alternative care*

94. Improvements have been made to the SENAME alternative care programmes. For instance, an additional US\$ 9.2 million per year is being provided to ensure that a programme for the restoration of family ties can be set up for each child placed in a residence or with a foster family. Furthermore, the resources allocated to residential centres have been increased by 75 per cent (100 per cent in 2021) in order to improve measures to strengthen bonds

<sup>32</sup> <http://observatorio.ministeriodesarrollosocial.gob.cl/elpi-tercera-ronda>.

between children and their families. The redesigned versions of these programmes allow for closer and more frequent engagement with families.

95. In 2020, in view of the key role that housing plays in reuniting families, the Ministry of Housing and Town Planning, the Ministry of Justice, SENAME, the Ministry of Social Development and the Family, and the Office of the Undersecretary for Children signed a cooperation agreement to facilitate access to housing for family members or guardians who are personally responsible for the care of children and adolescents in residences run by SENAME. The agreement also covers young persons in SENAME residences who are transitioning to independent living, young persons serving custodial sentences who are preparing to re-enter society and families and/or pregnant women participating in the “Chile Grows with You” subsystem who are facing critical housing problems. The agreement will be effective as of 2021.

### **Children deprived of a family environment**

#### *(a) Safeguards, approaches and monitoring in alternative care*

96. In 2014, the Supreme Court issued Decision No. 37-2014, establishing monitoring mechanisms that are registered and certified by family court judges as part of a periodic review of the protection afforded to children. Since April 2018, coordinated technical teams of psychological, legal and social and/or psychosocial professionals have been assisting the judiciary in the country’s courts of appeal. The teams work in coordination with various networks to ensure compliance with the protection measures issued by the courts.

97. In order to improve alternative care programmes, the authorities are considering the introduction of new residential designs for directly managed units and units managed by partner agencies that do not have sufficient care coverage or staffing levels to provide personalized, specialized care. The designs in question would be tailored to the age of the children concerned and based on technical guidelines and quality standards. Consideration is also being given to the introduction of enhanced alternative family care arrangements based on improved technical guidelines and expanded coverage.

98. In 2018, SENAME began to improve its technical supervision guidelines and tools. Since 1 January 2019, the national database of SENAME has had an oversight module that allows information on the quality and performance of the Service’s centres and projects to be processed in a more timely manner. In 2020, after a review of the lessons learned, the technical supervision guidelines and the associated instruments were updated to include rubrics for use in the evaluation process. This process is currently being implemented in accordance with Exempt Resolution No. 4751 of 31 December 2019.

#### *(b) Promoting foster homes as a form of alternative care*

99. The judicial branch reports that the number of cases in which children have been institutionalized has fallen while the number of children and adolescents admitted to foster family programmes has increased. In 2016, 7,094 protection measures involving institutionalization were ordered while only 5,196 were ordered in 2019. Furthermore, the number of children and adolescents placed with foster families rose from 6,161 in 2016 to 7,934 in 2020.

100. The National Compact for Children includes measures to strengthen foster care. From 2015 to 2018, the design and implementation of alternative family care services were strengthened by converting all basic family foster care services into better-funded specialized services. In 2015, a foster family programme directly managed by SENAME was launched as part of a plan to deinstitutionalize care, particularly for children aged 3 years and under. In April 2019, the technical guidelines applicable to the foster family programmes were updated to provide for greater specialization in accordance with Act No. 21.140. The greatest rise in the number of cases was for children aged 3 years and under (51 per cent between 2015 and 2019). The funding granted to foster care projects implemented by partner agencies



has risen from 6.7 SENAME subsidy units<sup>33</sup> in 2013 to 9.3 such units at present. The State and civil society are partnering to strengthen foster care with the help of technical committees composed of experts and programme providers. The UNICEF study on improving foster care was also used as a resource.

(c) *Preventing deaths and abuse of children in alternative care*

101. In order to comply with the Committee's recommendations, Supreme Court Decision No. 1251-2018 of 27 March 2019 approved the implementation of measures to ensure the appointment of guardians ad litem, the strengthening of the oversight bodies responsible for monitoring compliance with protection measures and supervising foster family programmes, and the selective assignment of judges, technical advisers and officials to complex cases. An integrated system for coordinating and documenting the work of the authorities responsible for these areas has also been implemented. In addition, computer systems and administrative coordination and registration systems have been improved. Management policies to enforce the rights of children and adolescents have been developed, and the impact of the Gesell Chambers project, among others, has been assessed.

102. SENAME has improved the procedures, regulations and protocols on child protection that apply when a child in the residential system or in foster care is found to have been the victim of an offence. In this connection, the instructions contained in Circulars No. 5 and No. 6 of 6 August 2019 are in force.

103. Technical standards for the prevention and comprehensive treatment of emotional and behavioural maladjustment in children and adolescents in alternative residential care in crisis situations and the promotion of their welfare were issued on 15 April 2019. These standards have been approved by the Ministry of Health, SENAME and the Ministry of Justice. The National Director of SENAME issued memorandum No. 211 of 2019 to render null and void any instructions that might run counter to these standards.

104. The improvements made to alternative care arrangements strengthen support and intervention mechanisms at the individual, family and network levels, establishing requirements intended to protect, safeguard and guarantee the rights of children in residential care, irrespective of which agency is responsible for its management. With regard to the closure of the centres directly administered by SENAME and the establishment of family residences, 12 directly administered family residences have been established for adolescents (4 in the Valparaíso Region, 1 in the Aysén Region, 3 in the Metropolitan Region, 2 in the Arica y Parinacota Region and 2 in the Biobío Region). The residences are segregated by the sex of the residents and provide care for 15 persons each.

(d) *Cases of abuse of children deprived of a family environment*

105. The events that occurred on 11 April 2016 in the Galvarino Residential Centre gave rise to grave concern and an ample discussion about violations of the rights of children and adolescents in State custody. The Attorney General has appointed two regional prosecutors who have been granted national jurisdiction to act as investigators, one responsible for investigating the deaths and the other responsible for investigating the offences against the sexual integrity of these children and adolescents.

106. Case No. 1600360790-2 concerns the investigation into the deaths and acts of coercion. On 11 April 2016, acts related to the offence of unlawful coercion (under the version of article 150 A (4) of the Criminal Code that was in force at the time) were allegedly committed by four persons within the Galvarino Residential Centre. The deaths resulting from the abuse perpetrated by public officials of SENAME are punishable as violations of this article. The other acts amount to unlawful coercion that did not result in death, in connection with which four defendants are accused of seven different acts. The oral hearing was scheduled to begin on 17 August 2020 at the Fourth Criminal Court of Santiago and was expected to last around 180 days. On 26 September 2019, in case No. 1301059137-0, the court ordered the conditional suspension of the proceedings against the defendants for a

<sup>33</sup> The subsidy unit (USS) used by SENAME is the monetary unit equivalent in which the Service's contributions to partner agencies are expressed. In 2020, the subsidy unit was equivalent to US\$ 24.

period of 18 months. On 17 October 2019, in case No. 1700395551-6, the court ordered the conditional suspension of the proceedings against the defendant, who is charged with negligent homicide, for a period of one year. In case No. 1501249765-K, a reparatory agreement was reached, against the wishes of the Public Prosecution Service, as the court considered that the case did not involve any overriding public interest. The settlement involves providing compensation to the family. On 10 June 2019, the proceedings related to count No. 1 of case No. 1610021080-4, brought against the defendants for negligent homicide, were conditionally suspended for a period of 18 months. With regard to count No. 2, the defendant was given a sentence of 41 days' imprisonment, in the maximum degree, with the accessory penalty of suspension from public office for the duration of the sentence and a fine of 4 monthly tax units for the offence of submitting false documents to the court.

107. Pursuant to Decision No. 2375 of 14 December 2016, the Regional Prosecutor for the Western Metropolitan Area was appointed to oversee specified criminal investigations in the Metropolitan and Maule regions into violations of the sexual integrity of children and adolescents in the care of SENAME and its partner agencies. Pursuant to Decision No. 220 of 27 January 2017, the competence of the Regional Prosecutor for the Western Metropolitan Area was restricted to overseeing criminal investigations into events that have occurred since 2013 relating to cases involving the commercial sexual exploitation of children and adolescents in which the victim is or has been in the care of SENAME and offences involving violations of the sexual integrity of children and adolescents who are, or have been, in the care of SENAME in which the accused parties include one or more staff members of the Service or its residential partners.

108. Pursuant to Decision No. 958/2020, the competence of the Regional Prosecutor for the Western Metropolitan Area was restricted to overseeing criminal investigations into acts that may constitute offences against the sexual freedom or integrity of children and adolescents in the context of commercial sexual exploitation and that have been committed in the Metropolitan Region since 1 January 2015 (provided that the offences do not involve trafficking in persons). Decision No. 958/2020 also establishes the duty to report all cases involving offences against the sexual integrity of children and adolescents who are, or have been, in the care of SENAME or its partners to the Special Unit for Human Rights, Gender-based Violence and Sexual Offences of the Attorney General's Office so that a record of such cases may be kept.

109. Since the assignment of these investigations into the above-mentioned offences, about 100 complaints of such offences have been filed, 27 of which were still pending as at 1 June 2020. Of the total number of complaints received as at 11 May 2020, 69 were related to cases involving the commercial sexual exploitation of children and adolescents, 27 were related to sexual offences committed by staff of SENAME or its partners and 1 was related to a complaint made by women senators. In 2019 and early 2020, the courts conducted three oral hearings and four summary proceedings in connection with the investigations. In four cases, a decision was taken not to proceed owing to the lack of evidence, while in two cases the conditional suspension of the proceedings was ordered.

