



**International Convention for  
the Protection of All Persons  
from Enforced Disappearance**

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**Committee on Enforced Disappearances**

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**Consideration of reports of States parties to the Convention**

**Additional information submitted by Uruguay under article  
29 (4) of the Convention\***

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



## I. General legal framework

1. Since the Convention entered into force, no cases of the offence of enforced disappearance have been recorded in Uruguay.
2. While there have been no cases that fit the definition in article 2 of the Convention during the reporting period (May 2013 to April 2019), this report covers the progress made and the issues that remain pending when it comes to shedding light on cases of enforced disappearance that occurred between June 1968 and February 1985, bearing in mind that it is a continuous or ongoing offence until the fate or whereabouts of the victim has been determined.
3. The issue of enforced disappearances is of primary concern for the Uruguayan State. The country has signed numerous international human rights instruments since the restoration of democracy after the period of de facto Government (1973–1985). Uruguay signed the Inter-American Convention on Forced Disappearance of Persons in 1994 and ratified it by Act No. 16.724 of 23 November 1995.
4. Uruguay has been progressively bringing its legislation into line with international human rights law and incorporating international regulations and standards on enforced disappearances, while repealing or annulling domestic legal provisions that are incompatible with international law.
5. Article 7 of the Uruguayan Constitution states that “the inhabitants of the Republic have the right of protection in the enjoyment of life, honour, liberty, security, labour and property. No one may be deprived of these rights except in conformity with laws which may be enacted for reasons of general interest”.
6. In addition, the right not to be subjected to enforced disappearance is implied in article 72 of the Constitution, whereby “the list of rights, duties and guarantees set out in the Constitution does not exclude others that are inherent in the human person or that derive from the republican form of government”.
7. The criminalization of enforced disappearance in Uruguayan law is a recent development following the adoption of Act No. 18.026 of 4 October 2006. This act establishes a framework for cooperation with the International Criminal Court in combating genocide, crimes against humanity, including enforced disappearance, and war crimes.
8. Before the criminalization of enforced disappearance, the legislature had established rules for resolving civil matters arising from the enforced disappearance of persons.
9. Under Act No. 17.894 of 19 September 2005, for example, persons whose disappearance on national territory was confirmed by the final report of the Peace Commission were declared “absent by reason of enforced disappearance”. This declaration of absence made it possible, after decades had passed, to proceed to the legal opening of successions in respect of those declared “absent” under this provision.
10. Some months after the adoption of that act, enforced disappearance of persons was incorporated into Uruguayan law as a criminal offence under article 21 of Act No. 18.026.<sup>1</sup>
11. In addition, Act No. 18.596 of 19 October 2009 recognized the illegitimate action of the State between 13 June 1968 and 28 February 1985 and the State’s corresponding responsibility: “The breakdown in the rule of law that impeded the exercise of individuals’ fundamental rights, in violation of human rights and international humanitarian law, is recognized” (art. 1). The period covered by the law, which is longer than the period of de facto Government, includes the years preceding the institutional breakdown, during which, as has already been mentioned, there were cases of enforced disappearance.
12. The above description of a body of legislation that, strictly speaking, is not formally covered by the reporting period is essential, not just as background to what follows, but also as evidence of the Uruguayan State’s real commitment to putting a stop to the enforced

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<sup>1</sup> The scope of the Act will be described in a separate section, as it is a key aspect of this report.

disappearance of persons and preventing the least repetition of the unfortunate experiences of bygone years.

## II. Implementation of the Convention in Uruguay

### General information

#### *Working Group on Truth and Justice*

13. Progress made includes the establishment of the Working Group on Truth and Justice under Executive Decree No. 131/2015. Despite the complexity of its institutional model, this body has had the financial, material and human resources to perform its tasks directly or through agreements.

14. The Working Group has technical support teams of archivists, historians and archaeologists and this has allowed excavations in military sites ordered by the courts to continue and be completed, where appropriate. Similarly, despite some difficulties, access to the document collections of the law enforcement agencies has been obtained, which in the framework of an ambitious digitalization plan will allow more systematic research.

#### *Special Prosecutor's Office for Crimes against Humanity*

15. Under Act No. 19.550 of October 2017, the Attorney General's Office is authorized to convert a national prosecution office into a Special Prosecutor's Office for Crimes against Humanity. Accordingly, under resolution No. 075/2018 of February 2018, the 25th Criminal Prosecution Office of Montevideo has become a Special Prosecutor's Office for Crimes against Humanity and a prosecution team has been put in place.

16. The recent establishment of the Special Prosecutor's Office has given new momentum to court proceedings.

#### *Ministry of Defence*

17. The Ministry of Defence has allowed access to its documents and databases for investigations into alleged human rights violations committed during the civilian and military dictatorship, covering all armed forces, departments and executive units.

18. The Ministry is working to shed light on cases of enforced disappearance between 1968 and 1985 by supplying the information and support needed by the specialized human rights bodies, the courts and the Special Prosecutor's Office for Crimes against Humanity.

19. In accordance with article 12 of the Access to Public Information Act (No. 18.381) in particular, a response is given to all requests received so as to ensure transparency and safeguard people's fundamental right to access the information held by the Ministry.

20. Article 12, which prevents confidentiality from being invoked in cases of human rights violations, establishes that: "Those bound by this law may not invoke the reservations outlined in the preceding articles where the information requested concerns human rights violations or is necessary to investigate, prevent or avoid such violations".

21. In 2018, the Directorate of Legal and Notarial Affairs and Human Rights processed 99 requests for information from the judiciary and the Working Group on Truth and Justice.

22. In March 2019, the Ministry cooperated on the excavations at the headquarters of Parachute Battalion No. 14, which were completed without any recorded findings of skeletal remains.

23. The Special Prosecutor's Office for Crimes against Humanity has ordered new excavations to be carried out on military sites, for which the Ministry of Defence is providing appropriate support.

24. A draft organic law on the military and the armed forces proposed in 2018, which introduces enhanced human rights protections, was recently adopted by the Chamber of Deputies. The law will replace the existing Decree Law No. 14.157 of 21 February 1974.

25. The law will make discharging human rights-related duties an inherent obligation under the military statute and will prevent military confidentiality from being invoked when the information requested is related to human rights violations or is pertinent to investigating or preventing such violations.

26. In addition, giving orders resulting in a flagrant violation or unlawful restriction of fundamental human rights will be classed as serious misconduct. All military personnel will have a duty to report orders issued in contravention of the law.

*Operation Condor legal proceedings in Italy*

27. In March 2018, the Uruguayan State participated as a civil party in the appeal proceedings following the Operation Condor trial in Rome, Italy. The level of support and coordination required of Uruguay in a case of this kind was unprecedented.

28. In March 2019, the Rome prosecutor's office petitioned for the trial court judgment to be reviewed and for the 24 members of the military juntas of the Plurinational State of Bolivia, Chile, Peru and Uruguay accused of the disappearance of Italians as part of Operation Condor to be sentenced to life imprisonment. This was essentially due to the submission of new evidence by the legal representative of the Uruguayan State.

*Follow-up of the judgment in the Gelman v. Uruguay case*

29. The Uruguayan State has recognized its responsibility in the acts of State terrorism and coordinated repression carried out in the region as part of Operation Condor. In this respect, on the occasion of the public ceremony held on 21 March 2012, pursuant to the judgment of the Inter-American Court of Human Rights in the *Gelman* case, President José Mujica, accompanied by members of the executive, the judiciary and the legislature, accepted the Uruguayan State's responsibility and stated that "under the doctrine of national security, there was a policy of systematic repression of social, trade union and political organizations, and of persecution of their members, and surveillance of civil society as a whole – all of which constitutes what is referred to as State terrorism". He further stated that "the Uruguayan State joined what was known as Operation Condor, based on international coordination with Argentina, Brazil, Chile, Bolivia and Paraguay, to persecute residents of those countries on ideological grounds and to detain and secretly transfer them, or to decide that detainees should be killed or disappeared. The fate or whereabouts of many of these persons is still not known and their remains have not been found."

30. In addition, the Uruguayan State continues to strive to comply with the ruling of the Inter-American Court of Human Rights in the *Gelman v. Uruguay* case. At the time of writing, the judgment was in the compliance monitoring stage.

