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

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**Committee against Torture**

## Consideration of reports submitted by States parties under article 19 of the Convention pursuant to the optional reporting procedure

### Sixth periodic reports of States parties due in 2013

## Chile*, **

[Date received: 16 February 2017]

* The fifth periodic report of Chile appears in document CAT/C/CHL/5; it was considered by the Committee at its 877th and 899th sessions, held on 4 and 5 May 2009 (CAT/C/SR.877 and 879). For its consideration, see the Committee's concluding observations (CAT/C/CHL/CO/5).

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

# Contents

# I. Introduction

1. The sixth periodic report on the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, prepared in accordance with article 19 and the guidelines on the simplified reporting procedure, contains detailed information on legislation, progress and specific measures adopted by Chile to ensure the full exercise and enjoyment of the rights recognized in that instrument. Its content responds to the list of issues prior to reporting (CAT/C/CHL/Q/6) and covers the period between 2009 and 2016.

2. The present document has been prepared by the Ministry of Justice and Human Rights with the assistance of the Ministry of Foreign Affairs, on the basis of the information provided by the Ministry of the Interior and Public Security; the Office of the Minister and Secretary-General of the Presidency; the Office of the Minister and Secretary-General of the Government; the Ministry of National Defence; the Ministry of Health; the Ministry of Labour and Social Security; the Ministry of Women and Gender Equity; the National Council for Children; the judiciary; the Public Prosecution Service; the National Service for Minors; the Forensic Medical Service; the Prison Service; the Legal Assistance Agency; the Carabineros; and the Investigative Police.

3. This report was prepared with the unprecedented cooperation of the United Nations High Commissioner for Human Rights, as this is the first time that technical assistance was provided by the United Nations for such an exercise. On 26 August 2014, training was provided to 30 public officials designated as focal points with instructions to collect accurate and complete information requested by the Committee against Torture. Following that, on 23 November 2015, a meeting was held with civil society representatives in units of the Ministry of Foreign Affairs, at which ministerial authorities reaffirmed the commitment of the Government to collect their views, the importance of addressing these issues, and the absolute prohibition of torture and highlighted three main sub-themes: definition of the offence of torture; the national mechanism for the prevention of torture; and the Office of the Undersecretary for Human Rights.[1] Subsequently, a representative of the Office of the United Nations High Commissioner for Human Rights (OHCHR) explained the role of civil society and the modalities for its participation in the reporting and review processes of the United Nations treaty bodies, focusing on the process of preparing alternative reports. Lastly, a panel was formed of representatives of human rights organizations to discuss the status of implementation of international obligations relating to torture and the recommendations formulated by the Committee against Torture.[2] The invitation to participate was widely disseminated among civil society representatives, who attended as members of the public and were able to exchange views with the presenters.

4. During the preparation of this report, between 4 and 13 April 2016, Chile received a delegation of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In accordance with the obligations set out in the Optional Protocol to the Convention against Torture, the State ensured unfettered access for visits to the 22 places of detention at the national level, in addition to providing facilities for the conduct of private and confidential interviews with persons deprived of their liberty, law enforcement officers and medical personnel. The delegation presented its preliminary observations and recognized the commitment of the State to dealing with the issue of the torture of persons deprived of their liberty. The visit provided the basis for the adoption of measures to improve the conditions and treatment of persons deprived of their liberty. Both

[1] The meeting was attended by the then Minister of Justice, Javiera Blanco, and the Under-Secretary for Foreign Affairs, Edgardo Riveros.

[2] It was also attended by Claudia Cárdenas, Director of the Human Rights Centre of the University of Chile; Ana Piquer, Executive Director of Amnesty International Chile; Carolina Carrera, Chair of Corporación Humanas; and Carlos Margotta, Chair of the Civil Society Council of the Ministry of Justice and representative of the Chilean Human Rights Commission.

the report of the Subcommittee following its visit to Chile and the response by the State are publicly available and on the website of the Ministry of Justice and Human Rights.

5. The sixth periodic report of Chile to the Committee against Torture will be available to the public from the date on which it is sent to the secretariat of the Committee, through publication on the website of the Ministry of Foreign Affairs and the Office of the Undersecretary for Human Rights.

# II. Responses to the list of issues prior to reporting

## Articles 1–4

### Paragraph 1

6. Act No. 20.357, published on 18 July 2009, categorizes torture as an offence against humanity if it is perpetrated as part of a widespread and systematic attack against the civilian population.[3] [4] It also categorizes torture as a war crime in the context of an armed conflict, whether international or non-international in nature.