110. With regard to the obligation to report offences committed by staff of SENAME, in 2018 a number of women senators submitted an official letter to report degrading treatment of a vulnerable person under article 403 ter of the Criminal Code, a violation of article 361 of the Criminal Code and failure to report, under article 494 of the Criminal Code. In case No. 1800720017-6, investigations were conducted into the failure to report offences allegedly committed from January 2016 to April 2018. It was established that 49 out of 59 cases involving a criminal offence were reported in a timely manner while, in 10 cases, the complaint was not forwarded owing to a lack of understanding of the criminal nature of the cases or simply to a failure to comply with the obligation. These 10 omissions constitute criminal offences, but the corresponding legal action is time-barred. However, the offences that should have been reported were referred to the respective local prosecutor's offices for their consideration.

(e) *Resources for the child protection system*

111. The purpose of Act No. 21.140 is to ensure that priority action is taken to address the long-standing lack of resources for the care of children and adolescents in the protection

system and to enforce regulations on oversight and transparency. In this connection, the basic subsidy for partner agencies that operate as residential centres is being increased. The basic subsidy grant for such residences was increased by 100 per cent from its 2018 level of 15 subsidy units to 30 subsidy units on 1 January 2021.

112. In 2018, the authorities began the process of closing the 11 directly managed residential centres and replacing them with family residences based on a model that is intended to provide personalized care to children and adolescents that will entail increased levels of specialization and more effective opportunities for them to exercise their rights. Family residences have the capacity to care for a maximum of 15 children and adolescents and have better staff-to-child ratios and improved induction and team training processes. As of August 2020, 12 family residences have replaced 4 directly managed residential centres (Arica, Playa Ancha, Galvarino and Nuevo Amanecer). Another two new family residences have opened in Magallanes and Aysén. In 2021, the 4 remaining directly managed residential centres for adolescents are scheduled to close and be converted into 15 family residences, while 3 halfway houses and 3 foster family recruitment programmes will be established to replace the 3 directly managed residential centres for infants. These latter changes, together with an increase in the number of foster family programmes, constitute a model for a phased increase in the availability of families to care for infants and preschool children.

113. A highly specialized residency model has been introduced in the Metropolitan Region to promote the psychological and emotional well-being of children and adolescents who are discharged from a psychiatric intensive care hospital unit and require comprehensive care, specialized mental health treatment and intensive rehabilitation for a maximum period of six months.

114. The new institutional framework has been strengthened by the establishment of the Specialized Protection Service under Act No. 21.302.

(f) *Adequate redress for child victims of institutional abuse*

115. The National Compact for Children is founded on a recognition by the State and society that Chile has failed to protect its children and adolescents and that they are owed an apology. This recognition has been a springboard for efforts to strengthen measures of redress, and 57 such measures are contained in the section of the Compact that deals with the protection and restitution of rights. These measures, many of which are described in the present report, are aimed at protecting children's dignity and restoring their rights. Progress in this area is subject to ongoing monitoring<sup>34</sup> and can be grouped into the four areas of legal, judicial, administrative and symbolic redress. The last of these types of measures is currently being developed and will reflect the views of victims.

(g) *Children with disabilities in alternative care*

116. Children and adolescents with disabilities who are in alternative care live in residences managed by SENAME or its partner agencies in keeping with their status as minors and in accordance with applicable laws. The National Service for Persons with Disabilities (SENADIS) is empowered to coordinate the actions taken and social benefits allocated by the different State agencies that promote equal opportunities and social inclusion for persons with disabilities. In this connection, action on specific cases has been coordinated with SENAME, the "My Lawyer" programme and the Access to Justice Programme. In accordance with the Government's platform for 2018–2022, formal bodies must be established to conduct intersectoral coordination with State agencies that have responsibilities relating to sheltered residences and homes (i.e. SENAME, the National Service for Older Persons, SENADIS and the Ministry of Health) with a view to reviewing the available programmes, incorporating the disability variable into existing subsidies and establishing any new subsidies that are required.

<sup>34</sup> <https://www.losninosprimero.gob.cl/>.

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

117. SENADIS has drawn up the National Classification and Certification Plan for the collection of data on the situation of children with disabilities. The purpose of that plan is to reduce the coverage gaps in the National Disability Register so that more detailed information on this group will be available.

118. SENADIS works with the country's Health Services to offer programmes for children with disabilities. During the period 2016–2019, a programme to strengthen community rehabilitation centres funded 24 projects for children and adolescents in 12 regions, with an investment of US\$ 0.6 million. The strategy involves the establishment of new facilities to deliver rehabilitation services for children and adolescents and expansion of the services of adult rehabilitation mechanisms so that they will be able to work with persons under 18 years of age as well. In all, 21 facilities provide physical rehabilitation services and 3 provide services for persons with mental disabilities.

119. The Early Care Programme serves children aged up to 6 years with disabilities or developmental delays who attend nursery school and who are entitled to State subsidies or funding. It provides professional advisory services for educational teams, coordination of intersectoral activities and support for families in targeted preschools. The programme covered 193 preschools in 2015, 247 in 2016, 287 in 2017, 253 in 2018 and 256 in 2019. In 2019, SENADIS awarded a tender for the evaluation of the programme and, based on the results, made adjustments with a view to meeting its established objectives. Accordingly, as of 2020, local support units were being set up to promote inclusion. These units will serve as a technical model for disability and diversity support efforts.

120. During the period 2016–2020, 5,935 assistive devices were delivered to children and adolescents with disabilities under the Technical Assistance Programme.

121. Up until 2019, the National Challenge Fund for the Educational Inclusion of Students with Disabilities provided funding for projects, at all levels and in all types of education, aimed at reducing contextual barriers through the provision of assistive devices, technological resources and support services. In addition, resources were awarded for making physical adaptations to improve accessibility, training teachers in the Universal Design for Learning framework and hiring specialists. Eighty-three initiatives were funded for a total of US\$ 0.7 million. In 2020, due to the pandemic, the focus was on special education schools, with funding provided for technological support (adaptive keyboards, notebooks, tablets, software and mice) to enable distance learning. Schools were also required to provide psychological support classes and workshops.

122. In 2018, an agreement was signed with the Faculty of Medicine of the University of Chile to train primary health-care teams in 16 regions in the provision of comprehensive guidance on sexuality with a view to improving sexual and reproductive health care and access for persons with disabilities within the framework of a rights-based approach.

123. Regarding the prohibition of sterilization of children with disabilities without their consent, the Ministry of Health, by Circular No. A15/05 of 6 March 2018 on surgical sterilization for contraceptive purposes in persons with mental disabilities who cannot express their wishes, established the criteria and requirements for the procedure. The Circular states that sterilization must not be performed as a contraceptive method against the wishes or preference of the person or if the person cannot express his or her wishes or preference. The procedure is subject to the requirements that the person has reached the age of majority and that the request is not motivated by the goal of preventing a potential pregnancy due to sexual abuse or rape, especially if the person is not sexually active.

## **G. Basic health and welfare (arts. 6, 18 (3), 24, 26, 27 (1)–(3) and 33)**

### **Health, mental health and health services**

124. Health check-ups are provided to all children up to 9 years of age in order to monitor their growth and development and detect risk factors. The aim is to promote healthy lifestyles,

prevent diseases and accidents, and permit the early detection of situations that may negatively affect children's health and development.

125. For the 10–19 age group, advocacy and preventive work has been strengthened through the Adolescent-friendly Health Programme. The aim of the programme is to promote adolescents' integral development by strengthening protective factors and behaviours, identifying health risks and problems, and encouraging participation. It encompasses comprehensive health check-ups (with or without an appointment), counselling, self-care and sexual and reproductive health services, fertility regulation, motivational interventions to prevent substance abuse and other high-risk behaviours, mental health consultations, community work and linkages with schools. There are 364 adolescent-friendly health facilities throughout the country. In 2019, substance abuse screening was incorporated into comprehensive adolescent health check-ups, and recommendations for health professionals<sup>35</sup> were prepared with a view to preventing gender-based violence and cyberbullying among adolescents and young people.<sup>36</sup> In 2020, seven Health Services organized parenting skills workshops on a pilot basis for families of adolescents aged between 10 and 14 years.

126. A mental health programme for children aged 5 to 9 years is being implemented as part of the "Chile Grows with You" subsystem, reinforcing existing primary mental health-care services for this group. Measure No. 24 of the National Compact for Children commits to progressively increasing the nationwide coverage of this programme. In 2020 it was extended to a further 38 communes, taking the total number of communes covered by this initiative to 78.

127. A pilot scheme on preventive primary mental health care was implemented in 2020 with a view to contributing to the early detection and diagnosis of mental disorders, suicide risk and other risk factors and to the provision of comprehensive health care to people with mental disorders between 6 months and 59 years of age. The detection of mental disorders in primary health-care settings is a secondary prevention strategy which consists in the use of cost-effective brief screening instruments for high-risk groups. This strategy makes it possible to administer early treatments that can reduce the use of medications for these patients.

128. The Primary Psychosocial Support Programme works to reduce access and prevention gaps in specific communities in line with a comprehensive family- and community-based health-care model. The programme is aimed at people up to 24 years of age and their families who are in situations of high psychosocial risk and who have difficulties in accessing and following regular primary health-care routines. About 20,000 people are attended to every year through approximately 200,000 home visits and 467,000 telephone consultations. In 2020, the programme was implemented in 543 primary health facilities (family health centres, community hospitals, rural health posts and family health community centres) in 189 communes in all 29 of the country's health service districts.