*Convictions for offences that occurred during the civilian and military dictatorship*

Gregorio Álvarez and Juan Carlos Larcebeau<sup>2</sup>

31. In September 2011, the Supreme Court of Justice upheld the conviction of retired general Gregorio Álvarez (the former de facto president of the Republic) who had been sentenced to 25 years in prison for the murder of 37 people under especially aggravated circumstances between 1977 and 1978.

32. The Supreme Court of Justice also upheld the conviction of retired naval captain Juan Carlos Larcebeau for secretly transferring persons from Argentina and for 37 counts of homicide under especially aggravated circumstances during the civilian and military dictatorship between 1973 and 1985.

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<sup>2</sup> [https://www.observatorioluzibarburu.org/media/uploads/3.%20Alvarez\\_y\\_Larcebeau%20sent%20157%20%2021.10.2009.pdf](https://www.observatorioluzibarburu.org/media/uploads/3.%20Alvarez_y_Larcebeau%20sent%20157%20%2021.10.2009.pdf).

José Gavazzo, Ricardo Arab, Gilberto Vázquez, Ernesto Rama, Jorge Silveira, José Sande and Ricardo Medina

33. In March 2009, retired military officials José Gavazzo, Ricardo Arab, Gilberto Vázquez, Ernesto Rama and Jorge Silveira were sentenced to 25 years in prison, and former policemen Ricardo Medina and José Sande were sentenced to 20 years. All of the cases involved 28 counts of homicide deemed especially aggravated because they were repeated offences.

Ernesto Soca<sup>3</sup>

34. In September 2010, military official Ernesto Soca was sentenced to 15 years in prison after being found guilty of 28 counts of homicide under especially aggravated circumstances.

*Apology by the State for two crimes committed during the dictatorship*

35. In the period covered by the report, President Tabaré Vázquez offered an apology on behalf of the State in March 2019 to the family members of two Argentine citizens who had been detained in Uruguay and murdered in Paraguay under the military dictatorship.

*Statements made to Special Court of Honour No. 1 for Senior Officers of the National Army*

36. Following the publication of statements made to Special Court of Honour No. 1 for Senior Officers of the National Army in the trial of Jorge Silveira Quesada and José Nino Gavazzo Pereira, the President of the Republic ordered the defendants' testimony to be sent immediately to the Attorney General's Office for investigation. The testimony recounted the murder and enforced disappearance of political activist Roberto Gomensoro in 1973.

37. According to the statements made by the accused in court, José Nino Gavazzo Pereira and others confessed to acts constituting criminal offences. However, the Court of Honour and the Appellate Court of Honour deliberately failed to fulfil their duty under article 77 of Decree No. 55/985, which states: "when the Court of Honour hears any case involving a suspected criminal or military offence, its president shall immediately inform the appropriate senior officer and suspend the court proceedings until a decision is made by the senior officer".

38. As a result, on 1 April 2019 the President of the Republic<sup>4</sup> ordered the dismissal of the Commander-in-Chief of the Army and the Chief of Defence Staff, and requested permission from the Senate to force four army generals into compulsory retirement. The Senate denied the request because it did not have enough votes, as only the representatives of the governing party voted in favour.

39. Furthermore, the Special Prosecutor for Crimes against Humanity asked the judiciary to reopen the *Gomensoro* case in the light of the statements made by the former military officers to Special Court of Honour No. 1 for Senior Officers of the National Army.

40. It is worth noting that, in 2010, former colonel Juan Carlos Gómez had been convicted, and detained for three years, for the murder of Gomensoro, while the case against José Nino Gavazzo had been dismissed.

41. The investigation into the case was ongoing at the time of writing.

*Act on the declaration and establishment of sites to commemorate recent history*

42. On 13 July 2018, Act No. 19.641 was promulgated to recognize and commemorate places where victims of terrorism or unlawful action by the State suffered human rights violations because of their political or ideological views or trade union affiliations. Under the Act, the National Honorary Commission for Remembrance Sites was set up, which is chaired by the National Human Rights Institution and Ombudsman's Office and comprises the

<sup>3</sup> [https://www.observatorioluzibarburu.org/media/uploads/6.%20Soca%20Penal%2019\\_Sent.%201era%20Instancia%2013.12.2010\\_wen4XZJ.pdf](https://www.observatorioluzibarburu.org/media/uploads/6.%20Soca%20Penal%2019_Sent.%201era%20Instancia%2013.12.2010_wen4XZJ.pdf).

<sup>4</sup> See the Office of the President's press release of 1 April 2019: <https://presidencia.gub.uy/comunicacion/comunicacionnoticias/comunicado-uruguay>.

Ministry of Education and Culture, the University of the Republic, the National Public Education Administration, two social organizations with experience in this field and three representatives of the National Network of Remembrance Sites.

43. The Commission's tasks include: (i) deciding on applications for the declaration or establishment of remembrance sites; (ii) setting up and protecting such sites; (iii) identifying sites with a plaque or other sign; (iv) helping to publicize sites and facilitate access; (v) promoting the establishment of site commissions; (vi) designating commemorative days; and (vii) creating and updating the National Catalogue of Historical Remembrance Sites.

44. From the adoption of the Act to the time of writing, the Commission has declared three remembrance sites. They are: (i) the former Cabildo Prison; (ii) a plot of land in Toledo where the remains of Julio Castro and Ricardo Blanco were found; and (iii) La Tablada, a secret detention centre where a memorial plaque had already been put in place in accordance with the Reparations Act (No. 18.596 of 2009).

45. Furthermore, on 3 March 2019, the Commission placed a sign at Carmelo Police Station No. 3 and approved the placement of five more signs, although no date has yet been set for them to be erected. They will be placed at: (i) San Bautista Church in tribute to "Father Mauricio" Kleber Silva; (ii) Salto Departmental Headquarters; (iii) the former headquarters of the Uruguayan Federation of Mutual-assistance Housing Cooperatives; (iv) Chuy Police Station, Department of Rocha; and (v) Rocha Barracks, Department of Rocha.

46. The Commission dedicated a memorial space to Carlos Jacina Leiva in the city of San Javier, Department of Río Negro, on 3 May 2019.

47. Lastly, the premises located at Calle Eduardo Víctor Haedo 2020, known as the former General Training Centre for Reserve Officers, was declared a historical remembrance site by decision No. 7/2019 of the National Honorary Commission for Remembrance Sites of 8 May 2019. The property is currently the headquarters of the National Centre for Higher Studies of the National System for Peace Operations and the National School of Peace Operations of Uruguay.

48. The Ministry of Education and Culture has placed 31 memorial plaques at various locations across the country in accordance with Act No. 18.596.<sup>5</sup>

49. In addition, in May 2018, a memorial was unveiled at Libertad Prison to pay tribute to the 2,872 political prisoners held there between 1972 and 1985.

50. In December 2018, a memorial was unveiled in tribute to Héctor Brum, María de los Ángeles Corbo, Floreal García, Mirtha Hernández and Graciela Estefanell, who were murdered in the town of Soca after having been kidnapped in Buenos Aires in August 1974 and transported to Uruguay on what was called "Flight Zero".

#### *Remembrance site of the National Human Rights Institution and Ombudsman's Office*

51. On 16 December 2016, the National Human Rights Institution and Ombudsman's Office opened its new headquarters in the building that had housed the Defence Intelligence Service, a secret detention and torture centre and emblem of Operation Condor between 1970 and 1988. It subsequently served as the headquarters of the National Centre for Higher Studies of the Ministry of Defence from 1988 to 2012.

52. This marked the recovery of a symbolic place for rebuilding social memory of the events that had occurred in the building during the period of State terrorism. The fact that an institution responsible for defending, promoting and protecting human rights has established itself there is an act of great democratic symbolism.

53. On 27 June 2018, after a participatory process involving joint work between the Governing Board of the National Human Rights Institution and Ombudsman's Office and survivors and their relatives and social organizations, the first museum display was unveiled to commemorate the events that had occurred in the building in 1976, framed within the

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<sup>5</sup> <https://www.gub.uy/secretaria-derechos-humanos-pasado-reciente/sites/secretaria-derechos-humanos-pasado-reciente/files/2019-01/sitios-de-la-memoria.pdf>.

recent history of the country and the region. It thus became the first recovered memorial site in Uruguay with a permanent installation open to all.

*Reply to the issues raised in paragraph 8*

54. As mentioned above, article 72 of the Constitution provides that “the list of rights, duties and guarantees set out in the Constitution does not exclude others that are inherent in the human person or that derive from the republican form of government”. In this regard, Uruguay has taken on all the international obligations in the area of human rights binding on the country as the general framework and points of reference for the adoption of public policies, national legislation and judicial decisions. In short, the rights enshrined in the various international instruments, including the Convention, can be invoked before the national courts and directly applied as the basis of judicial decisions.