7. In addition to the above, Act No. 20.968, issued on 22 November 2016, defines the offence of torture and cruel, inhuman and degrading treatment and amends the Criminal Code by replacing article 150A, in accordance with international standards. First, in the current description of the offence, it has replaced the previous notion of "torment or coercion" with that of torture. In addition, it has been arranged to include the four specific elements of torture that are identified in international conventions: first, the causing of severe pain or suffering; second, intent; third, specific aim or purpose (coercive, punitive or discriminatory); and fourth, the intervention of or performance of actions by a public official or a private individual with the official's acquiescence. Along with this, a new element has been added with the inclusion in the definition of torture of "sexual" pain or suffering. Lastly, it provides for a stiffer penalty for the aforementioned offence, which is internationally regarded as among the most serious of offences. When the bill was considered by parliament, it was realized that, if the penalties for the offence of torture were to be stiffened, the statute of limitations would have to be extended, in compliance with the recommendations issued by the Committee against Torture in its concluding observations of 2009.

8. With regard to regulation of the various forms of participation in the offence of torture, such as attempted torture, complicity in torture, concealment of torture and incitement to torture, these are regulated in the general section of the Criminal Code.

### Paragraph 2

9. The non-applicability of statutory limitations to the offence of torture is recognized in Act No. 20.357 on crimes against humanity. As for the new criminal offence of torture committed outside the context of crimes against humanity, the general rules of the Criminal Code shall apply to this offence.

### Paragraph 3

10. Act No. 20.357, which defines crimes against humanity, genocide and war crimes, does not cover offences committed prior to its entry into force. In accordance with article 44, acts committed prior to its enactment shall continue to be governed by the

[3] Act No. 20.357, in particular arts. 1, 7 (1) and 21.

[4] Act No. 20.357 defines "widespread attack" as an attack involving "a single act or a number of simultaneous or successive acts that affect or are targeted at a significant number of persons". In addition, the Act defines "systematic attack" as "a series of successive acts that extend over a certain period of time and that affect or are targeted at a significant number of persons".

regulations in force at the time. The provisions apply to acts the commission of which started after its entry into force.

11. In its jurisprudence the Supreme Court has recognized the principle that there can be no statute of limitations on war crimes and crimes against humanity, observing in this context that this principle has been accepted in international law as a rule of *jus cogens*.[5] Accordingly, offences committed prior to the enactment of Act No. 20.357, which constitute war crimes or crimes against humanity, have unfailingly been deemed by the courts to be excluded from any statute of limitations. The detention in London in 1998 of Augusto Pinochet, first dictator and then senator for life, was of decisive importance in changing the jurisprudence of the Supreme Court, which recognized that, as a crime against humanity, torture could not be subject to any statute of limitations.[6]

12. To reinforce the non-applicability of any statute of limitations to torture, on 10 December 2014 the bills set out in bulletins Nos. 9.748-07 and 9.773-07 were tabled in the National Congress and subsequently amended by the Executive with the inclusion of comments.[7] The aim is to bring domestic legislation into line with international human rights standards and to avoid impunity for serious or ordinary offences which, in accordance with international law, constitute genocide, crimes against humanity or war crimes or offences, regardless of the date on which the offence was committed. As stipulated in the bills, the statute of limitations will not apply to criminal prosecution or to sentencing for the unlawful acts in question and the mere passage of time shall not have any effect on the imposition or determination of sentences, nor will it decrease any criminal penalty already imposed. As one of the draft components for revision of the Constitution, consideration is being given to the inadmissibility of general pardons and amnesty for such serious offences, as measures that constitute prohibited forms of exoneration from liability. At the time of writing of the present report, the drafts are undergoing their first reading in the Senate Committee on the Constitution, Legislation, Justice and Regulations and the Government has undertaken to take them up in the course of 2017.

13. With regard to the measures taken to ensure that the perpetrators are prosecuted and convicted of crimes against humanity, including torture committed during the civilian and military dictatorship, the judiciary has determined that the special inspecting judges are those who hear cases and pass judgment in relation to acts constituting the offence of unlawful coercion or use of torture as crimes against humanity. By use of its self-regulating powers, the plenary of the Supreme Court determines the manner in which cases are divided up among these judges and also designates one of the judges as national coordinator for cases involving human rights violations committed during the civilian and military dictatorship.[8]