129. In order to address the issues of malnutrition and obesity, the following legislative steps have been taken: Act No. 20.606 of 6 July 2012 on the Nutritional Composition of Food and Food Advertising; Act No. 20.869 of 13 November 2015 on Food Advertising, supplementing Act No. 20.606 and regulating the advertising of breast-milk substitutes; an increase in the tax on sugary drinks as part of the tax reform package; and Act No. 20.670 of 31 May 2013 on the establishment of the "Choose Healthy Living" (*Elige Vivir Sano*) system. These legislative measures are intended to protect the health of Chileans, especially children and adolescents, with the long-term goal being to reduce child obesity. The policies, plans and programmes that make up the Choose Healthy Living system are evaluated annually and approved by decree. In 2020, the system was composed of 40 policies, plans and programmes, 19 of which are available to the public on an ongoing basis, while the other 21 form part of a zero-obesity strategy that is designed to halt the rise in obesity among the country's children and adolescents by 2030. The Choose Healthy Living Observatory was established to monitor

<sup>35</sup> <https://diprece.minsal.cl/campana-grafica-para-prevenir-la-violencia-en-las-relaciones-de-pareja-en-adolescentes-y-jovenes/>.

<sup>36</sup> <https://diprece.minsal.cl/subsecretaria-de-salud-publica-crea-mesa-de-trabajo-para-abordar-la-problematica-del-ciberbullying-entre-los-ninos-ninas-y-adolescentes/> and <https://twitter.com/pdazan/status/1106318500430315520>.

the behaviours and habits of the population that pose a health risk and to implement the evaluation system for Choose Healthy Living policies, plans and programmes.

130. The National School Support and Scholarships Board is implementing the Counterweight (*Contrapeso*) Plan against Student Obesity for children and adolescents within the framework of the Choose Healthy Living system. The plan includes 50 specific measures corresponding to the institution's major programmatic areas (food, logistics, health and scholarships) which are being applied in all State-run schools by the Ministry of Education, the Ministry of Health, the Ministry of Sport and the Ministry of Social Development and the Family. The aim is for children and adolescents to adopt healthy eating habits and engage in physical activity on a regular basis.

131. In 2015, the National Service for Drug and Alcohol Use Prevention and Rehabilitation (SENDA) launched a treatment programme for children and adolescents suffering from alcohol and other drug problems<sup>37</sup> who are not eligible for existing substance abuse treatment programmes for persons under 20 years of age and for the general population. The programme prioritizes children and adolescents who are under the protection of SENAME and is implemented by public and private centres in 15 regions (all except Ñuble Region). It is free of charge and includes examinations and medication if applicable, counselling and training. SENDA and the Ministry of Health monitor and continuously evaluate these treatment programmes.

132. Since 2017, SENDA, the Ministry of Health, SENAME and the Ministry of Justice and Human Rights have been working together to phase in a comprehensive intersectoral health system with a focus on the mental health of children and young people whose rights have been violated and/or who are subject to the Act on Juvenile Criminal Responsibility. A structural strategy is in place to provide a timely, comprehensive and high-quality response to these children's and adolescents' health needs. This issue is also addressed under the National Compact for Children and in the "Comprehensive Health and Well-being" strategic area of the National Policy for Children and Adolescents 2015–2025 and its accompanying Action Plan.

133. Under the Action Plan, SENDA is committed to improving access to treatment for adolescents with alcohol and other drug abuse problems and to contributing to their social integration through skills-building strategies. In recent years, treatment options for adolescents have gradually increased, and since 2020 a treatment programme for street children and children in the SENAME network is being piloted in coordination with the Ministry of Social Development and the Family.

134. Since the environmental pollution event that occurred in 2018, the Ministry of Health has taken various measures to protect the health of children and adolescents and specifically those living in Quintero and Puchuncaví. The staffing of different departments at Quintero Hospital has been increased; a strategy has been designed and implemented for dealing with health-care contingencies based on standby mobile multidisciplinary health teams trained in dealing with emergencies; training has been provided to health personnel in environmental health issues with a focus on primary health care; a tender<sup>38</sup> was issued for a study to be conducted on the health situation of the inhabitants of Puchuncaví, Quintero and Concón and associated health determinants in 2021; and an advisory working group on public health measures for the communes of Concón, Puchuncaví and Quintero has been set up.

135. While the thermoelectric power plants in the area of Concón, Quintero and Puchuncaví were complying with emission standards, in 2018 the sulfur dioxide standard was reviewed and the Ministry of Environmental Affairs issued Supreme Decree No. 104/2018 introducing a more stringent annual, daily and – for the first time – hourly emission standard for this pollutant. The Government has also published a decarbonization plan under which Units 1 and 2 of the Ventanas thermoelectric plant, operated by AES Gener, will be

<sup>37</sup> [http://www.bibliodrogas.gob.cl/biblioteca/documentos/TRATAMIENTO\\_CL\\_4857.pdf](http://www.bibliodrogas.gob.cl/biblioteca/documentos/TRATAMIENTO_CL_4857.pdf), [http://www.bibliodrogas.gob.cl/biblioteca/documentos/TRATAMIENTO\\_CL\\_5712.pdf](http://www.bibliodrogas.gob.cl/biblioteca/documentos/TRATAMIENTO_CL_5712.pdf) and [http://www.bibliodrogas.gob.cl/biblioteca/documentos/TRATAMIENTO\\_CL\\_6028.pdf](http://www.bibliodrogas.gob.cl/biblioteca/documentos/TRATAMIENTO_CL_6028.pdf).

<sup>38</sup> <https://www.mercadopublico.cl/Procurement/Modules/RFB/DetailsAcquisition.aspx?qs=HIIHFwmHrKz95jSDEJISqg==>.

retired in November 2022 and May 2024, respectively. This will contribute to the decarbonization of the energy matrix and to compliance with the air quality standards in force by reducing those units' particulate matter, sulfur dioxide and nitrogen oxide emissions to zero.

### **Adolescent health**

136. As noted above, the Ministry of Health provides sexual and reproductive health services for 10- to 19-year-olds through the Adolescent-friendly Health Spaces Programme.

137. The Ministry has a fertility regulation programme under which 11 contraceptive methods are freely available, including 4 priority long-term methods (contraceptive implants and intrauterine devices), for adolescents registered with primary health-care centres. Access is provided to the emergency contraceptive pill and to sexual and reproductive health counselling in accordance with Act No. 20.418 of 2010. Condoms are supplied and counselling is made available with a view to preventing teenage pregnancies and sexually transmitted infections, including HIV/AIDS.

138. In 2015, the Public Health Institute issued a decree authorizing the sale and purchase of emergency contraceptives without a prescription. In 2018, the Ministry of Health adopted Decree No. 7, which updates the rules on fertility regulation.

139. Since 2010, sexual health education programmes approved by the Ministry of Education are offered in schools, and teacher training and classroom application courses are available.<sup>39</sup> The Ministry has also developed a sexual health education website<sup>40</sup> for the educational community that outlines strategies and practices for conducting workshops and activities on affectivity and sexuality. The Centre for Advanced Training, Experimentation and Pedagogical Research of the Ministry of Education – the agency responsible for implementing the law that established the Professional Teaching Staff Development System – offers various courses on gender, affectivity and sexuality.<sup>41</sup>

140. Approaching sexuality from a gender perspective, between 2015 and 2018 the Healthy Sexuality and Reproductive Life Programme and, since 2019, the Women, Sexuality and Motherhood Programme have strengthened the autonomy of women of all ages by providing them with tools and promoting their empowerment in decision-making, equality of women and men, and non-discrimination.

### **Standard of living**

#### *(a) Include children up to the age of 18 years in the Chile Grows with You system*

141. In 2016, the system was expanded with the addition of two new programmes; one to address mental health problems affecting children aged between 5 and 9 years, and one to promote corporeality and movement through play. The Child Mental Health Support Programme for 5- to 9-year-olds with mental disorders has been integrated into the “Chile Grows with You” system, strengthening the Mental Health Programme of the Ministry of Health. Another addition is the Comprehensive Learning Support Programme, aimed at 4-year-olds enrolled in the first transition level of pre-primary education in State-run schools, which uses toys to promote children's motor and social development through play.

142. With a view to strengthening the Chile Grows with You system for the 5–9 age group prior to extending its design, by Decree No. 2/2020 the Ministry of Social Development and the Family has set up a panel of experts to review the system and recommend strategic and programmatic improvements. The panel's purpose will be to support and advise the Ministry, working through the Office of the Undersecretary for Children, and to provide guidance on improvements in the system's programmes and services. To this end, the panel is to prepare and deliver a final report.

<sup>39</sup> <http://convivenciascolar.mineduc.cl/formacion-para-la-vida/sexualidad-afectividad-y-genero/>.

<sup>40</sup> <https://educacionsexual.mineduc.cl/>.

<sup>41</sup> <https://www.cpeip.cl/>.



(b) *Inequality in urban and rural areas and access to sanitation in rural areas*

143. The Ministry of Housing and Town Planning is working to reduce the housing deficit through programmes that provide access to adequate housing for the most vulnerable households. Housing applications submitted by families with children and adolescents are given extra points that add to their scores. The Housing of Choice Solidarity Fund (Supreme Decree No. 49 of the Ministry of Housing and Town Planning) helps families belonging to the most vulnerable 40 per cent of households to purchase a home. Between 2015 and April 2020, the Fund benefited 130,305 households, of which 34 per cent had at least one child under the age of 6 years and 53 per cent had at least one child or adolescent aged between 6 and 18 years. The Integrated Housing Subsidy System (Supreme Decree No. 1 of the Ministry of Housing and Town Planning) also supports vulnerable and middle-income families in purchasing a home of their own. Between 2015 and June 2020, it benefited 117,821 households, of which 33 per cent had at least one child aged 5 years or under and 43 per cent had at least one child or adolescent aged between 6 and 18 years. The Housing Rental Subsidy Programme (Supreme Decree No. 52 of the Ministry of Housing and Town Planning) provides households with a monthly sum that they can put towards their rent. Between 2015 and March 2020, this benefit was granted to 39,143 households, 49 per cent of which had children aged 5 years or under, while 62 per cent had children or adolescents aged between 6 and 18 years. Lastly, with regard to access to basic services in rural areas, the Liveable Rural Housing Programme (Supreme Decree No. 10 of the Ministry of Housing and Town Planning) provides grants for housing improvements (roofs, walls, floors), maintenance of basic services, thermal insulation and energy-efficiency projects, and extension work. Since its introduction in 2016, this programme has benefited 13,072 households, 877 of which opted for the installation or improvement of basic services and/or the extension of bathrooms. Of these, 29 per cent were households with children and adolescents.