*Reply to the issues raised in paragraph 10*

*National Human Rights Institution and Ombudsman’s Office*

55. The National Human Rights Institution and Ombudsman’s Office was accredited with A status in May 2016, demonstrating that it complies fully with the Paris Principles.<sup>6</sup>

56. The Institution is a member of the National Mechanism for the Preparation of Reports and Follow-up of Recommendations and therefore participates as an observer in the process of preparing national reports to treaty monitoring bodies, while maintaining its independence and autonomy to prepare and submit alternative reports.

57. The National Human Rights Institution and Ombudsman’s Office has been recruiting civil servants to reinforce its capacity since 2013. When it began operating in 2012 and 2013, the Institution had only 10 civil servants on secondment, who belonged to other State bodies that helped set up the Institution, in addition to the 5 members of the Governing Board.

58. In the first half of 2016, the Institution recruited its own civil servants: five lawyers, six psychologists, one communications graduate, one teacher, seven administrators, one social science graduate and one assistant accountant.

59. In 2017, six more civil servants joined – one assistant, one accountant, two lawyers, a teacher and a social science graduate.

60. On 31 July 2018, the accountability and budget balance for the 2017 financial year was approved by decision of the Senate.

61. As stated during the meeting at which the budget was approved, Parliament put forward a “management policy based on a judicious use of resources”, resulting in savings of 30 per cent on the available budget at the year end of 2017, while most of the targets set had been achieved.

62. This did not undo the progress made by the Institution since its inception, though it has affected the ability to broaden its competences and to perform certain aspects of its mandated work with greater effectiveness.<sup>7</sup>

63. As regards cooperation between the Government and the Institution, the Office for Communications with the National Human Rights Institution and Ombudsman’s Office was set up within the legal and notarial department by decision of the Ministry of the Interior of 20 June 2017 in order to process communications sent to and from the Institution, gather the information necessary to provide responses, and expedite the handling of requests and notifications from the Institution.

64. The establishment of the Office has allowed the Ministry to manage the flow of cases to and from the Institution, which has cut response times and enabled follow-up on relevant issues.

<sup>6</sup> <http://www.diputados.gub.uy/inddhh/2016/Inf2016INDDHH.pdf> – pp. 39 and 40.

<sup>7</sup> [https://parlamento.gub.uy/documentosyleyes/ficha-asunto/140489/ficha\\_completa](https://parlamento.gub.uy/documentosyleyes/ficha-asunto/140489/ficha_completa).

65. The Ministry of Defence works with the Institution through the Directorate of Legal and Notarial Affairs and Human Rights, providing the necessary information and support.

66. On 31 July 2018, a protocol was signed with the National Human Rights Institution establishing criteria and procedures for action to be taken in respect of any complaints or petitions involving cases of racism, xenophobia or other forms of discrimination and on how the signatory institutions are to interact with each other, with the Honorary Commission against Racism, Xenophobia and All Forms of Discrimination and with the Institution.

### Articles 1–7

#### *Reply to the issues raised in paragraph 12*

67. In Uruguay the crime of enforced disappearance has been established in domestic law since the adoption of Act No. 18.026 (art. 21.1).

68. Act No. 18.026 also defines other crimes, in accordance with the Rome Statute of the International Criminal Court, including genocide, crimes against humanity and war crimes.

69. The definition in Uruguayan law goes a step further than the Convention as it also covers isolated cases of enforced disappearance as crimes against humanity under title II, chapter 2.

70. Article 1 of Act No. 19.446 of 28 October 2016, modifying the early release regime and alternative penalties to custodial sentences,<sup>8</sup> provides for exceptions in cases involving a range of serious offences, including, as stipulated in paragraph (K), those contained in Act No. 18.026.

71. Methods of alternative criminal dispute resolution, forms of summary proceedings and exceptions to the principle of compulsory legal action were established with the adoption of the new Code of Criminal Procedure.

72. Among others, crimes under the Rome Statute, covered by Act No. 18.026, are excluded. The new provisions include:

- Extrajudicial mediation (art. 382): Applicable in cases of ostensibly criminal conduct that is not serious. It does not apply to crimes of torture, enforced disappearance, human trafficking, crimes against humanity or genocide (in accordance with the Rome Statute), acts that may constitute serious violations of international humanitarian law or crimes of drug trafficking and terrorism<sup>9</sup> (arts. 1 and 8 of Act No. 18.026 and art. 1 of the Criminal Code).
- Principle of discretion to prosecute (art. 100): This refers to a decision by the prosecutor assigned to the investigation not to pursue legal action for reasons of criminal policy. The Attorney General's Office shall set out the reasons of criminal policy to be considered in the form of general instructions. The decision must be justified and it is admissible only in the cases expressly envisaged by law (minor crimes that do not seriously threaten the public interest; crimes that carry a minimum sentence not exceeding 2 years; crimes other than those committed by public officials in the performance of their duties; unintentional crimes that caused the accused considerable distress; crimes committed more than four years previously that would not have led to a prison sentence). It does not apply in cases not envisaged by law or where the investigation reveals that the crime seriously threatened the public interest or that it was not a minor crime. The Attorney General's Office has issued general instructions in this regard.<sup>10</sup> The principle of discretion to prosecute cannot be applied in cases of torture, enforced disappearance, human trafficking, crimes against humanity or genocide (in accordance with the Rome Statute), acts that may constitute

<sup>8</sup> Applicable insofar as it does not contradict the Code of Criminal Procedure.

<sup>9</sup> As set out in general instruction No. 6 of the Attorney General's Office (<http://www.fiscalia.gub.uy/innovaportal/file/3480/1/instruccion-nro-6.pdf>). Note the direct application of international instruments.

<sup>10</sup> <http://www.fiscalia.gub.uy/innovaportal/v/3480/1/innova.front/instrucciones-generales.html>.

serious violations of international humanitarian law or crimes of drug trafficking and terrorism.<sup>11</sup>

73. According to the general instruction of the Attorney General's Office, there is public interest in prosecuting the following crimes: crimes of torture, enforced disappearance, human trafficking, sexual crimes (rape or indecent assault), crimes against humanity or genocide and acts that may constitute serious violations of international humanitarian law, among others.<sup>12</sup>

74. Furthermore, article 301 bis of the Code of Criminal Procedure states that early release does not apply to crimes under Act No. 18.026.

## Articles 8–15

### *Reply to the issues raised in paragraph 14*

#### *Criminal responsibility and judicial cooperation in cases of enforced disappearance*

##### Working Group on Truth and Justice

75. The Working Group on Truth and Justice has conducted investigations into a number of ongoing legal cases involving enforced disappearance, fundamentally to highlight new testimony or to ensure that existing testimony is heard in court.

76. A list of all disappeared detainees has also been finalized. The list includes victims within national borders and beyond, disappeared during the periods defined in the decree establishing the Working Group. The list comprises a total of 196 victims of enforced disappearance.

77. Efforts have also continued in the search for the remains of disappeared detainees. The operations have been concluded at the headquarters of the anti-aircraft unit in La Montañesa in the department of Canelones, which had been instructed following a criminal complaint indicating that military establishment to be the potential whereabouts of the remains of disappeared detainees.

78. Work continued throughout the reporting period at the former headquarters of Battalion 13 and the premises of the army's Material and Weapons Service. A specific operation carried out at an army building known as "La Chacra de Pajas Blancas" did not return positive results.

79. In 2018, search operations were carried out on a private plot of land in the town of Neptunia, in response to a request from the Canelones municipal council that had been received and processed by the prosecutor, who had then ordered the excavations. The operation comprised preliminary studies of aerial photos and satellite imagery, along with the corresponding mapping and recording of testimonies. An area of 975 m<sup>2</sup> was excavated but no positive findings were made.

80. With regard to the headquarters of Battalion 14, support was provided to the Argentine Forensic Anthropology Team, whose technicians were equipped with instruments capable of analysing soil movement around two recently constructed buildings. Alterations and movements were detected, prompting the launch of an operation organized in coordination with the justice system. The operation began in March 2019 and has already been concluded. No skeletal remains were detected. The Special Prosecutor's Office for Crimes against Humanity has ordered that new excavations be carried out at military sites.