14. In 2010, the plenary of the Supreme Court agreed to the promulgation of Act No. 81-10, which stipulated that proceedings for human rights violations that took place between 11 September 1973 and 10 March 1990 and that involved the killing and disappearance of persons, should be heard and decided by a special inspecting judge in the Appeals Court. Since the Act is applicable to the totality of enforced disappearances or other acts leading to death between 11 September 1973 and 10 March 1990, a dual interpretation has arisen among the judges hearing these cases. On the one hand, in dealing with the submission of complaints of unlawful coercion, some special inspecting judges have claimed jurisdiction, arguing that torture falls within their purview. Other judges,

[5] Supreme Court Judgment of 13 December 2006, case No. 559-04, recitals 12–28; Judgment of 5 September 2007, case No. 6525-2006, recital 1, commutation of the judgment; Judgment of 2007, case No. 6188-2006, recitals 28 and 29 of the commutation judgment; Judgment of 2007, case No. 4662-2007, recitals 8–11 of the commutation judgment.

[6] An example of this practice is that, since the aforementioned date, the only case in which the non-applicability of the statute of limitations has not been observed is that of Jacqueline Binfa Contreras, Supreme Court No. 4329-2008 (judgment of 22 January 2009).

[7] Annex IV, explanatory notes provided by the Executive on 24 December 2015 on both bills.

[8] This position is held by the judge Sergio Muñoz.

however — of the same level and standing — have chosen to decline jurisdiction when faced with complaints or allegations of the use of ill-treatment (torture). The consequence of this is that the latter group of cases — in respect of which a special inspecting judge has declined jurisdiction — shall be heard by the courts of first instance with specific jurisdiction for the offence under the former inquisitorial system, when the purpose of Act No. 81 was precisely to make provision for a higher level of specialization in these cases involving allegations of torture committed during the dictatorship.[9]

15. According to statistics from the judiciary, as of October 2015, out of a total of 1,045 cases heard by the special judges involving human rights violations between 11 September 1973 and 10 March 1990, 112 are related to torture. Of the 1,422 people prosecuted, 185 were charged with torture; of the 744 people on whom indictments were handed down, 58 were indicted for torture; and of the 399 people who received convictions, 32 were convicted for torture.

16. The repeal of article 15 of Act No. 19.992, by means of which information on the practice of torture during the civilian and military dictatorship was kept secret for 50 years, is subject to review in accordance with a commitment in the government programme for the period 2014–2018. On 1 September 2016 a bill, set out in bulletin No. 10.883-07, amending Act No. 19.992, was submitted with regard to the processing of the information collected by the National Commission on Political Prisoners and Torture (Valech Commission). The initiative seeks to ensure that the courts have at their disposal the information and testimonies collected by the National Commission, which are currently protected by secrecy and to which no authority, including the courts, have access. The bill has undergone a swift passage and is currently at second reading, having already been approved by the Chamber of Deputies.

17. In the 2015 case of *Omar Humberto Maldonado Vargas* et al. v. *Chile*, the Inter-American Court of Human Rights found that, in the specific circumstances of the case, the refusal by the Valech Commission to provide information to the investigating court did not constitute an illegitimate restriction on access to information in its files. The Court based its reasoning on article 15 (3) of the Act, which provides for an exception to the principle of total confidentiality of the files in the event that the holder of the information should decide to release it, whether by authorizing its release or by reproducing the information for the judicial authorities.[10] This exception has been in effect since the judgment on an application for protection from the Appeals Court of Santiago of December 2015, which ordered the National Human Rights Institute to hand over the confidential documents, statements and testimony to the victim, thus upholding their rights of ownership and access to information.[11] That court handed down another 14 judgments of the same nature on 2 August 2016.[12]

**Paragraph 4**

18. Since September 1998, Decree-Law No. 2.191 of 1978, granting amnesty, has not been implemented by the courts, which have uniformly ceased to invoke it in respect of serious and ordinary offences constituting crimes against humanity during the dictatorship.[13] The Supreme Court has held that institutions such as amnesty lack legal

[9] Supreme Court, Act No. 81-2010 of 1 June 2010, establishing the agreed distribution and allocation of cases involving human rights violations in the period indicated.

[10] Inter-American Court of Human Rights. Case of *Omar Humberto Maldonado Vargas* et al. v. *Chile*, paras. 87–102.

[11] Ninth chamber of the Santiago Court of Appeal, remedy of protection, case No. 91.155-2015, judgment of 21 December 2015.

[12] Seventh Chamber of the Santiago Court of Appeal of Santiago, action of protection, case No. 48.719-2016, judgment of 2 August 2016. See also the following cases: 48.721, 48.723, 48.727, 48729, 48732, 48734, 48737, 48739, 48741, 48744, 48745, 48747 and 48755, all from 2016.