144. The Ministry of Public Works expects to fulfil a presidential commitment to build 4,000 kilometres of rural roads by 2022. Work has been carried out on more than 700 kilometres of roads in the regions of Biobío, Araucanía, Los Ríos and Los Lagos, which have large indigenous populations. These improvements will provide children and adolescents with quicker access to basic services and reduce travel times to schools, urban centres and health facilities.

145. In 2019, the National Indigenous Development Agency (CONADI), working through the Indigenous Development Fund and the Indigenous Land and Water Fund, acquired 4,849 hectares for 1,074 families throughout Chile, and US\$ 16.4 million was allocated in grants for indigenous communities to carry out irrigation and/or drainage works, funding 998 projects for 2,544 families. In addition, 75 grants, for a total of US\$ 0.7 million, were awarded to indigenous persons and communities for the acquisition of water rights. A further US\$ 1.6 million was invested in the establishment, regularization and defence of water rights, with 22 applications for water rights being processed by the Directorate General of Water, the courts and/or the Land Registry.

(c) *Children living in municipalities under water scarcity and agricultural emergency decrees*

146. The Government is addressing the drought and water crisis by setting up an emergency investment portfolio for upgrading rural drinking water infrastructure, improving existing sources and generating new ones. It is also working on a medium- and long-term water infrastructure investment plan. Some 370 initiatives, corresponding to 175 rural drinking water systems and benefiting almost 72,000 people, were due to be implemented from 2019 onward.

**Environmental health**

147. Chile has had a National Energy Policy<sup>42</sup> since 2015, one of whose goals is that at least 70 per cent of national power generation should come from renewable sources by 2050. In June 2018, the Ministry of Energy established a round table on the retirement, closure or conversion of coal-fired units. The participants drew up a plan for the closure of the 28

<sup>42</sup> [https://www.energia.gob.cl/sites/default/files/energia\\_2050\\_-\\_politica\\_energetica\\_de\\_chile.pdf](https://www.energia.gob.cl/sites/default/files/energia_2050_-_politica_energetica_de_chile.pdf).



existing plants in the country by 2040 with a view to ceasing coal-fired power generation altogether. The first phase of the plan will run until 2024 and it will then be reviewed every five years. The closure of power plants is a commitment that was undertaken by Chile at the twenty-fifth session of the Conference of the Parties to the United Nations Framework Convention on Climate Change in keeping with the Sustainable Development Goals.

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

### **Education, aims of education and human rights education**

(a) *Implementation of Act No. 20.845*

148. As indicated above, the Ministry of Education has designed tools for use in strengthening inclusive educational communities under the Inclusion Act (No. 20.845).

(b) *Implementation of Act No. 21.040*

149. The public education system<sup>43</sup> established by Act No. 21.040 of 24 November 2017 is the new institutional framework for public education. The Act provides for the transfer of educational establishments, including kindergartens, primary schools and secondary schools, from 345 municipalities to 70 Local Public Education Services. The system is managed and coordinated by the Public Education Directorate, a specialized service of the Ministry of Education. Eleven Local Public Education Services have been created so far for Huasco, Puerto Cordillera, Barrancas, Costa Araucanía, Chinchorro, Andalién Sur, Gabriela Mistral, Atacama, Valparaíso, Colchagua and Llanquihue. This entails the transfer from 41 municipalities of about 650 educational establishments, with 184,000 enrolled students and a 2019 budget of US\$ 602.2 million. It is expected that all 70 Local Public Education Services will be established by 2025, covering 1,296,126 students enrolled in 5,266 schools and 107,409 children enrolled in 1,615 kindergartens. The public education system will have 112,133 teachers and 85,269 teaching assistants.

150. In accordance with article 6 of the Act, by Supreme Decree No. 87/2020 of 10 September 2020, approval was given for the country's first National Public Education Strategy, which will identify the way forward for the development of high-quality public education over the next eight years. A variety of stakeholders participated in the development of this strategy in five forums: citizen consultations (held in August and September 2017, with more than 50,000 participants); an advisory committee (composed of 25 public- and private-sector leaders, who met seven times from June to November 2018); technical dialogues (consultations held in March 2019 with school communities, local public education services and 251 communities; 201 processes validated); an online public consultation (held in March and April 2019, with 27,208 participants; 23,017 validated); and recommendations received from senators, deputies, UNICEF and the Inter-American Development Bank, among others.

151. This strategy has five objectives: improve student learning levels through the provision of high-quality instruction; build the human and technical capacity of key actors in the system (teachers, early childhood educators, school directors, teaching assistants and staff of the local public education services) and upgrade their professional practices; develop effective leadership at different levels so that the proprietary educational organizations (*sostenedores*) can provide the best possible support; improve physical conditions, hygiene, equipment and educational resources; and ensure financial sustainability. The strategy has 27 eight-year targets.

(c) *Private educational establishments*

152. The Office of the Superintendent of Education (Act No. 20.529, title III, paragraph 1) has issued circulars regarding the internal rules and regulations of all educational establishments in the country, including preschools (Exempt Resolution No. 860/2018) and basic and secondary schools (Exempt Resolution No. 482/2018). Emphasis is placed on the

<sup>43</sup> <https://educacionpublica.cl/>.

principles of dignity, the best interests of the child, progressive autonomy and non-discrimination, among others. A circular concerning the rights of trans students in education (ORD No. 768/2017) has also been issued. In the light of these legal and regulatory frameworks, the Office of the Superintendent conducts inspections of educational establishments and makes use of complaint procedures in discharging its oversight duties.

153. Between 2015 and 2019, a total of 3,455 complaints of discrimination were received (on average 691 per year, with a high of 847 in 2018). The most frequent complaint was that of discrimination on the grounds of attention deficit disorder (1,418 complaints during that period).

(d) *Ensuring that education contributes to the development of the fullest potential of every child*

154. So that all students in Chile can develop to their fullest potential and have the same opportunities, the Ministry of Education focuses on five areas: restoring confidence in the educational community and recognizing its autonomy in the pursuit of educational projects of a high standard; improving the quality of education with a focus on the classroom (through programmes such as “I Read First” (*Leo Primero*), “Up with School” (*Escuelas Arriba*) and Bicentennial High Schools (*Liceos Bicentenarios*)); improving the quality and coverage of preschool education; supporting disadvantaged groups; and ensuring that all students continue to learn during the pandemic.

(e) *Ensuring that adolescent mothers and fathers continue their education*

155. The General Education Act requires that, in order for pregnant students and students who are parents to be able to continue their education, administrative measures be taken to ensure the physical, psychological and moral protection of pregnant girls and adolescent mothers and fathers, together with academic measures to make learning experiences and the curriculum more flexible. The Office of the Superintendent has issued a regulatory circular on the protection of the rights of students who are pregnant or are parents (Exempt Resolution No. 193/2018).

(f) *Decreasing violence in schools and peaceful resolution of conflicts*

156. The Office of the Superintendent offers mediation services as a tool for schools to collaboratively manage disputes related to student/child needs, disciplinary problems and parent and guardian participation and to address situations of abuse. The mediator is a professional with expertise in this field who provides a space for dialogue and supports the parties to a dispute in their search for solutions. Parties to a dispute who have tried to resolve the problem without success can submit a request for mediation to the regional offices of the Office of the Superintendent or through the citizen services system.<sup>44</sup> The Office also offers guidance on its website.

(g) *Implementation of Act No. 21.128*

157. Act No. 21.128 was passed to protect school communities from violence. Students may be expelled or their enrolment may be cancelled only on grounds that are clearly described in the internal rules and regulations of the establishment. Those grounds concern actions which seriously undermine a harmonious school environment, such as acts committed by any member of the educational community that do harm to the physical or psychological integrity of other members of the community or of third parties on school premises. Examples include sexual assault; physical assault causing injury; the use, carriage or possession of weapons or incendiary devices; and damaging school property.

158. When applying these disciplinary measures, an established procedure must be followed and certain requirements and deadlines respected, thus ensuring that due process is observed. The authorities make sure that the expelled student is able to continue his or her education.

<sup>44</sup> [www.supereduc.cl/atencion-ciudadana](http://www.supereduc.cl/atencion-ciudadana).

### **Rest, leisure, recreation and cultural and artistic activities**

159. The Ministry of Sport and the National Sports Institute implement the “Grow in Movement” (*Crecer en Movimiento*) programme, apply the National Policy on Physical Activity and Sport 2016–2025 (Supreme Decree No. 31/2017) and hold fairs to promote physical activity in schools in order to uphold the right of children and adolescents to physical activity and sport. In 2019, a national survey on physical activity and sport habits was conducted among the 5–17 age group in order to learn about children’s routines, develop physical activity programmes and create a physical activity index for children and adolescents. One noteworthy initiative is the Specialist Sports Schools (Escuelas Deportivas Integrales) Programme, which was implemented in 2015–2018 with an average annual budget of US\$ 9.9 million, benefiting 722,618 children aged between 2 and 14 years. It was followed by the “Grow in Movement” programme, which started in 2018 with the 2–14 age group and was extended to adolescents between the ages of 15 and 18 years in 2019. This programme is implemented at the preschool, basic and secondary levels in municipal schools and private subsidized schools that provide instruction free of charge. During 2019, 5,774 different activities were carried out with a budget of US\$ 10.4 million, benefiting 190,630 children and adolescents.