81. At the same time, efforts are being made to collect all the aerial photos from the Team's archive, since there are discrepancies between the data held by the Remote and

<sup>11</sup> General instruction of the Attorney General's Office.

<sup>12</sup> Such as crimes of drug trafficking (except in cases of small-scale trafficking) and terrorism, money-laundering, crimes caused by situations of gender-based or domestic violence, intentional homicide, crimes committed by public officials in the performance of their duties, crimes of public corruption, illegal occupation, false imprisonment, extortion, kidnapping and robbery.

Aerospace Sensors Service of the Uruguayan Air Force and the Military Geographic Service, and in some cases references are missing.

82. All the available information on unidentified bodies found on the Uruguayan coastline from 1973 onwards is in the process of being compiled.

83. The work undertaken on cases of disappeared detainees is not limited to legal proceedings and the search for human remains. For example, documentation has been located concerning the kidnapping and subsequent enforced disappearance in Uruguay of Argentine citizen José Potenza and Italian-Argentine citizen Rafaela Filipazzi, whose remains were found in Paraguay, following the illegal intervention of Uruguayan agents acting under the coordinated regional campaign of repression known as Operation Condor. At a meeting led by Ambassador Héctor Lescano at the Uruguayan Embassy in Argentina, documentation was handed over proving that the two victims had been detained by the Uruguayan Naval Rifle Corps and subsequently taken to Paraguay with citizens of that country, supposedly their guards. In a letter signed by the President of the Republic, the Uruguayan State indicated its recognition of the illegitimate actions of its agents under the coordinated campaign of repression known as Operation Condor.

84. The Working Group has also decided that all victims and their families should be free to access the documentation held in the archives of the Human Rights Secretariat for the Recent Past. The Working Group issued general guidelines on that matter in a resolution dated 11 September 2017. Those guidelines are reflected in the protocol and form that were adopted on 23 October 2017 and that have gone some way to providing clarification on this issue.

85. With regard to specific investigations, progress has unfortunately proved elusive in spite of the attempts made with the existing teams. It is a highly specialized task that takes a considerable amount of time, which by its nature the Working Group does not have. Nevertheless, the Working Group has cooperated fully in the investigative work of the Special Prosecutor's Office for Crimes against Humanity, playing a central role in the decision to proceed with the excavations in Neptunia and the operations at the headquarters of Battalion 14.

86. The Working Group on Truth and Justice is pursuing its work at the request of the Asociación de Madres y Familiares de Uruguayos Detenidos Desaparecidos. It has promoted a project entitled "Pixels of Memory" in collaboration with the Departmental Government of Montevideo and the Ministry of Education and Culture, with the aim of returning photographs confiscated by repressive forces to the relatives of victims, recognizing the importance of recovering these items.

#### *Special Prosecutor's Office for Crimes against Humanity*

87. In the Public Prosecution Service, since 2012 the Chief Public Prosecutor and Attorney General has upheld the imprescriptible character of crimes against humanity on the basis of a judgment in a specific case.<sup>13</sup>

88. The Special Prosecutor's Office works in two areas: (a) searching for the remains of disappeared persons, and (b) investigating the circumstances surrounding the enforced disappearance of persons and identifying and prosecuting those responsible.

89. With regard to the former, it should be noted that, at the time of writing, excavation works at the headquarters of Battalion 13 and Battalion 14 remain ongoing. Operations at a former secret detention centre known as La Tablada are in the investigation phase.

90. In terms of establishing the circumstances surrounding disappearances and bringing those responsible to justice, all the investigations that have not yet resulted in a conviction are still open. In short, no cases have been closed and, on the contrary, the Attorney General's Office has requested the prosecution of two members of the military in relation to the enforced disappearance of Gelós Bonilla.<sup>14</sup>

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<sup>13</sup> <http://www.fiscalia.gub.uy/innovaportal/v/1031/1/innova.front/2012.html>.

<sup>14</sup> See request for prosecution: <http://www.fiscalia.gub.uy/innovaportal/file/7218/1/caso-g.b..pdf>.

91. On the basis of the above, it can be confirmed that the investigations coordinated by the Special Prosecutor's Office are conducted with the utmost rigour and care and that its actions are compatible with the provisions of the Convention and international human rights law.

*Reply to the issues raised in paragraph 16*

92. Article 82 of the Constitution states that: "The nation shall adopt a democratic, republican form of government. Sovereignty shall be exercised directly by the electorate through elections, initiatives and referendums, and indirectly by the representative branches established by this Constitution, in accordance with the rules contained herein."

93. Regarding the independence of the judiciary, it is stated in articles 18 and 19 of the new Code of Criminal Procedure, which was adopted by Act No. 19.293 of 19 December 2014 and entered into force on 1 November 2017, that it is the non-delegable duty of the judiciary to dispense justice in criminal matters. Moreover, the technical independence of the Attorney General's Office is established by article 46.

94. Supreme Court decision No. 7772 of 19 August 2013 regulates the promotion and transfer of judges.<sup>15</sup> The system governing the promotion and transfer of judges is guided by the work of the Advisory Commission of the Supreme Court, whose mission is to advise the Court on promotions and transfers for all the country's judges. It is the Commission's duty to classify judges at every level of the profession (article 98 of Act No. 15.750) on the basis of their merits and training (articles 97 (2) and (3) of the same Act). To do so, the following elements are taken into consideration: the notes held on file by the Commission, the annual sworn statement for monitoring of activities (training), statistical data and inspection reports issued by the offices of the Supreme Court, the reports of senior colleagues (taking into consideration both the number of reports and the grade received), the reports of the institutions whose delegates make up the Commission, and any additional information that the Commission may deem appropriate to take into account or seek out. Particular consideration must be given to the time required for hearings and their extensions and, more generally, to the length of the trials overseen by the judges.

95. The Advisory Commission is made up of five members: a minister of the Supreme Court, two ministers of the Courts of Appeal (one of whom is appointed by the Judges' Association of Uruguay), a practising lawyer (put forward by the Uruguay Bar Association) and a professor from the law faculty of the University of the Republic. The Commission submits its nominations, along with the justification for its choices, to the Supreme Court by 15 December every year. A record of the Commission's work is then made available for consultation by the judges concerned, should they so desire.

*Reply to the issues raised in paragraph 18*

96. Article 81 of the Code of Criminal Procedure sets forth the rights and powers of the victim who, in accordance with the provisions of the Code, may participate in the prosecution. It is stated under subparagraph (d) of this article that the victim's rights include "the right to request protection against potential harassment, threats or assaults aimed at the victim and his or her family and relatives".

*Reply to the issues raised in paragraph 20*

97. Article 8 of Act No. 19.653 of 17 August 2018 modified article 224 of the Code of Criminal Procedure. It establishes the criteria for pretrial detention, setting forth its application for offences including those mentioned in Act No. 18.026, among them the crime of enforced disappearance. Further, it establishes the obligation of the prosecutor to request pretrial detention in such cases.

98. It is stated under article 224 (2) of the Code that "the risk of flight, concealment, obstruction of the investigation and the risk to the safety of the victim and society shall be presumed when the accused is a repeat or multiple offender and has been charged by the

<sup>15</sup> See Annex No. 1: Supreme Court decision No. 7772.

Public Prosecution Service with any of the following offences: ... (j) the crimes and offences contained in Act No. 18.026 of 25 September 2006". In the above-mentioned cases, the Public Prosecution Service must request pretrial detention.

*Reply to the issues raised in paragraph 22*

99. As outlined above, the new Code of Criminal Procedure entered into force on 1 November 2017, transforming criminal proceedings from an inquisitorial system to an adversarial, oral and public system. The change empowers the Public Prosecution Service to direct investigations. It also provides guarantees, care and protection to victims of crime.

100. Under Act No. 19.550, the Attorney General's Office is authorized to convert a national prosecution office into a Special Prosecutor's Office for Crimes against Humanity. Accordingly, under Resolution No. 075/2018<sup>16</sup> of February 2018, the 25th Criminal Prosecution Office of Montevideo has become a Special Prosecutor's Office for Crimes against Humanity and a prosecution team has been put in place. A committed enquiry is required through a serious and specialized investigation that manages to punish those responsible and give victims redress so as to achieve justice and truth as a contribution to the reconstruction of society, as well as the establishment of institutional mechanisms that ensure the non-recurrence of such acts.