[13] National Human Rights Institute. 2014 annual report, p. 22.

effect in such cases and are incompatible with international human rights instruments.[14] The Inter-American Court of Human Rights has also noted the continuous and consistent interpretation by the Supreme Court and the fact that the aforementioned decree-law has not been implemented.[15]

19. This has enabled the courts to reopen cases which were dismissed in application of the above-mentioned decree-law and these cases are currently in process, at the investigation or final sentencing stage. The human rights programme of the Ministry of Justice and Human Rights reported that all the cases in which Decree-Law No. 2.191 had been applied had now been reopened. These involve a total of 362 victims.[16]

20. The bill for the annulment of Decree-Law No. 2.191, bulletin No. 4.162-07, submitted to the National Congress on 21 April 2006, is at first reading in the Senate Commission on Human Rights, Nationality and Citizenship. By means of the bills in bulletins Nos. 9.748-07 and 9.773-07, however, the Government has chosen to promote a constitutional reform designed to prevent the use in all cases of the concept of amnesty in both new and pending judicial proceedings. In addition, the reform includes an interpretative rule that defines the meaning and scope of certain clauses on the expiration of liability in criminal legislation, including amnesty. In this way, it provides a regulatory underpinning for established case law. The draft laws in question form part of the Government's legislative agenda and are currently undergoing their first reading in the Senate Committee on the Constitution, Legislation, Justice and Regulations. The Government has undertaken to take them up in the course of 2017.

21. As for the partial statute of limitations rule set out in article 103 of the Criminal Code, the bills in bulletins Nos. 9.748-07 and 9.773-07 stipulate that it may not be applied to crimes against humanity.

## Article 2

### Paragraph 5

22. With the entry into force of Act No. 20.502, the Carabineros and investigative police units forming part of the Ministry of National Defence were attached at the administrative and political level to the new Office of the Undersecretary for the Interior at the Ministry of the Interior and Public Security through the investigations and Carabineros divisions, and are now fully operational.[17] This change is particularly appropriate in the light of international human rights and democratic security standards which recommend a governance approach to security in which police action is subject to political control. To that end, the Government has taken measures to promote and ensure compliance with these standards.[18]

### Paragraph 6

23. The Government plans to set in place public policy and a regulatory framework on violence against women which will extend the scope of that issue, to cover violence in both public and private spheres. The 2014–2018 national action plan on violence against women

[14] Supreme Court, case of Pedro Poblete Córdova, case No. 469-98, 9 September 1998; Supreme Court, case of Hugo Vásquez Martínez and Mario Superby Jeldres, case No. 559-04, 13 December 2006.

[15] Inter-American Court of Human Rights. Monitoring compliance with the judgment in the case of *Almonacid Arellano* et al. v. *Chile*, para. 13; Inter-American Court of Human Rights. Monitoring compliance with the judgment in the case of *Almonacid Arellano and others* v. *Chile*, para. 13.

[16] It should be noted that, in legal and administrative terms, the human rights programme used to fall under the Ministry of the Interior and Public Security. By Act No. 20.885, however, the programme was transferred to the Office of the Undersecretary for Human Rights. This mandate will expire on 3 January 2017.

[17] Published in the Official Gazette of 21 February 2011.

[18] See the Inter-American Commission on Human Rights report on citizen security and human rights, 2009, p. 31.

has been devised in coordination with the Ministry of Women and Gender Equity. In addition, there are a number of government agencies dealing with femicide and the timely and appropriate care of victims and of their children (who are identified as collateral victims), and which operate at the national level. Records show that, in 2014, there were 40 femicides and 103 attempted femicides, with a total of 339 collateral victims who received assistance from the aforementioned agencies. In 2015, 45 femicides and 112 attempted femicides were registered. In 2016, 34 femicides and 105 attempted femicides were registered, according to the statistics of the then National Service for Women, now the Ministry of Women and Gender Equity.[19] In addition to this, at the time of writing, the Executive has announced the launching of a bill on the right of women to a life free of violence.[20]

24. The strategic areas of the national policy for children and young persons include efforts to combat violence as one of the most serious forms of the violation of rights and the policy sets as one of its priorities the conduct of a diagnostic analysis of the various forms of violence. In addition, it has developed a national plan for the proper treatment and response to violence. The National Service for Minors is running a specialized package of 17 projects in 11 regions of the country. In 2014, under these projects, attention was given to 1,311 children and young persons at risk of commercial sexual exploitation (85.65 per cent were girls and 14.35 per cent boys) and in 2015 it ministered to a further 1,316. Of the latter number, 85.8 per cent are girls and 14.2 per cent children. In 2016, financial resources were made available for the launching of a new specialized project in the city of Punta Arenas, to provide care for 37 victims, according to information provided by the National Service for Minors.