160. The Ministry of Housing and Town Planning issued Supreme Decree No. 50/2015, amending the General Ordinance on Town Planning and Construction, to promote equal opportunities and the inclusion of persons with disabilities, notably by ensuring the accessibility of children’s play areas. Act No. 21.089 of 23 May 2018 established a requirement to provide non-mechanical playground equipment for children with disabilities. Moreover, the Ministry of Housing and Town Planning and the National Service for Persons with Disabilities drafted Chilean Standard No. 3603 on design criteria for accessible play areas and play equipment, which is currently being evaluated by the National Institute for Standardization with a view to its official adoption.

161. One noteworthy initiative for providing access to culture and the arts is the Centres for Creation programme, which provides opportunities for the development of the creative skills of children and adolescents aged 7 to 19 years. In 2019, three of five planned centres opened in the communes of La Ligua (Valparaíso Region), Valdivia (Los Ríos Region) and Castro (Los Lagos Region). A centre at Vallenar (Atacama Region) was due to open in late 2020. The programme is being implemented in 13 of the country’s 16 regions, either in dedicated centres or in shared spaces in cultural and community centres. Some 3,923 educational experiences, 590 network/community activities and 206 creative listening exercises have taken place, benefiting 119,063 children and adolescents. Meanwhile, schools participating in the “Action” (*Acciona*) programme conduct an average of 495 cultural and artistic projects each year, benefiting an average of 10,000 students in 113 communes throughout Chile. The participating schools serve socially vulnerable populations (Schooling Vulnerability Index of over 80 per cent).

162. SENADIS, through the National Inclusive Projects Fund, provides funding for inclusive recreational, sporting and cultural activities, benefiting children and adolescents with disabilities who belong to the organizations that are awarded these grants. Since 2017, US\$ 0.2 million has been disbursed for 18 initiatives in the various regions, including adaptive sport workshops and competitions, cultural workshops and the purchase of equipment.

## **I. Special protection measures (arts. 22, 30, 32, 33, 35, 36, 37 (b)–(d) and 38–40)**

### **Asylum-seeking, refugee and migrant children**

#### *(a) Procedures for assessing asylum claims*

163. Chapter IV, paragraph 1, on special procedures, of Act No. 20.430 (2010) on refugee protection, sets out the specific regulatory provisions for the application of this procedure in the case of unaccompanied minors, minors who have been separated from their families and orphans. All children and adolescents have the right to apply for refugee status, either on their

own behalf or represented by their parents, direct relatives, legal representatives or those persons or institutions which are legally responsible for their care. This procedure establishes safeguards in the event that minor applicants need to be interviewed. The recommendations made by the national authority for the protection of the rights of children and adolescents are observed, as are the guidelines issued by the Office of the United Nations High Commissioner for Refugees (UNHCR) on the protection and care of refugee children.

(b) *Democratic Responsibility Visa*

164. The temporary Democratic Responsibility Visa is the visa with the least requirements of all those granted by the Ministry of Foreign Affairs. Applicants need only present a valid passport or similar document (REX 2087/2019 MISF), a police clearance certificate (adults) and a health certificate. The *laissez-passer* travel document (REX 3042/2019 MINREL) is issued only for Venezuelan nationals and applies to all types of residence visas, as long as the applicant meets the requirement of being the child of a person residing in Chile. The *laissez-passer* does not confer any type of migration status and therefore does not provide entry into the country. This document, which is issued on an exceptional basis in specific cases to foreign nationals (art. 66 of the Consular Regulations), takes the place of a passport. It is required of applicants for residence visas only as part of the procedure for obtaining such a visa when they are unable to produce a passport; in such cases, they must substantiate the circumstances which have prevented them from obtaining such documentation from the authorities of their country of nationality.

(c) *Living standards of child asylum seekers, refugees and migrants*

165. Temporary residence visas are issued for a period of eight months, free of charge, and are renewable for equal periods until such time as the procedure is concluded. All foreign nationals who have submitted a formal application for refugee status, without exception, are eligible for these visas, which allow them to remain in the country on a regular basis while the application is being processed. Once a person has been accorded refugee status, he or she is immediately granted a permanent residence permit. These residence permits entitle foreign nationals to obtain a non-citizen's identity card that gives them access to all government services, thus facilitating their social integration. Regardless of their migration status and that of their parents, all children and adolescents have access to a preschool, primary and secondary education.

166. Each year the State approves a basic humanitarian assistance programme for refugees and asylum seekers in situations of extreme vulnerability. Once a child has a residence permit and identity card, he or she has access to all State social benefits and allowances required to meet his or her specific needs. In the event that the child is undocumented and wishes to apply for refugee status, the Civil Registration and Identification Service has a procedure for establishing the child's parentage which, when completed, will enable the child to obtain identity documents, and a residence permit will be stamped on the child's visa. Under Chilean law, refugee children and adolescents who do not have a valid passport (or other identity document that allows them to leave the country and enter a foreign territory) are entitled to a travel document issued by the Service that allows them to leave and re-enter the country.

167. The Ministry of Social Development and the Family, together with the Aliens and Migration Department, the Civil Registration and Identification Service and "Chile Serves You" (*ChileAtiende*), periodically carry out campaigns to encourage foreign individuals and households to sign up with the Household Registry (RSH) so that they can more easily access State social services.<sup>45</sup> The Security and Opportunities subsystem does not differentiate between Chilean citizens and migrants, other than requiring them to sign up with the Household Registry to permit the identification of potential participants in the Families Programme. Of the children and adolescents currently participating in the Families Programme and the Pathways (*Abriendo Caminos*) Programme, 2,203 and 11 are migrants, respectively.

<sup>45</sup> <https://www.chileatiende.gob.cl/>.

*(d) Migration bill*

168. The principle of non-refoulement in the case of children and adolescents and the recognition of that right is established in the bill on migration (Bulletin 8.970–06). The principle of the best interests of the child, whereby the State shall adopt all administrative, legislative and judicial measures to ensure the full exercise and enjoyment by children and adolescents of their rights, is expressly recognized. The bill has been approved by both chambers of the legislature and is under review by the Constitutional Court.

*(e) Social inclusion of migrants*

169. The bill provides for the formal establishment of the National Policy for Children and Adolescents by a supreme decree to be issued by the Ministry of the Interior and Public Security and approved by the Council of Ministers. Work is being done on the formulation of a national migration policy that addresses the inclusion of migrants in Chile from a social and employment perspective. Provisions on issues such as access to health, education, housing and employment, among others, are being drafted and incorporated.

170. In addition to the aforementioned National Training Plan, since 2015 the Migrant Seal Programme has been awarding certifications to municipalities that develop plans, actions and programmes aimed at migrant inclusion, non-discrimination and interculturalism. As of August 2020, 59 municipalities, which serve 70 per cent of the country's migrant population, hold this certification.

171. In 2019, the Migrant Commitment was created. This is an award granted by the State in recognition of companies, unions and institutions that stand out for their inclusion of migrants, their intercultural approach and their commitment to non-discrimination in their organizations (staff composition, management and relationship with the surrounding community). It is administered in conjunction with the Labour Division in partnership with the International Organization for Migration and the International Labour Organization and is a contributor to the Good Practices Bank (*Banco de Buenas Prácticas*).

**Indigenous children***(a) Indigenous children's right to an identity in accord with their culture*

172. The State is working on programmes to promote respect for the culture of indigenous peoples and the preservation of their languages. The Culture and Education Fund of the National Indigenous Development Corporation (CONADI) implements various initiatives on a regular basis. As part of the Intercultural and Indigenous Education Programme, cooperation agreements have been signed with the National Preschool Board (JUNJI), the INTEGRA network of daycare facilities and preschools, and municipalities that provide for the introduction of indigenous language and culture teaching modules in 201 preschools for some 8,750 children (US\$ 1.4 million). In 2019, CONADI and INTEGRA signed a cooperation agreement to support 63 preschools in the development of instructional modules for the recovery of indigenous language and culture starting in early childhood. In that same year, CONADI and the Municipality of Temuco renewed an agreement to introduce the Mapudugun language as a way of providing an intercultural indigenous education at the early education and preschool levels in 15 of the city's preschools.

173. In 2020, the Indigenous Affairs Coordination Unit of the Ministry of Social Development and the Family signed an agreement with the Indigenous Institute of the University of La Frontera to teach eight basic Mapudugun language courses for Mapuche children and adolescents in different communities in the Araucanía region. After the pandemic hit, these courses were switched to an online mode. A project for the revitalization of indigenous languages in Rapa Nui was also implemented.

*(b) Incorporation of an intercultural approach*

174. CONADI and the Indigenous Affairs Coordination Unit are working together on the intersectoral management of follow-up on indigenous issues by all government ministries with a view to ensuring the coherence of public policy in the area of indigenous affairs. This makes it possible to forge linkages between different public services, unravel critical issues

and generate relevant information for the continuous improvement of public policies for indigenous children and adolescents. Both entities are part of the Intersectoral Technical Board for the Plan of Action for Children and Adolescents.

(c) *Access to health, education and basic social services*

175. In 2019, as part of the Management and Protection of Indigenous Cultural Heritage Programme, CONADI furnished US\$ 0.4 million in funding for the promotion of traditional medicine and the protection of sites of indigenous cultural significance in the Biobío, La Araucanía and Metropolitan regions, benefiting 42 practitioners of traditional Mapuche medicine and 650 members of indigenous communities or associations. A training course was also held for 30 practitioners of traditional medicine (healers, midwives, bone setters, healers specializing in the use of herbs and others) on *Kallawalla* wisdom and the use of traditional Andean indigenous medical techniques. In 2019, CONADI and SENAME launched a pilot intercultural health initiative for children and adolescents that will integrate the practices of the Machi and the Lawentuchefe.