101. Under Act No. 19.355 of December 2015, a specialized team for serious human rights violations was created under the Directorate of Internal Affairs of the Ministry of the Interior, to work in direct collaboration with the judiciary and the Attorney General's Office on proceedings and investigations related to enforced disappearance.

102. The Specialized Human Rights Unit was created under Resolution No. 002/2015 of 7 September 2015. It is responsible for providing advice, analysis, coordination and training and disseminating information as necessary to help representatives of the Attorney General's Office take efficient and effective action in judicial proceedings concerning serious human rights violations. In accordance with the provisions of the resolution, the Specialized Human Rights Unit drafted its own rules of procedure and workplan.

103. Under Resolution No. 578/2016, a joint commission on human rights crimes of the recent past was established to draft a protocol for this type of investigation, in the framework of the memorandum of understanding between the Ministry of the Interior and the Attorney General's Office.

104. The Attorney General's Office submitted a bill to the Executive, seeking authorization to convert a national prosecution office into a Special Prosecutor's Office empowered to hear only judicial cases that are taking place or have taken place in courts around the country related to human rights violations committed during the period covered by Act No. 18.596.

*Special Prosecutor's Office for Crimes against Humanity*

105. By law, the Special Prosecutor's Office has jurisdiction only over ongoing or new criminal cases around the country related to human rights violations having occurred during the military dictatorship between 27 June 1973 and 28 February 1985.

106. A committed enquiry is required, involving a serious and specialized investigation that manages to punish those responsible and give victims redress so as to achieve justice and truth as a contribution to the reconstruction of society, together with the establishment of institutional mechanisms that ensure the non-recurrence of such acts.

107. The creation of this Special Prosecutor's Office forms part of the action taken to apply the judgment handed down by the Inter-American Court of Human Rights in the case of *Gelman v. Uruguay*, enabling the State to develop for the first time a unique prosecution policy for crimes of this nature.<sup>17</sup>

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<sup>16</sup> [http://www.fiscalia.gub.uy/innovaportal/file/5488/1/res.-075\\_2018-transformacion.pdf](http://www.fiscalia.gub.uy/innovaportal/file/5488/1/res.-075_2018-transformacion.pdf).

<sup>17</sup> Press release issued by the Attorney General's Office: <http://www.fiscalia.gub.uy/innovaportal/v/6615/1/innova.front/fiscalia-especializada-en-delitos-de-lesa-humanidad-ya-intervino-en-casi-lamitad-de-los-casos-relevados.html>.

108. A joint investigation team for crimes against humanity has been created following the signing of a cooperation agreement between the Public Prosecution Service in Argentina and the Attorney General's Office in Uruguay in November 2016.<sup>18</sup>

109. In December 2018, two constitutional challenges were submitted to the Special Prosecutor's Office, both of which were rejected. One of the challenges related to Act No. 19.550 and was submitted by the defence counsel of two men under investigation for crimes committed during the dictatorship (1973–1985). The defence challenged the constitutionality of Act No. 19.550 on the establishment and powers of the Special Prosecutor's Office for Crimes against Humanity.<sup>19</sup>

110. The other constitutional challenge related to Act No. 18.831 and was submitted by the defence counsel of a retired military official in the context of a case related to human rights violations during the dictatorship (1973–1985). The defence claimed that Act No. 18.831, re-establishing the State's punitive claim in respect of crimes of State terrorism committed up to 1 March 1985, was unconstitutional. This challenge was also rejected.<sup>20</sup>

#### *Activities of the Special Prosecutor's Office*

111. Between February and September 2018, the Special Prosecutor's Office for Crimes against Humanity reviewed 220 cases involving human rights violations that had taken place during the dictatorship (1973–1985) and took action in relation to almost half of them (46.3 per cent). A total of 153 of the cases are being conducted in Montevideo and 67 are being conducted in the interior. The Office acted upon 35.2 per cent of the complaints in the capital and 71.4 per cent of those in the interior.

112. Over the same period, the Special Prosecutor's Office requested various prosecutions on the basis of the investigations conducted:

- May 2018: A request was made for the prosecution of four military officials for a combination of principal and secondary offences involving four crimes of deprivation of liberty and two crimes of abuse of detainees in November 2018.<sup>21</sup>
- May 2018: The judge granted a request to prosecute human rights violations reportedly committed at the headquarters of Engineer Battalion 4 in Laguna del Sauce in the 1970s.<sup>22</sup> This was the first prosecution to be successfully requested by the Special Prosecutor's Office since its inception.
- July 2018: A request was made for the prosecution of eight military officials for crimes committed between 1975 and 1977.<sup>23</sup>

113. Seven requests to close cases and six requests for extradition concerning three individuals were also submitted. Three operations were carried out to search for the remains of disappeared detainees at different premises, two of which are still in the investigation phase.

114. Between November 2018 and March 2019, investigations by the Special Prosecutor's Office led to the following requests for prosecution:

- November 2018: A request was made for two retired military officials to be tried and sentenced to imprisonment in connection with the Gelós Bonilla case.<sup>24</sup>

<sup>18</sup> <http://www.fiscalia.gub.uy/innovaportal/file/3127/1/convenio-eci-argentina.pdf>.

<sup>19</sup> For more information: <http://www.fiscalia.gub.uy/innovaportal/v/7323/1/innova.front/fiscalia-especializada-en-crimenes-de-lesa-humanidad-rechazo-un-pedido-de-inconstitucionalidad-contrala-ley-19550.html>.

<sup>20</sup> <http://www.fiscalia.gub.uy/innovaportal/v/7298/1/innova.front/fiscalia-de-lesa-humanidad-rechaza-pedido-de-inconstitucionalidad-presentado-por-la-defensa-de-un-militar-contrala-ley-18831.html>.

<sup>21</sup> See request for prosecution: <http://www.fiscalia.gub.uy/innovaportal/file/5990/1/perciballe.pdf>.

<sup>22</sup> See request for prosecution: <http://www.fiscalia.gub.uy/innovaportal/file/5977/1/causa2-perciballe.pdf>.

<sup>23</sup> See request for prosecution: <http://www.fiscalia.gub.uy/innovaportal/v/6333/1/innova.front/fiscalia-especializada-en-crimenes-de-lesa-humanidad-solicito-el-procesamiento-con-prision-de-8-militares-por-delitos-cometidos-entre-1975-y-1977.html>.

<sup>24</sup> See request for prosecution: <http://www.fiscalia.gub.uy/innovaportal/file/7218/1/caso-g.b..pdf>.

- November 2018: A request was made for a retired military official to be sentenced to 22 years in prison for his involvement in the murder of Aldo Perrini.<sup>25</sup>
- January 2019: A request was made for a man who had been on the run since 2009 to be remanded in custody.<sup>26</sup>
- February 2019: A request was made for three former military officials and one former police officer to be tried and sentenced to imprisonment in a complaint filed by a group of former political prisoners.<sup>27</sup>
- February 2019: A request was made to bring five former military officials to trial for two crimes committed during the dictatorship.<sup>28</sup>
- March 2019: A request was made to bring three military officials to trial for crimes committed during the dictatorship.<sup>29</sup>

*Reply to the issues raised in paragraph 24*

115. During the reporting period, the Uruguayan Parliament approved two extradition agreements, one of which has yet to be ratified in return by Italy<sup>30</sup> (Act No. 19.586 of December 2017) and another with Portugal that entered into force on 28 April 2019 (Act No. 19.704 of December 2018).<sup>31</sup>

116. Both agreements stipulate that crimes of genocide, crimes against humanity and war crimes shall not be considered political crimes.

117. Furthermore, article 329<sup>32</sup> of the new Code of Criminal Procedure includes extradition rules (which had not been provided for in the previous legislation) to be applied in all cases that are not subject to a treaty and by which Uruguay would proceed with extradition for cases constituting the crime of enforced disappearance.

### Articles 16–23

*Reply to the issues raised in paragraph 26*

118. Articles 351 to 357 of the new Code of Criminal Procedure<sup>33</sup> (Act No. 19.293) establish the special process of habeas corpus, in force since 1 November 2017.

<sup>25</sup> See request for prosecution: <http://www.fiscalia.gub.uy/innovaportal/v/7053/1/innova.front/fiscalia-especializada-en-crimenes-de-lesa-humanidad-solicitado-22-anos-de-penitenciaria-para-un-militar-retirado-como-co-autor-del-homicidio-de-aldo-perrini.html>.

<sup>26</sup> See request for prosecution: <http://www.fiscalia.gub.uy/innovaportal/file/7465/1/sylvia-gari.pdf>.