25. In 2016, a public debate was arranged about the plight of children and young persons in the network run by the National Service for Minors, primarily concerning the death of Lissette Villa, a young person resident in one of the Service's centres. Concerning this case, the Executive has stepped up its efforts to draft and implement rules, policies and programmes, with a view to supporting and strengthening government institutions for children and young persons in an endeavour to prevent further violation of the rights of such persons, in particular those under the direct care of the State. Thus, in March 2014, the President passed a decree creating the National Council for Children, to oversee the national policy on children and young persons for 2015–2025.[21] In addition, bills have been tabled on the establishment of systems to safeguard children's rights (bulletin No. 10315-18); on the establishment of the Office of the Children's Ombudsman (bulletin No. 10.584-07) and the Office of the Undersecretary for Children (bulletin No. 10.314-06). Lastly, the Ministry of Justice and Human Rights is preparing a bill on the upgrading of the functions of the National Service for Minors, making a distinction between the protection of rights, which will be the responsibility of the Ministry of Social Development, and its obligations in the area of juvenile justice, which will be coordinated by the Ministry of Justice and Human Rights.

26. The National Service for Minors is preparing a package for children and young persons who are victims of ill-treatment that constitutes an offence of a physical, psychological or sexual nature, under which in 2015 care was provided for 24,362 children and young persons in 142 national-level programmes. It has also promoted awareness-raising activities for the community and social sectors, such as a zero-tolerance campaign against sexual exploitation; a series of workshops on sexuality, emotional health and combating the sexual exploitation of children and young persons; the launch of the

[19] http://www.minmujeryeg.gob.cl/sernameg/programas/violencia-contra-las-mujeres/femicidios/. Figures only reflect acts of femicide perpetrated by partners or ex-partners joined by marriage or cohabitation (current or former), following the definition of femicide in the country's law. Civil society organizations consider other killings of girls and women involving gender-based violence as femicides, and put this figure at 52. http://www.nomasviolenciacontramujeres.cl/.

[20] Bulletin No. 11077-17, submitted to the Chamber of Deputies on 5 January 2017, currently at first reading.

[21] Available from www.consejoinfancia.gob.cl.

observatory on the sexual abuse of children and young persons, which collects data, figures and information on this phenomenon at the national level; the training of technical teams of specialized response programmes for children and young persons who are victims of commercial sexual exploitation; and the implementation of a targeted prevention programme which prioritizes the prevention of child abuse, moderate neglect and other violations which do not constitute offences, through capacity-building for parents. In 2014, 175 programmes were set up in 14 regions, providing care for 28,011 children and young persons; in June 2015, this coverage was extended to 118 programmes, providing care for 26,919 children under the age of 18 throughout the country, according to the National Service for Minors.

27. The legislation on violence against women has brought its focus to the domestic sphere through Act No. 20.066 on violence within the family and through other specific regulations such as Act No. 20.480 amending the Criminal Code, defining the offence of "femicide", stiffening the penalties for offences of this nature and revising the rules on parricide; Act No. 20.507, which criminalizes the smuggling of migrants and trafficking of persons and establishes rules for prevention and more effective criminal prosecution; and Act No. 20.005, which defines and punishes sexual harassment in the workplace. In turn, the Executive is committed to moving towards a policy framework that more comprehensively tackles violence against women in all its forms and types, and that also accommodates the diversity of women and their situations.

28. With regard to the allegations that police officers have committed acts of sexual violence against young and teenage girls and women during peaceful protests, in the Chilean legal system any person who is the victim of a crime can file a complaint before the criminal courts, the Public Prosecution Service or the police, which will trigger an investigation into the matter led by the Public Prosecution Service, for the purpose of verifying the facts and determining criminal liability. The law enforcement and security forces have at their disposal administrative procedures to investigate and discipline officials for excessive use of force or for offences against individuals committed in the performance of their duties. It should be noted that the Carabineros have protocols for the maintenance of law and order which were codified and published in July 2014, following a review process to bring them in line with national and international standards in the field of human rights. These protocols regulate their actions during public demonstrations and their measures for restoring order, eviction procedures, their conduct during the detention of offenders, and work with the National Human Rights Institute, individuals, civil society organizations and social media. An example of rules specific to women is provided by the protocol on eviction procedures, in particular for the eviction of occupied or wrongfully appropriated buildings, which provides that the services of female staff should be enlisted in helping the Carabineros to carry out the procedure.