(d) *Violence against indigenous children and their families*

176. The Carabineros force for the Ninth Region created the Araucanía Family and Children's Unit to provide specialized technical and interdisciplinary assistance with the completion of procedures relating to the family and children and to the reporting of sexual offences in the Ninth Region (Araucanía) of Chile. This provides an avenue for the integration of Carabineros into the community based on the implementation of a model of differentiated service in tune with the sociocultural context. The model entails the provision of specialized technical support for police procedures that is informed by intercultural and interdisciplinary expertise.

177. Under the cooperation agreement signed between the Ministry of Justice and the Carabineros, a virtual training course has been offered on human rights and their fundamental tenets. The course provides a way of raising awareness of the importance of respect for human rights in the performance of public functions. This activity figures as part of the plan being implemented to strengthen respect for human rights within the Carabineros police force (General Order No. 2700, October 2019).

178. The CONADI Indigenous Legal Defence Programme provides guidance, legal advice and/or legal representation free of charge in cases involving indigenous persons or communities or their interests. During 2019, legal guidance and information services were provided on 13,440 occasions; 261 cases were brought before the courts and 217 cases related to land and water issues were brought to a conclusion.

### **Economic exploitation, including child labour**

179. The Ministry of Labour launched the “Grow Up Happily” (*Crecer Felices*) national strategy for the eradication of child labour and the protection of adolescent workers for 2015–2025.

180. In accordance with ILO Convention No. 182, the list of hazardous work that is harmful to the physical, mental and moral development of children and adolescents was updated by Decree No. 2/2017, which amends the regulations for the application of article 13 of the Labour Code. Also in 2017, a qualitative study was conducted on child labour and the migrant population in the Arica y Parinacota Region, Tarapacá Region and Metropolitan Region in order to provide guidance for action to be taken to prevent and eradicate child labour.

181. In 2018, the country was invited to become part of the 8.7 Alliance, which is urging the State to step up its efforts to address this problem, and in 2019 Chile became a Pathfinder Country and is developing a road map of priority actions to be taken by 2021 in order to meet the target on the eradication of child labour, human trafficking and forced labour. In 2019, the Child Labour Vulnerability Index, a statistical tool developed by ILO and ECLAC, was brought into use in order to help target public policy at the communities that are most vulnerable to involvement in child labour.

182. Act No. 21.271 of 10 June 2020 amended provisions of the Labour Code regarding the protection of children and adolescents in the world of work. These modifications entail a conceptual shift from “minors” to “children and adolescents who are and are not of working age”. In addition, the amendments upgrade the conditions for hiring adolescents of working age, establish requirements for hiring children and adolescents for artistic occupations and introduce a differentiated system of fines for non-compliance. They also authorize the Ministry of Labour and the Ministry of Health to draft a regulation (now under way) that will update the list of hazardous forms of work and establish guidelines for educational establishments and employers for avoiding these types of employment and protecting the rights of adolescents of working age.

### **Children in street situations**

183. Supreme Decree No. 29 was amended by Supreme Decree Nos. 41/2016 and 61/2018 to extend the availability of the Security and Opportunities subsystem for children and adolescents in street situations. Initially, the subsystem was extended for 2016–2017 and later for 2018–2019 and 2020. A new amendment is currently being processed that will introduce a further extension for 2021, 2022 and 2023.

184. In 2018, a decision was made to adopt a new metric for children and adolescents in street situations owing to the lack of up-to-date data for use in accurately targeting programmes for this population group.

185. During 2018 and 2019, the experience of the support programme for children and adolescents in street situations was systematized by Focus Consulting and, based on this guidance, a number of improvements have been made: the Children’s Street Programme is being targeted at regions and communes where children and adolescents in street situations are concentrated; personnel now make outreach rounds as an additional component of the programme; clothing, food and personal hygiene kits are distributed and children and adolescents in street situations are allowed to come to the centres at any time that they need to, night or day; a registration system has been designed to consolidate information from all the sectors that provide services to children and adolescents in street situations and thereby provide a fuller picture of their status; and night shelters have been opened in cooperation with SENAME in order to ensure the safety of these children and adolescents and provide them with protection and basic services.

186. During the second half of 2019, a committee of experts was convened to work on a specialized multisectoral policy, improve existing programmes and design new initiatives for this population group. The committee’s final report and recommendations will be delivered in 2021.

187. Finally, in 2019 the Children’s Street Network (*Red Calle Niños*) programme was designed to help children and adolescents spend less time on the streets, thereby lessening their exposure to serious risks that can stall their development. The system guarantees the availability of places in shelters and services so that no child has to remain on the street. The approved budget for this initiative amounts to US\$ 1.6 million to serve 166 children and adolescents in street situations.

### **Administration of the juvenile justice system**

188. Article 48 of Act No. 20.084 establishes the principle of separation. Persons deprived of their liberty as a result of the application of any of the penalties or measures provided for in that law, whether temporarily or permanently and whether in a specific place or in transit, must at all times be held separately from adults who have been deprived of their liberty. Failure to do so constitutes a serious breach of duty.

189. With regard to the increased use of alternatives to imprisonment, the Public Prosecution Service has reported that the admission of crimes committed by adolescents has been steadily declining; the adolescent crime rate was 39 per cent lower in 2020 than it was in 2015, and a 27 per cent decrease was recorded for 2015–2019. The use of precautionary custodial measures fell between 2015 and 2020 (by 47 per cent) and was reduced by 34 per cent in 2015–2019. The number of crimes committed by adolescents has fallen during the

pandemic, but both the number of such offences and the use of pretrial custodial measures had already been declining before then.

190. Two policies in this area have played an important role. In order to prevent adolescents who have had no previous contact with the system from entering the criminal justice system, the Public Prosecution Service issued Official Communication No. 330/2018, which calls for the application of the principle of discretion to prosecute and alternative measures to the extent that the seriousness of the offence permits. In addition, on 26 December 2016, the first cooperation agreement for the referral of cases to juvenile criminal mediation offices was signed by the Ministry of Justice, the Public Criminal Defender's Office and the Public Prosecutor's Office. This agreement, which has been applied in the North Central Prosecutor's Office, gives preference to restorative practices in the management of criminal matters and involves the provision of greater redress for victims for the harm suffered and greater degrees of accountability on the part of offenders. A hands-on case study of adolescents referred to mediation was carried out, and a new agreement has been signed for the use of mediation processes in two more regions of the country (Valparaíso and Coquimbo).

191. The Inter-Agency Oversight Commission for Detention Centres (CISC) has been monitoring conditions of detention for adolescents with a view to their improvement throughout the 13 years during which Act No. 20.084 has been in force. It has collected information on detention centres and the juvenile sections of those centres and has focused on 10 factors that influence the living conditions of adolescents serving a custodial sentence. CISC observations and recommendations have served as a basis for improvements in those centres and for the drafting of a bill for submission to the legislature that would authorize the creation of a national societal re-entry support service for young people.

192. With regard to complaints mechanisms for adolescents deprived of their liberty, the CISC offices, whose representatives visit each centre and juvenile section in the country every six months, have a protocol for reporting situations of violence.

#### **Child victims and witnesses of crimes**

193. Act No. 21.057, which governs videotaped interviews and other measures designed to protect minors who are victims of sexual offences, prevents the secondary victimization of children and adolescents who have been victims of serious offences in the course of the ensuing criminal proceedings. In order to ensure the proper application of the relevant provisions, the Video Interviews Unit of the Ministry of Justice coordinates the work of the relevant law enforcement agencies in this connection. On 3 October 2019, the first stage of implementation began in six regions (the XV, I, II, VII, XI and XII regions); the second and third stages of implementation were scheduled for 3 October 2020 and 3 October 2021, but, owing to the pandemic, Act No. 21.266 was promulgated on 21 September 2020 to defer the entry into force of these stages. The offences of femicide (arts. 390 bis and 390 ter of the Criminal Code) have also been added to the list of article 1 offences in that same law.

194. The Victim Assistance Programme of the Ministry of the Interior and Public Security provides psychological, social and legal assistance to help overcome the negative impacts of victimization and reduce the effects of secondary victimization. Since 2007 the programme has been setting up general coordination procedures for assisting child victims of violent crime under an agreement with SENAME. Between January 2015 and June 2020, 24,568 children and adolescents were provided with assistance.

### **J. Optional Protocol on the sale of children, child prostitution and child pornography**

195. Chilean legislation sets out two legal categories under which the sale of children can be subsumed in accordance with the Optional Protocol. The crime of trafficking in persons as defined in article 411 quater of the Criminal Code has been incorporated into Act No. 20.507 (2011), which classifies the involvement of children and adolescents as aggravating circumstances. In addition, under article 42 of the implementing regulations for the Adoption



Act (Act No. 19.620), requesting or agreeing to receive any kind of consideration for facilitating the placement of a child or adolescent for adoption is a punishable offence.

196. The draft Criminal Code includes certain legal provisions that could encompass the sale of children.

197. Regarding the establishment of a data-collection system covering all areas of the Protocol, as mentioned earlier, the Office of the Undersecretary for Crime Prevention runs the Unified Data Bank (BUD), a computer platform that enables nine institutions in the criminal justice system to share and exchange information online in order to improve operational decision-making (the Operations BUD) and contribute to the follow-up and development of public security policies (Analytics BUD). The Operations BUD is administered by the Public Prosecutor's Office and can be used for online searches for information on people who have gone through the criminal justice system.<sup>46</sup> This functionality can be accessed only by those institutions that are legally authorized to do so. The Analytics BUD, which is currently under development, is managed by the Office of the Undersecretary for Crime Prevention. It is an integrated database designed to support the analysis of crime statistics down to the commune, judicial district or prison level.