<sup>27</sup> See request for prosecution: <http://www.fiscalia.gub.uy/innovaportal/file/7605/1/pedido-procesamiento.pdf>.

<sup>28</sup> See request for prosecution: <http://www.fiscalia.gub.uy/innovaportal/file/7667/1/perciballe.pdf>.

<sup>29</sup> See request for prosecution: <http://www.fiscalia.gub.uy/innovaportal/file/7752/1/vista-d.l.s..pdf>.

<sup>30</sup> See Annex No. 2: Extradition Agreement with Italy.

<sup>31</sup> See Annex No. 3: Extradition Agreement with Portugal.

<sup>32</sup> Article 329. (Applicable rules). – 329.1 The extradition process shall be governed by the provisions of applicable international treaties or conventions ratified by the Republic. 329.2 With regard to the crimes and offences established by Act No. 18.026 of 25 September 2006 and the Rome Statute of the International Criminal Court, the process of extradition and surrender of suspects shall also be governed by the above-mentioned provisions. 329.3 In cases where the instruments in question prove to be defective or inadequate, the following provisions shall apply.

<sup>33</sup> Title II – The process of habeas corpus, Chapter I – General Regulations (...) Article 353. (Legitimacy). – 353.1 This action may be brought by the party concerned, the Public Prosecution Service or any person or may be applied *ex proprio motu*. 353.2 The competent authority is authorized to act on such actions, without prejudice to its duty to report thereon immediately to its superiors and its right to legal advice. Article 354. (Jurisdiction). – 354.1 This action shall be heard by the professional judge with jurisdiction over criminal matters on duty in the place where the acts were allegedly committed or, if this cannot be easily determined, by any professional judge with jurisdiction over criminal matters. 354.2 No exception or plea of incompetence is admissible in these proceedings, and the court concerned may give precedence only to the court with jurisdiction in proceedings related to the matter in question and which is competent under the general regulations. 354.3 The court that takes cognizance of the proceedings does not automatically assume jurisdiction

119. Article 351 establishes that: “Habeas corpus is a remedy which protects personal freedom of movement against any arbitrary act by any administrative authority that denies, restricts, limits or threatens such freedom, and which protects persons deprived of liberty against torture and other cruel treatment or conditions of imprisonment which violate human dignity.”

120. Article 352 states that: “If the situations mentioned in the previous article occur as a result of the implementation of prompt security measures, in accordance with the provisions of article 168 (17) of the Constitution, the remedy of habeas corpus remains available. In such cases, it is limited to strict compliance with formal constitutional requirements, the consent or notification of the General Assembly or the Permanent Commission, as appropriate, monitoring of the treatment and the place and conditions of detention or transfer, and the availability of the option of leaving the country, where appropriate.”

*Reply to the issues raised in paragraph 28*

121. The National Rehabilitation Institute launched the Prison Administration System to consolidate data on persons deprived of liberty and the various prison services in Uruguay. So far, information has been compiled on prison units located in the metropolitan area. This digital format grants users access to judicial information and information on accommodation, conditions, temporary leave, transfers and visits. In short, it allows for the consultation of general and specific reports on persons deprived of liberty.

122. The roll-out of the Prison Administration System has been divided into two main modules to be implemented in the various units under the authority of the National Rehabilitation Institute, the first relating to the registration of persons deprived of liberty and their movement within the prison unit, and the second relating to visits.

123. In September 2018, implementation of the module for the registration of persons deprived of liberty was completed in all units throughout the country. Implementation of the module relating to visits is on track for completion in all units throughout the country by May 2019.

124. Anonymous complaints can be made to the Directorate of Internal Affairs and the Quality Management Service through the free helpline 0800-5000. Between 1 June 2016 and 24 July 2017, 837 complaints were received through the helpline. Of the total number of

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in preference to another court that has the same jurisdiction. 354.4. In the case of complaints of torture or ill-treatment of persons deprived of liberty already subject to the jurisdiction of a particular court, that court shall have sole jurisdiction. 354.5 If the person concerned is under 18 years of age, the juvenile justice system shall have jurisdiction over the matter. Chapter II – Procedure Article 355. (Petition). – 355.1 A petition of habeas corpus may be formulated without professional legal assistance, in writing or orally, with a procedural document being issued in the latter case, and must, as far as possible, identify the person on whose behalf the petitioner is acting, establish a concise account of the facts, indicate the place of detention and the official responsible, if his or her identity is known, and be supported by the available evidence. In addition, the party appearing must declare that he or she is not aware of any habeas corpus or criminal proceedings under way in another court in relation to the same subject. 355.2 The Supreme Court of Justice shall determine the place of submission of the petition outside normal working hours. Article 356. (Proceedings). – 356.1 On receipt of the petition, the court must immediately give orders for the arresting authority, or the authority alleged to be responsible for other acts complained of, to report on the facts, explain and justify immediately the legal basis for its actions, and submit a written record of all the proceedings carried out. 356.2 Depending on the case, the court may convene to inspect the administrative premises concerned, give orders for the authority under investigation to bring the detainee before it and interview face-to-face the person on whose behalf the action has been brought. The court may also order such collection of evidence as it deems necessary, which it may consider in a hearing, summoning the Public Prosecution Service, the authority under investigation and the initiator of the proceedings. 356.3 The court proceedings must be completed in the shortest possible time and all dates and all hours in the day may be declared working time, as necessary, until a verdict is issued. 356.4 If so required during the procedure, the court will appoint a public defender to the person on whose behalf the action has been brought. Article 357. (Verdict). – At the end of the procedure, the court will issue a verdict that must be read out in the hearing, if there is one, or within 24 hours of the completion of all reports and any probative measures.

complaints, 106 related to women deprived of liberty in 10 detention facilities, including 3 Brazilian nationals, and 731 to men deprived of liberty in 22 detention facilities, including 1 Paraguayan national and 1 Argentine national. Ninety-five per cent of the complainants were white. Complaints are forwarded to the National Rehabilitation Institute for investigation and processing. Between 1 October 2017 and 28 February 2018, the Quality Management Service received 497 complaints emanating from 18 detention centres. Ninety-five per cent of the complainants were white. All cases were referred to the National Rehabilitation Institute.

125. As at December 2018, a total of 4,913 complaints had been received.

#### *National Institute for Children and Adolescents*

126. Information relating to children and adolescents placed under the care of the National Institute for Children and Adolescents and adolescents and young persons serving custodial and non-custodial sentences is recorded using software known as the Child Data System.

127. The Child Data System records information relating to courts that are currently considering case files, defence lawyers, proceedings, appeals, and all information relating to, inter alia, education, health and family. Other projects run by the National Institute for the Social Inclusion of Adolescents continue to provide data to the Child Data System because the introduction of the Institute's Management System – software being developed to record information on those projects – is still under way.

#### *National Institute for the Social Inclusion of Adolescents*

128. The Management System of the National Institute for the Social Inclusion of Adolescents is a computerized management tool designed to record information relating to the comprehensive care of adolescents subject to judicial measures, from their entry into the Institute's care to their departure. Its purpose is the production of statistical information.

129. This new management tool, which will give the Institute its own computerized system specifically designed to suit the target population, started development in 2015, at the beginning of the current administration.

130. The first stage of the implementation of the Management System has been completed in three pilot centres, and it is currently in its second phase, which involves testing. It is expected to be operational by late 2019.

#### *Reply to the issues raised in paragraph 30*

##### *Human rights training for State officials*

###### *Armed forces*

131. Human rights form part of the training curricula for officers of the armed forces, and those curricula are submitted annually to the General Assembly, in accordance with article 14 of Act No. 15.848, which states that “the Executive branch shall submit annually to the General Assembly the curricula of military training schools and institutes”.

132. Furthermore, the Directorate of Legal and Notarial Affairs and Human Rights was created with the task, among others, of working with the judiciary on cases involving crimes against humanity, as well as with public and private institutions, including non-governmental organizations (NGOs), in the area of human rights.

###### *Ministry of the Interior*

133. Human rights training is a cross-cutting element of both induction and specialist curricula. It is part of the curriculum for all staff members.

134. As part of the institutional strengthening of the national prison system, training continues for officials working in the system through the Prison Training Centre. The Prison Training Centre is a specialized technical unit that provides ongoing training for all officials appointed to posts in the prison system.