29. According to reports by the Carabineros, two complaints have been lodged of acts of sexual violence committed by police officers against young girls, teenagers and women during public demonstrations, in 2011 and 2014 respectively. Both were investigated by the Carabineros and referred to the criminal courts. In the first case, the Office of Administrative Oversight at the Carabineros Headquarters for Santiago West conducted an administrative inquiry in response to complaints submitted by the Rector of the Academic University of Christian Humanism on 6 October 2011, who reported that a group of students performing Afro-Brazilian dance and music outside the Moneda metro station, in the centre of Santiago, had been apprehended by members of the Carabineros special forces. During this incident some female students were reportedly subjected to acts of a sexual nature. In the second case, the Office of Administrative Oversight of the Santiago Area Law and Order and Operational Command Centre conducted an administrative inquiry to investigate the conduct of members of the special forces who, on 15 May 2014, arrested students from the University of Arts and Social Sciences (ARCIS), who were demonstrating, semi-naked, on the south side of La Moneda Palace and who had climbed into the pool. On that occasion a Carabineros officer is alleged to have committed a sexually offensive act. The 28th precinct police station penalized the officer with a punishment of eight days' detention and the matter was referred as a possible offence to the Second Military Court of Santiago.

30. As for the current regulations, institutions and arrangements for protecting the rights of the lesbian, gay, bisexual, transgender and intersex (LGBTI) community from discrimination on the grounds of sexual orientation and gender identity, Act No. 20.609, which has been in force since 2012, sets in place measures to combat discrimination and provides a legal procedure to reinstate the rule of law whenever an act of "arbitrary discrimination" is committed. It also requires government agencies to prepare and carry out anti-discrimination policies within the areas of their jurisdiction.[22] In addition, Act No. 20.609 establishes a new aggravating circumstance to be added to article 12 of the Criminal Code. This aggravating circumstance is defined as arising when the commission of or participation in an offence was motivated by the victim's ideology, political opinion, religion or beliefs; the nation, race or ethnic or social group to which the victim belonged; or the victim's sex, sexual orientation, gender identity, age, filiation or personal appearance, or any disease or disability from which the victim might suffer.

31. The courts have taken actions to protect labour rights following incidents of unjustified dismissal motivated by the sexual orientation of workers, which breached the guarantees enshrined in the Constitution and the Labour Code. In these actions, the employers were ordered to pay special compensation and, in some cases, they were required as a reparation measure to undergo training on discrimination in labour matters and to provide a written apology.[23]

32. On 21 April 2015, Act No. 20.830 on the Civil Union Agreement was promulgated, which governs civil unions of couples of the same or opposite sex and recognizes their ensuing rights and duties. In addition, a bill, set out in bulletin No. 8.924-07, is currently under consideration that recognizes and provides protection for the right to gender identity and is designed to establish a rule that allows everyone to have their birth certificate corrected and to change the name and sex recorded in the Civil Registry and Identification Service when these do not match their gender identity. The bill is currently at first reading in the Senate and although it was introduced by parliamentary motion, the Government has taken it forward and introduced comments.

33. The proceedings relating to the death of Daniel Zamudio resulted in the conviction of four individuals for aggravated homicide. Details of the efforts made by the Public Prosecution Service to investigate the case and to initiate judicial proceedings may be found in annex I.

**Paragraph 7**

34. In 2010 Act No. 20.477 was promulgated, amending the jurisdiction of the military courts. The first article of the Act set out regulations excluding civilians and minors from the jurisdiction of the military courts. The rule was interpreted in such a way, however, that civilians were only excluded from the military courts in the capacity of accused suspects, but not as victims, on the grounds that, if an accused person had military status, the jurisdiction established under article 5 of the Code of Military Justice should prevail. The most significant practical effect was that the courts with jurisdiction to handle complaints of police violence committed by the Carabineros against civilians were those in the military justice system, which resulted in continuing impunity for complaints of this nature. Accordingly, the jurisprudence of the Constitutional Court and the Supreme Court has led in recent years to the rejection of military jurisdiction in proceedings for common offences committed by Carabineros officials in circumstances where the victim is a civilian. The Constitutional Court accepted two claims of inadmissibility, in which challenges were

[22] Article 2 refers to any unjustifiable distinction, exclusion or restriction based on grounds such as sexual orientation and gender identity, among others, carried out by State agents or private persons, that prevents, interferes with or threatens the legitimate exercise of the fundamental rights enshrined in the Constitution or in international human rights treaties ratified by Chile.