198. The Ministry of Justice, working through the Frameworks for Action against Commercial Sexual Exploitation of Children and Adolescents, urges the agencies active in this area to focus their efforts on prevention, early detection and primary care, raising awareness about commercial sexual exploitation and furthering measures to encourage people to report incidents of such exploitation. The Third Framework for Action against Commercial Sexual Exploitation of Children and Adolescents is currently being finalized and will be used as a source for lessons learned that can then be applied to the implementation of a fourth iteration of the Framework.

199. With regard to the data requested on cases of offences related to the application of this Protocol that have been investigated and whose perpetrators have been punished, information from the administrative department of the judiciary concerning specific categories of selected offences indicates that the total number of entries for these offences has remained steady over the past five years, with an average of 28 cases per year. Of the 158 cases registered during that period, the most common offence was the acquisition or storage of child pornography (61 cases), followed by the production of pornographic material involving persons under 18 years of age (55 cases). All the cases entered in the register in 2015 and 2016 have since been concluded. The longer the amount of time that has passed since cases have been opened, the smaller the percentage of such cases that have been closed: (2017: 88 per cent; 2018: 87 per cent; 2019: 62 per cent; 2020: 5 per cent). Of the 123 cases that have been closed, the most frequent reason is the conviction of the accused, followed by the dismissal of the case and failure to prosecute. Less frequent reasons for the closure of cases are consolidation of proceedings, suspension and provisional suspension. Out of a total of 158 cases, 94 persons have been charged with the above-mentioned offences.

200. In 2020, SENAME designed the Specialized Polyvictimization Programme, which will also be available for child and adolescent victims of commercial sexual exploitation.

## **IV. Statistical data and information**

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

201. In 2019, according to the 2020 Social Development Report of the Ministry of Social Development and the Family, the direct beneficiaries of 89 of the 470 government social programmes were persons who were 17 years of age or younger. The total executed budget for these programmes was US\$ 2,144,800,000 7.3 per cent of the total social programme budget and 10.3 per cent of the total budget for government social programmes that include initiatives targeting children and adolescents: culture and the arts (3.5 per cent – 2

<sup>46</sup> In accordance with article 11 of Act No. 20.931 of 5 July 2016.

programmes); human rights and justice (30.1 per cent – 12 programmes); education: instruction and inclusion, access and quality, education communities (21.9 per cent – 29 programmes); specific groups (22.9 per cent – 28 programmes); health, sport and healthful living (6.4 per cent – 14 programmes); and labour, income and social security (1.6 per cent – 4 programmes).

## **B. Definition of the child (art. 1)**

202. The 2017 census results indicate that there are 4,259,155 persons under 18 years of age in Chile (24.2 per cent of the total population); 51.0 per cent are male, 88.3 per cent live in urban areas and 14.7 per cent self-identify as belonging to an indigenous group.

203. According to estimates calculated by the National Institute of Statistics and the Aliens and Migration Department, as of 31 December 2019 there were 1,492,522 permanent foreign residents, of whom 209,866 were 19 years of age or under (4.4 per cent of the total population in that age group and 14.1 per cent of the total foreign resident population).

204. According to the 2017 National Social and Economic Survey (CASEN), 6.9 per cent of people who were 18 years of age or over and 13.9 per cent of children and adolescents had incomes that placed them below the income poverty line, while 20.7 per cent of the total population and 22.9 per cent of those under 18 years of age were below the multidimensional poverty line.

205. According to the Civil Registration and Identification Service, 441 marriages of persons below 18 years of age have taken place. In 404 of those cases, the girl was a minor; in 28 of those events, the boy was a minor; and in 9 cases, both parties were minors.

## **C. Civil rights and freedoms (arts. 7, 8 and 13–17)**

206. According to the Civil Registration and Identification Service, there is no registry of stateless persons. Information is available, however, on persons who are born in Chile and then acquire Chilean nationality under article 10 (1) of the Constitution as the children of transient foreigners; 175 children and adolescents acquired that status during the reporting period.

207. According to the Aliens and Migration Department, between 2015 and the first half of 2020, the birth certificates of 2,023 persons who had been classified as “child of a transient foreigner” at birth but who later claimed Chilean nationality before the relevant administrative authority were corrected after that authority forwarded a request to the Civil Registration and Identification Service for the rectification of their birth certificates and their registration as Chilean nationals.

## **D. Violence against children (arts. 19, 24 (3), 28 (2), 34, 37 (a) and 39)**

208. According to the Public Prosecution Service, between 22 November 2016<sup>47</sup> and 30 June 2020, 3,650 (53.2 per cent closed and 46.8 per cent ongoing) cases were entered that involved torture and/or other cruel or degrading treatment or punishment perpetrated against children or adolescents by security forces; 529 legal complaints had been brought in connection with those cases (25.7 per cent concluded and 74.3 per cent ongoing).

209. According to the same source, 2,451 cases involving the above crimes in which the direct victim was below 18 years of age (regardless of the date of filing) were brought to a close during the period in question: 67.0 per cent of those cases were settled by non-judicial means, 28.9 per cent were resolved by other means; and the outcome of 4.2 per cent was determined by the courts (14 resulted in convictions by final judgment (0.6 per cent of the total) and 5 resulted in acquittals by final judgment (0.2 per cent of the total)).

<sup>47</sup> Date of the promulgation of Act No. 20.968, which sets out the legal definition of the offence of torture, unlawful coercion and other cruel, inhuman or degrading treatment.

210. There are 4,284 direct victims of the above crimes who are under 18 years of age; 7.3 per cent are below 14 years of age (68.5 per cent male) and 92.7 per cent are 14 years of age or more (82.6 per cent male).

211. According to the Office of the Undersecretary for Crime Prevention, between 2015 and 2019, 309,729 cases were reported to or responded to by the police in which the victims were children or adolescents. The types of offences involved, in descending order of frequency, were presumed misadventure (26.7 per cent), violations of rights (20.4 per cent), (minor) bodily harm (14.4 per cent), domestic violence (12.6 per cent); sexual abuse and other sexual offences (7.2 per cent) and robbery (6.5 per cent).

212. According to the Public Prosecution Service, between 1 January 2016 and 30 June 2020, 179,836 cases were entered that involved at least one of the relevant offences in which a direct victim was a person under 18 years of age: 81.7 per cent of those cases were closed and 18.2 per cent are ongoing. A total of 2,772 legal complaints have been brought in connection with those cases (60.3 per cent concluded and 39.2 per cent ongoing).

213. There are 196,020 direct victims under 18 years of age associated with the relevant offences; 55.7 per cent are under 14 years of age (64.7 per cent female) and 44.3 per cent are 14 years of age or more (64.1 per cent female).

214. Protective and precautionary measures may be provided for child and adolescent victims by family courts or criminal courts. According to the Supreme Court, between January 2015 and August 2020, family courts issued 319,202 protective or precautionary measures (86 per cent in domestic violence cases, 10 per cent in cases involving the protection of victims of rights violations and 4 per cent in cases involving other protective measures). The number of precautionary measures applied per year has remained at around 50,000. The types of measures are as follows: restraining orders (117,969); regular police rounds (65,755); provision of a police hotline number (60,577); barring orders (38,537); authorization for removing personal items from the home (19,648); and others (16,716).

215. Criminal courts issued 4,642 protective or precautionary measures in cases involving the offence of repeated abuse, with the number of such measures clearly trending upward during the period between 2015 and 2019. With regard to the type of measure, 55 per cent were restraining orders (prohibition on approaching the victim's place of residence, place of work or school or any other location regularly visited by the victim) plus barring orders (an order for the offender to leave the dwelling shared with the victim), and 12 per cent were bans on approaching the victim or his or her family and, if the offender lived in the same house as the victim, an order to leave that dwelling.

216. Under the Programme for Access to Justice for Persons with Disabilities, SENADIS has represented child and adolescent victims of rights violations in the family courts. Information provided in signed agreements between SENADIS and the Legal Aid Agency indicates that 104 children or adolescents with some disability were assisted between 2015 and July 2020.

## **E. Family environment and alternative care (arts. 5, 9–11, 18 (1) and (2), 20, 21, 25 and 27 (4))**

217. According to information provided by SENAME, between 2015 and 2019:

(a) In the case of children in alternative care arrangements, the foster families programme is the only one that provides support to the families. Under projects run by partner organizations, these families receive approximately US\$ 109 and, under directly administered projects, they receive in-kind assistance (clothing, medicine, food, toys and necessary materials). Foster family programmes have made 41,742 placements;

(b) There have been a total of 55,162 placements in residential arrangements, with a downward trend being noted over the reporting period (a decrease from 13,113 in 2015 to 9,034 in 2019). The distribution by residential category is as follows: general protection (51,429 – 93.2 per cent), disability (1,822 – 3.3 per cent) and teenage mothers (1,911 – 3.5 per cent);

(c) The average length of stay (in days) for children and adolescents who received assistance during the reporting period is as follows:

	2015	2016	2017	2018	2019
<b>General protection</b>					
0–3 years	239	266	307	261	276
+3–6 years	538	532	555	496	537
+6–14 years	552	544	554	504	531
+14–18 years	1 526	1 423	1 468	1 097	783
<b>Disability</b>					
0–3 years	292	451	447	205	252
+3–6 years	572	583	497	352	478
+6–14 years	1 370	1 191	1 183	1 108	1 143
+14–18 years	2 098	1 470	1 849	2 104	1 856
<b>Teenage mothers</b>					
0–3 years	308	335	354	367	372
+3–6 years	1 294	967	1 109	1 217	1 187
+6–14 years	189	418	186	230	288
+14–18 years	366	404	411	387	403

(d) The placement of children and adolescents in foster families has risen steadily (from 6,170 in 2015 to 10,529 in 2019) for all age groups, with the increase being particularly sharp in the case of children under 3 years of age:

Age group	2015	2016	2017	2018	2019	Var. 2015–2019
0–3 years	1 068	1 416	1 863	2 078	2 193	51 %
+3–6 years	1 224	1 321	1 623	1 829	2 044	40 %
+6–14 years	2 904	3 162	3 921	4 388	4 915	41 %
+14–18 years	974	1 022	1 145	1 275	1 377	29 %
<b>Total</b>	<b>6 170</b>	<b>6 921</b>	<b>8 552</b>	<b>9 570</b>	<b>10 529</b>	<b>41 %</b>

(e) There have been a total of 2,403 adoptions. By nationality of the adopting parent(s), 282 of those adoptions (11.74 per cent) were international and 2,121 (88.26 per cent) were domestic adoptions.