135. The Prison Training Centre has been developing training policies since its inception. The teaching, theoretical and methodological principles of its curricula, and their content, include subjects linked directly and indirectly to human rights, taking in the legal, professional ethics and social dimensions. These subjects address the human rights and guarantees that all officials must promote, uphold and protect, as well as the sanctions imposed on those who fail to do so.

136. A new comprehensive training curriculum was developed for specialized civilian staff working in prisons. This training covers treatment programmes, security, administration and management, gender, human rights, information technology, preventive health care and physical education, among other subjects.

137. This training was also extended to the National Police and Republican Guard Academy, the first initiative of its kind in Latin America, and includes role-playing workshops, which contribute to institutional strengthening by addressing the psychosocial needs of staff, an essential institutional building block. It also allows for the coaching of officials, increasing their motivation at work and their understanding of the vocation, strengthening their work identity and improving working relationships, teamwork and a sense of belonging to the national prison system.

138. The police education system curriculum covers human rights. The subject is also incorporated into other areas of study, including operations, police arms training techniques and self-defence, which promotes the rational, proportional and progressive use of force. At the National Directorate of Police Training, any interpersonal relationships or educational guidelines that are detrimental to human dignity, as well as degrading terminology or stigmatizing practices that undermine self-esteem or physical or mental well-being, are prohibited. Also noteworthy is the training programme on the new Code of Criminal Procedure, which raises awareness of these matters.

139. With regard to human rights during the civilian and military dictatorship, in December 2016 the Ministry of the Interior, acting as a judicial auxiliary, handed over hard and digital copies of the files of the General Directorate of Information and Intelligence to the Human Rights Secretariat for the Recent Past and the University of the Republic. A protocol on crimes against humanity is currently being drawn up with the Attorney General's Office to improve investigations into these crimes under the new Code of Criminal Procedure. Additionally, the training of young police investigators in specific techniques for investigating and handling these cases has begun.

#### The judiciary

140. As part of training programmes for judges, clerks and officials of the judiciary, the training bodies of the Supreme Court have launched human rights courses. The Centre for Judicial Studies of Uruguay provides training courses for aspiring and serving judges, public defenders and attorneys.

141. These courses form part of serving judges' compulsory training and may involve an assessment that counts towards their qualification.

142. The initial training course for aspiring judges includes a specific human rights module. Courses on human rights are also offered as part of the programme of mandatory continuous training for judges. These courses cover international human rights instruments.

#### Attorney General's Office

143. Since the Inter-American Court of Human Rights issued its judgment in the case of *Gelman v. Uruguay*, the Attorney General's Office has provided ongoing annual training on human rights for its prosecutors. The most recent training, a human rights update seminar, took place from 15 to 30 November 2018 and was led by qualified speakers.

144. In November 2018, an international seminar on the protection of human rights in national and international justice systems was organized by the United Nations Office in Uruguay, the Centre for Judicial Studies of Uruguay and the training centre of the Attorney General's Office.

## National Institute for the Social Inclusion of Adolescents

145. One of the first steps taken by the current management of the National Institute for the Social Inclusion of Adolescents, who took office on 20 May 2015, was to introduce continuous human rights training for all staff. The first course for directors was delivered by the National Human Rights Institution, the Parliamentary Commissioner for the Prison System and the president of the Institute on 27 May 2015. Training for staff at all levels of management continued thanks to the signing of a memorandum of understanding with the United Nations Resident Coordinator Office, the United Nations Children's Fund (UNICEF) and the United Nations Office on Drugs and Crime (UNODC).

146. Protocols drawn up prior to 2015 have been updated. Fourteen thousand copies of protocols relating to visits, the disciplinary system and restraint procedures have been produced. Evaluation of this effective continuous human rights training programme and the updating of the protocols has shown a marked decrease in reports of violence by staff towards inmates. The situation has been improved further by making it compulsory for staff to wear identification badges and setting up an email address to which anonymous complaints may be sent.

147. Similarly, the media have been used to transmit the message that anyone who becomes aware of an incident within the prison system needs to report it immediately to the legal department or request a meeting with the prison's board of directors, which will launch the necessary investigations and criminal complaints at once. In several cases the board has requested the dismissal of the perpetrator.

**Articles 24 and 25***Reply to the issues raised in paragraph 32*

148. As already mentioned, the new Code of Criminal Procedure altered the foundations of the country's criminal procedure when it comes to the treatment of victims, granting them greater prominence and involvement. These provisions apply also to the cases covered by Act No. 18.026.

149. Article 3 of the Code states: "(Recognition of human dignity). All persons, regardless of their role in proceedings, and in particular the victim and the alleged perpetrator of a crime, must be treated with respect for the dignity of the human person."

150. Furthermore, Chapter IV of the Code is dedicated to victims (arts. 79 to 81). Under article 79, a victim is deemed a person injured by an offence. When lodging an official request or reporting an incident, victims, or their representatives, may declare their intention to participate in the criminal proceedings, enjoying the rights and entitlements granted to them by the Code (art. 79.2). Upon request, a public defender is assigned to victims who cannot afford one (art. 79.3).

151. Moreover, article 81 of the Code provides that victims of crime enjoy the rights enshrined in the Code, without prejudice to the duties incumbent on the prosecutor in the defence of their interests. According to article 81.2, the victim of a crime may participate in the criminal proceedings in accordance with the provisions of the Code and shall have, among others, the following rights:

(a) To be informed of all actions taken from the beginning of the preliminary investigation, without prejudice to the power of the prosecutor to order that such information be withheld when necessary to ensure the investigation's effectiveness (article 259.3 of the Code);

(b) To participate in proceedings and to be heard in accordance with the Code;

(c) To give evidence during the preliminary inquiry, as well as during the preliminary hearing and in the court of second instance, if applicable, contributing to the prosecutor's investigation and evidentiary proceedings. Victims shall enjoy the same rights as other parties in the gathering and processing of their evidence;

(d) To request protection measures against potential harassment, threats or aggression against themselves or their relatives;

(e) To request precautionary measures in relation to the accused's property, or property related to the offence;

(f) To oppose, in court, a decision by the prosecutor not to initiate or to terminate a preliminary inquiry, or not to launch criminal proceedings;

(g) To be heard by the court before it issues a decision on a request for the dismissal of a case or any other decision that would terminate proceedings, in accordance with article 129 of the Code.

152. Article 360.3 of the Code provides that victims may appeal decisions that affect them directly.

153. The Special Prosecutor's Office for Crimes against Humanity is mindful of the scope granted to it under the Convention and undertakes its work accordingly. It has therefore maintained continuous contact during this reporting period with the relatives of victims, their lawyers and their association (Madres y Familiares de Uruguayos Detenidos Desaparecidos).

154. In addition to receiving anyone who requests a meeting, the Office has established a mechanism to provide any information in its possession that is deemed of interest to them.

155. The association is thereby informed of, for example, any steps taken in the search for remains and the date and location of such operations.

156. Similarly, when a relevant judgment is issued, the first party to be informed is the family or, if applicable, its lawyer, thus ensuring that victims learn about any progress through the Special Prosecutor's Office rather than the media.

157. Following the entry into force of the new Code of Criminal Procedure, an information system for adversarial criminal proceedings was launched on 6 September 2017 to facilitate the collection of data on all complaints lodged in Uruguay, including the number of complaints and types of crime. The system will provide statistical data to be used to evaluate public policies, redefine the competencies of prosecutors' offices and recalculate the number of prosecutors' offices in each area, for example.

#### *Victims and Witnesses Unit of the Attorney General's Office*

158. The Victims and Witnesses Unit of the Attorney General's Office was created in February 2016 following the restructuring of the Public Prosecution Service, in accordance with Act No. 19.334 and the new Code of Criminal Procedure, which places the assistance and protection of victims and witnesses within the competence of the Attorney General's Office by means of Resolution No. 83/2016.<sup>34</sup>

159. Article 15 of the new Organic Act on the Attorney General's Office (No. 19.483) provides for the issuance of general instructions adopted by the Chief Public Prosecutor, drawn up by an honorary council comprising the Chief Public Prosecutor and one representative each of the executive branch, the University of the Republic, the Prosecutors' Association and the civil society organization most relevant to the subject matter. The purpose of these general instructions is to establish minimum standards, thus ensuring that prosecutors adopt a common approach to various thematic areas, and contributing to criminal policy.