[23] Labour Court No. 1 of Santiago, judgment of 30 August 2014, court ID No. (RIT): T-2015-2014, case ID No. (RUC): 14-4-0019874-9; Labour Court of Temuco, judgment of 6 July 2015, RIT: T-39-2015, RUC: 15-4-0013087-3.

lodged against article 5 (3) of the Code of Military Justice, providing for the settlement of conflicts relating to the jurisdiction of the military courts raised by the ordinary courts. For the most part, the judgments were based on military justice standards laid down by the Inter-American Court of Human Rights, with the result that this special system of justice has no jurisdiction over civilians involved in proceedings and can only investigate and hand down sanctions affecting legal rights related to military service. It therefore concluded that the joint implementation of the contested provisions entailed breach of the right to be heard by a competent judge, the right for the proceedings to be public in nature and the right to be tried by an independent and impartial tribunal, all guarantees afforded to a civilian or member of the military under the Constitution and in international human rights treaties ratified by Chile.[24] In addition, the Supreme Court has maintained in its case law that the exclusion of the military judiciary referred to in Act No. 20.477 applies not only to cases in which those allegedly responsible for the unlawful acts are civilians or minors, but also to those affected by the acts. This is because the victims of offences and human rights violations are accorded a greater number of privileges during the proceedings before the ordinary courts, primarily, the possibility of criminal prosecution.[25] Annex II provides statistics on criminal complaints brought against the Carabineros for excessive use of force, evidenced by the number of police reports for the offence of "unnecessary violence" submitted by the Carabineros to the military courts.

35. Despite the trend in case law for cases involving civilians to be referred to the ordinary courts, the absence of a legal revision means that this issue remains a grey area. To address the situation, when Act No. 20.968, which defines the offence of torture, was drafted, an article was included which amended Act No. 20.477. According to this amendment, the new article 1 stipulates that in no case shall civilians and minors, who are considered to be victims or suspects, be subject to the jurisdiction of military courts. Jurisdiction will always lie with the ordinary courts with jurisdiction in criminal matters. Accordingly, following this amendment, a civilian should not be brought before military courts, either as a victim or as a defendant. While this change in the rules partially covers the amendments which the State needs to make in the sphere of military justice, this step forward in the legislative process forms part of the undertaking in the 2014–2018 government programme to review the jurisdiction of the military courts and aims to fulfil the obligations entered into in this regard. To date, the Ministry of National Defence has prepared two draft bills on a new code of military justice and standards for the alignment of the code of military justice. The drafts are designed to reshape the organizational and procedural structure and to review the offences included in the current text and special laws, with a view to incorporating in the military justice system the parameters of a modern and rights-based procedure such as that which currently governs the system of ordinary criminal courts.

**Paragraph 8**

36. On 27 June 2012 Act No. 20.603 was promulgated, amending Act No. 18.216 on alternative measures to the deprivation or restriction of liberty. This regulation established a system of alternatives to the deprivation or restriction of liberty which entered into force on 27 December 2013. It also stipulates that the application of certain penalties using electronic tagging methods should take place in a gradual and phased manner.

37. Statistics on the current use of pretrial detention may be found in annex III. According to the report by the Inter-American Commission on Human Rights on the use of

[24] Constitutional Court, case of Enrique Eichin Zambrano, No. 2493-13-INA of 6 May 2014, recitals 8 and 9; Case of Marcos Antilef, No. 2492-2013 of 17 June 2014, recitals 29, 30 and 33.

[25] Supreme Court. Case of Víctor Alejandro Basualto Pérez, No. 5884-2015, judgment of 4 June 2015; Case of Jorge Aravarena Navarrete, No. 12.908-14, judgment of 12 August 2014; Case of *Eichi Zambrano* v. *Carabineros of Chile*, No. 878-2015, judgment of 26 February 2015, recitals 1–3.

pretrial detention in the Americas, Chile has one of the comparatively lower percentages of people in pretrial detention (approximately 25 per cent).[26]

38. With regard to the detention of migrants for contraventions of immigration laws, and also the conditions and duration of such detention, it should be noted that detention may only be imposed if an expulsion order has already been handed down by the competent administrative authority, based on an infringement of Decree-Law No. 1.094, and with the sole purpose of carrying out the expulsion.[27] The police authority with legal powers to implement this action is the Investigative Police, which must personally notify the individual concerned of the previous legal action.