218. According to information compiled by the Pathways Programme, in 2020 an estimated 17,450 children or adolescents had a father/mother who was a convicted inmate of a correctional facility.

## F. Children with disabilities (art. 23)

219. According to the second national study on disability (ENDISC 2015), 229,904 children/adolescents (between 2 and 17 years of age) have a disability (5.8 per cent of the total). By sex, the breakdown is 7.2 per cent of males and 4.4 per cent of females in this age group. By quintiles, the breakdown is 7.5 per cent in the first quintile (the lowest-income quintile), 3.6 per cent in the fourth quintile and 4.4 per cent in the fifth; 6.5 per cent of children/adolescents who are members of an indigenous peoples have a disability.

220. According to data from the Registration and Identification Service, between 2015 and the first half of 2020, the names of 33,059 children were entered into the National Disability Register (an average of 5,510 per year); 62.8 per cent of these children were male and 37.2 per cent were female.

221. According to SENADIS, the results of the 2017 CASEN survey indicate that there is at least one child or adolescent with disabilities in 1.8 per cent of the households in the country (102,679). In all, 44.8 per cent of these households are composed of two-parent nuclear families; 29.7 per cent are single-parent nuclear families and a similar percentage are made up of extended single-parent and extended two-parent families. As for their economic status, 84.1 per cent of the households that include at least one child or adolescent with disabilities are not poor, 10.1 per cent are poor and 5.8 per cent are extremely poor. Out of the total number of households classified as living in income poverty, 3.7 per cent include a child or adolescent member with disabilities. In the case of households subject to multidimensional poverty, which incorporates the dimensions of education, health, employment and social security, housing, and social networks and cohesiveness, 24.7 per cent include a child or adolescent with disabilities.

222. According to the 2015 national study on disability, of the households whose members include a child or adolescent with disabilities, the caregiver resides in the same household in 92.5 per cent of the cases and elsewhere in 7.5 per cent of the cases; 96.7 per cent of the caregivers are women, 71.4 per cent are the child's or adolescent's father or mother, 19.1 per cent are a grandparent and 9.5 per cent are someone else.

223. According to SENAME, between 2015 and 2019, 3,223 children or adolescents with some type of disability were being cared for in alternative arrangements, residential facilities or foster families. The main types of disabilities are: intellectual disabilities (2,292 persons – 71.1 per cent); multiple disabilities (471 persons – 14.6 per cent); visual disabilities (129.4 per cent); and psychiatric disabilities (99 – 3.1 per cent).

224. There has been a progressive diversification of residential programmes for children and adolescents with disabilities, with 42.2 per cent of these children or adolescents being housed in specialized residential facilities during the reporting period. This is in line with the effort being made to integrate children and adolescents with slight or moderate disabilities into programmes intended for the general population. Another 11.4 per cent of the children and adolescents with disabilities who are in alternative care are living with foster families; this poses a challenge in terms of their specialization.

## **G. Basic health and welfare (arts. 6, 18 (3), 24, 26, 27 (1–3) and 33)**

225. A pilot programme on preventive mental health care was launched in 2020 in 11 health-care services, 25 communes and 39 primary health-care facilities.

226. The 2017 CASEN survey results indicate that 13.9 per cent of persons between 0 and 17 years of age (577,000 persons) and 6.9 per cent persons over 18 years of age are experiencing income poverty; 293,800 households that include at least one person under 18 years of age (11.7 per cent) are income-poor.

227. Multidimensional poverty is experienced by 20.7 per cent of the total population, while the rate for persons under 18 years of age is 22.9 per cent (907,711 persons); 2,411,015 households (20.0 per cent) that include at least one child or adolescent are living in poverty as measured in multidimensional terms.

228. Data that have been updated to 4 January 2021 indicate that 573,612 persons in rural areas are living in officially designated water-poor zones.<sup>48</sup>

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

229. The records of the Ministry of Education indicate that there were 3,608,158 students in Chile in 2020; 35.4 per cent of these students were attending public schools, 55.6 per cent were studying in subsidized schools and 9 per cent in private schools.

230. Chile has no safe classroom policy. The supposition is that the Committee is requesting data on children and adolescents who have been expelled and de-enrolled. The

<sup>48</sup> [https://dga.mop.gob.cl/DGADocumentos/Decretos\\_vigentes.jpg](https://dga.mop.gob.cl/DGADocumentos/Decretos_vigentes.jpg).

records of the Office of the Superintendent of Education for 2019 indicate that 268 students between the ages of 6 and 17 years were expelled and 385 were de-enrolled, for a total of 653. Of those students, 80.6 per cent were male; 5.4 per cent were members of an ethnic group (Quechua, Aimara, Mapuche); 1.6 per cent were foreign nationals; 93.6 per cent attended school in an urban area; and 36.8 per cent of them were in the Metropolitan Region while the other 63.4 per cent were in other regions of the country.

231. According to the Ministry of Education, there were 508,819 students in need of some sort of special education in 2020. Of those students, 64.7 per cent were in the School Integration Programme and 35.3 per cent were in the Special Education Programme.

## **I. Special protection measures (arts. 22, 30, 32, 33, 35, 36, 37 (b)–(d) and 38–40)**

232. According to the Aliens and Migration Department, 2,621 children and adolescents sought asylum in 2015–2020.

233. Chilean law does not provide for the existence of detention or transit centres for refugees, asylum seekers or migrants.

234. No deportation order concerning a child or adolescent was issued during the reporting period.

235. According to the Ministry of Education, there were 178,861 foreign students in the Chilean school system in 2020.

236. There is no official estimate of the number of undocumented persons in the country, nor are there any age-disaggregated data in that connection. It is known, however, that between 2015 and the first half of 2020, 95 applications for regularization were submitted on behalf of children and adolescents.

237. The results of the 2012 Nationwide Survey on the Activities of Children and Adolescents indicate that there were 219,624 children and adolescents engaged in child labour (6.6 per cent of the population between the ages of 5 and 17 years) and that 94,000 of them were below the minimum working age.<sup>49</sup> This group represents 3.8 per cent of the population in this age range, and 36.6 per cent of the members of that group were classified as poor in socioeconomic terms.

238. SENAME programmes identified 2,916 cases in which children or adolescents were in street situations in 2015–2019 (an average of 583 per year). The national headcount of children and adolescents in this kind of situation conducted by the Ministry of Social Development and the Family in 2018 identified 547 such children and adolescents: 62.3 per cent were male with an average age of 15.6 years; 82.1 per cent were between 15 and 17 years of age; 45 per cent were attending school and 61 per cent were behind the grade level corresponding to their age; 97 per cent had been born in Chile.

239. SENAME has indicated that, between 2015 and 2020, 37,690 children and adolescents (an average of 6,282 per year) were in an institutional setting because of conflicts with the law.

240. During that same period, the average length of time that adolescents were held in detention centres was as follows: in pretrial detention: 64 days; in closed centres: 184 days; and in semi-closed centres: 326 days.

241. According to SENAME, a downward trend in the number of children and adolescents subject to legal intervention measures was observed during the period, with a 30.9 per cent reduction being recorded between 2015 and 2019.

242. During the reporting period, 72,763 adolescents (12,127 on average per year) were processed by the justice system: 21.2 per cent were subject to precautionary non-custodial measures; 20.3 per cent were in probation programmes; 45.7 per cent in special probation

<sup>49</sup> This figure does not include children and adolescents between the ages of 5 and 14 who were working in the performing arts or other fields of artistic endeavour.

programmes; and 12.8 per cent were doing community service and working to repair the damage they had caused.

243. According to SENAME, between 2015 and 2019, 396,162 child and adolescent victims or witnesses were provided with protective assistance: 69.2 per cent received non-custodial forms of support; 2.4 per cent were placed with foster families; 25.8 per cent were in Offices for the Protection of Children's Rights; and 2.7 per cent were placed in residential facilities.

## **J. Optional Protocol on the sale of children, child prostitution and child pornography**

244. Information from the Legal Studies Division of the Supreme Court indicates that between 2015 and August 2020, there were 152 such cases, as follows: trafficking of persons for purposes of sexual exploitation: 1; promoting or facilitating the prostitution of minors: 26; production of pornographic materials involving persons under 18 years of age: 55; obtaining sexual services from a minor: 9; acquisition or possession of child pornography: 61.

245. As for the status of the cases arising during the reporting period, 22.2 per cent of these cases are still being processed and 77.8 per cent have been concluded. All the cases entered in 2015–2016 have been concluded. Of the cases that have been concluded, the most common outcome has been the conviction of the accused (94 persons convicted).

246. According to SENAME, in 2015–2019, 6,699 children and adolescents have been assisted by the Specialized Programme on Child Sexual Exploitation.