160. General Instruction No. 5 on support and protection for victims and witnesses was issued in October 2017.<sup>35</sup> Subsequently, General Instruction No. 9 on a special programme of protection for victims and witnesses of crime was issued.<sup>36</sup>

161. The Victims and Witnesses Unit has drafted the policy of the Attorney General's Office on support and protection for victims and witnesses.<sup>37</sup> In 2019, the team working in

<sup>34</sup> <http://www.fiscalia.gub.uy/innovaportal/file/1062/1/resolucion-83.pdf>. The current organizational chart is available at: <http://www.fiscalia.gub.uy/innovaportal/file/1105/1/organigrama.pdf>.

<sup>35</sup> <http://www.fiscalia.gub.uy/innovaportal/file/4405/1/instruccion-nro5.pdf>.

<sup>36</sup> <http://www.fiscalia.gub.uy/innovaportal/file/3480/1/instruccion-general-proteccion-especial-de-victimas-y-testigos-de-los-delitos.pdf>.

<sup>37</sup> [http://www.fiscalia.gub.uy/innovaportal/file/3482/1/doc-politicaatencyprotec\\_vyt\\_fgn\\_2017\\_v2.pdf](http://www.fiscalia.gub.uy/innovaportal/file/3482/1/doc-politicaatencyprotec_vyt_fgn_2017_v2.pdf).

the Unit was expanded from 6 specialist staff members to 27, covering the entire country. The team comprises 1 manager, 2 supervisors, 27 specialist staff members (including social workers, psychologists and a lawyer) and 2 administrative staff members. All recruitment in 2019 was based on competitive examinations and merit.

162. With the support of the European Union Regional Programme for social cohesion in Latin America, a project to strengthen the Victims and Witnesses Unit has been under way since 2018. Strengthening of the Unit has also been ongoing since 2017 as part of South-South cooperation with the Ministry of Justice and Human Rights of Argentina. As part of that cooperation, in June 2018 two Argentine experts from the Ministry's National Programme to Rescue and Support Persons Made Homeless by Human Trafficking participated in an exchange with staff of the Victims and Witnesses Unit, as well as specialist prosecutors from Montevideo and multidisciplinary staff from other regions of Uruguay.

*Reply to the issues raised in paragraph 34*

163. As previously noted, article 21 of Act No. 18.026 establishes the crime of enforced disappearance in domestic law. It provides that "anyone, whether an agent of the State or acting with the authorization, support or acquiescence of one or more agents of the State, who by any means and for any reason deprives a person of liberty and fails to report that deprivation of liberty or the whereabouts or the fate of the person deprived of liberty, or who fails or refuses to provide information on the fact of deprivation of liberty of a disappeared person, or on their whereabouts or fate, shall be liable to 2 to 25 years' imprisonment". Therefore, the crime of enforced disappearance "shall be deemed a continuing offence as long as the fate or whereabouts of the victim remains unknown" (art. 21.2).

164. Furthermore, articles 280 to 293 of the Criminal Code set out offences against individual freedom and article 281 refers specifically to deprivation of liberty.

*Reply to the issues raised in paragraph 36*

165. The Uruguayan legal framework does not provide a specific procedure for reviewing and, if necessary, annulling adoptions, placements or guardianship that originated in an enforced disappearance. However, the Adoption Act (No. 18.590) amended the provisions of the Code on Children and Adolescents on the process for annulling adoptions. Article 147 states: "The judgment authorizing the adoption may not be reviewed (article 405.1 of the General Code of Procedure); however, a request for its annulment may be made in cases of fraud, deceit or collusion." This provision may be applicable to cases of enforced disappearance.

166. Act No. 17.823 on the Code on Children and Adolescents amended articles 214 to 221 of the Civil Code with regard to a child's ability to contest paternity.

167. The family judges who authorized an adoption are responsible for the annulment proceedings. The need to "take into account the best interests of the child and, in particular, recognize the child's right to be heard if he or she is capable of forming his or her own views" is provided for in Act No. 17.823 and constitutes a guiding principle for decision-making.<sup>38</sup>

168. At the time of writing, the authorities have not dealt with any cases in which the identities of young or adolescent girls have been swapped.

169. In the case of the disappearance or unauthorized departure from the country of a child or adolescent who is in the care of the protection system, a search procedure is activated in conjunction with the Ministry of the Interior. A report is lodged and the court informed so that, for example, the borders may be closed and searches for the child conducted. The search is also publicized via the media and social networks thanks to the work of the Department of Public Entertainment.

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<sup>38</sup> Articles 8 and 14, Adoption Act:  
<https://legislativo.parlamento.gub.uy/temporales/leytemp5547309.htm>  
 Code on Children and Adolescents:  
<https://legislativo.parlamento.gub.uy/temporales/leytemp7153624.htm>.

*Reply to the questions raised in paragraphs 37 to 42*

## Follow-up to the provisions of the Convention

## National Mechanism for the Preparation of Reports and Follow-up of Recommendations

170. Decree No. 358/2016 of 14 November 2016 provided for the establishment of an inter-agency network for the preparation of reports and follow-up on the implementation of human rights recommendations and observations and designated the SIMORE software as the public information system for recording State actions relating to compliance with, and implementation of, the recommendations and observations made by the universal system for the protection of human rights. It also provided for a phase of inter-agency coordination with a view to streamlining the methodology by which the country reports to the international community and implementing the State party's human rights obligations at the national level.

171. The formation of the inter-agency network and the implementation of the SIMORE software<sup>39</sup> laid the foundations for the establishment of the National Mechanism for the Preparation of Reports and Follow-up of Recommendations.

172. The National Mechanism is coordinated by the Directorate of Human Rights and Humanitarian Law of the Ministry of Foreign Affairs and comprises an inter-agency network made up of the three branches of Government, regional governments, decentralized departments and independent bodies.<sup>40</sup> The National Human Rights Institution and Ombudsman's Office acts as a permanent observer of the National Mechanism and participates in all its bodies.

173. Inter-agency work is channelled through seven panels, on the subjects of women; children and adolescents; discrimination; the rights of persons with disabilities; memory, truth and justice; persons deprived of liberty and persons in institutions; and institutional strengthening.

174. The memory, truth and justice panel follows up the implementation of recommendations linked to memory, truth, justice and guarantees of non-repetition made by United Nations human rights protection mechanisms, such as other treaty bodies, special procedures and the Universal Periodic Review of the Human Rights Council.

175. One of the tasks of the inter-agency network is to input information into the SIMORE software on the progress made in implementing the recommendations that Uruguay receives from the universal system for the protection and promotion of human rights (treaty bodies, special procedures and the Universal Periodic Review of the Human Rights Council).

176. The National Mechanism uses the dialogue and consultation system of the Ministry of Foreign Affairs as a formal channel of communication with civil society organizations. Pursuant to Decree No. 89/2018, adopted on 9 April 2019, as part of the National Mechanism, the Ministry of Foreign Affairs, on its own initiative or at the request of the inter-agency panels, undertakes to convene publicly the civil society organizations interested in the

<sup>39</sup> The software may be accessed at [simore.mrree.gub.uy](http://simore.mrree.gub.uy).

<sup>40</sup> At the time of writing, the Mechanism comprised 32 State bodies. From the executive branch: the Ministry of Foreign Affairs; the Ministry of the Interior; the Ministry of Economic Affairs and Finance; the Ministry of Defence; the Ministry of Education and Culture; the Ministry of Transport and Public Works; the Ministry of Industry, Energy and Mining; the Ministry of Labour and Social Security; the Ministry of Health; the Ministry of Livestock, Agriculture and Fisheries; the Ministry of Tourism; the Ministry of Housing, Land Management and the Environment; the Ministry of Social Development; the Planning and Budget Office; the National Institute of Statistics; the Human Rights Secretariat of the Office of the President; the Agency for the Development of E-Government and the Information and Knowledge Society; the Uruguayan International Cooperation Agency; and the National Civil Service Office. Decentralized departments: the National Institute for the Social Inclusion of Adolescents; the State Sanitary Works; the Institute for Children and Adolescents; the State Health Services Administration; the Attorney General's Office; and the National Mail Administration. Independent bodies: the Social Security Bank; the National Public Education Administration; the judiciary; the legislature (both houses); and the Office of the Parliamentary Commissioner for the Prison System. Regional governments: the Municipality of Montevideo. Observers: the National Human Rights Institution and Ombudsman's Office.

subjects covered by reports to be submitted to the treaty bodies and to the Universal Periodic Review prior to their submission, thus providing a forum for dialogue between the State and civil society with regard to the report in question.

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