39. According to the existing regulations, the investigation of such acts may only be initiated by a report or complaint filed by the Ministry of the Interior and Public Security or the respective mayor, who shall exercise the rights of the victim under the Code of Criminal Procedure, without prejudice to the right of these authorities to drop the report or complaint at any time, which will result in the discontinuation of criminal proceedings. In the light of the above, when officers of the Investigative Police observe that a foreign person has committed any violation of the law, they make a voluntary statement to the offender and communicate these facts to the administrative authority through the respective police report, which must include a full identification of the offender, an account of the facts and a determination of the control measures applicable under the current legislation on immigration, ranging from the regular sign-in procedure to the resolution of the offender's immigration status by the competent authority.

40. In March 2013 a protocol on procedures for the deportation of foreign offenders was signed between the Ministry of the Interior and Public Security and the Investigative Police, which was designed to expedite, improve and coordinate the processes of deporting foreign nationals while safeguarding law and order and public security, based on the observance and protection of individual rights and guarantees. This protocol governs the specific measures in the administrative deportation procedure, establishing a maximum period of 24 hours for the detention of persons under a final deportation order for the purposes of carrying out the order. In addition, it regulates the conditions that the temporary detention facility must meet for foreign persons placed under a deportation order. The Investigative Police is responsible for setting up special units for this purpose, which should be provided with the adequate living and sanitary conditions, separate for men and women, and should not be connected to the facilities for persons detained for other legal reasons. At the time that the present report was submitted, no violations of the protocol in question had been reported.

41. Of note is the judicial protocol on interoperability in enforcement of an alternative penalty to the deportation of foreign offenders, under article 34 of Act No. 18.216, signed by the Ministry of the Interior and Public Security, the Ministry of Foreign Affairs, the Ministry of Justice and Human Rights, the Prison Service, the Civil Registry and Identity Service and the Investigative Police, which governs the procedures to be followed in enforcing an alternative punishment to deportation from the territory of Chile, in accordance with the provisions of that article. This protocol applies to cases where a foreigner does not reside lawfully in the country and is sentenced to a penalty equal to or less than five years' rigorous imprisonment or ordinary imprisonment of the maximum degree. In such a case, the court may, on its own motion or on application by a party, replace completion of the sentence with deportation from the territory of Chile.

42. At present, the Investigative Police is considering possible changes to the existing protocols, to improve the procedures, both administrative and judicial, used to enforce deportation. For more detailed information, statistics on foreign offenders may be found in annex IV. The Government has indicated that, in the first six months of 2017, a bill will be

[26] Inter-American Commission on Human Rights, *Report on the Use of Pretrial Detention in the Americas*, 30 December 2013, p. 28.

[27] In accordance with articles 68 and 69, a foreign person commits an offence by entering the country illegally; this can occur in two scenarios: clandestine entry or entry with the use of false documents.

tabled on a regulatory framework for persons immigrating to Chile, recognizing their rights and duties, and regulating migration flows.

**Paragraph 9**

43. According to figures from the National Human Rights Institute, there is a year-by-year decrease in the numbers of people held in pretrial detention, which dropped from 2,980 in 2009 to 1,975 in 2010, and in the years that followed levelled out at around 1,700 young persons subject to this measure.[28] As in the system for adults, it is mostly men who have been placed in pretrial detention, averaging 93.8 per cent of the total between 2009 and 2013, with only 6.2 per cent being women during the same period. Where the age profile of those held in pretrial detention is concerned, detainees were predominantly of the ages of 17 and 16, constituting 38.6 and 29.4 per cent of the totals between 2009 and 2013 respectively. The detailed analysis by year shows an increase in the percentage of 14-year-olds, which in 2011 and 2012 was below its average for the previous five years (6.9 per cent) and then rose to 7.5 per cent in 2013.

44. In cases where an increase in the number of young persons in pretrial detention has been reported, this is due, among other reasons, to the special expertise of the police in detention operations in cases of flagrante delicto, because the Public Prosecution Service has more investigative tools at its disposal enabling it to furnish detention hearings with more extensive background information in support of applications for pretrial detention and because of the failure of other preventive measures, such as total or partial house arrest.

45. With regard to the existing judicial remedies for challenging pretrial detention, the decision ordering this measure is subject to appeal and may be amended at any stage of the proceedings, either by the court or on application by any of the parties, in accordance with articles 144 and 145 of the Code of Criminal Procedure. We stress that pretrial detention remains the measure of last resort to be used by the judiciary, which is empowered to apply a non-custodial interim measure, in the form of monitoring by partner agencies of the National Service for Minors.

46. The National Prison Service has reported that the practical application, length and arrangements for incommunicado detention are determined by a ruling of the courts at the time that a person's confinement in a prison unit is ordered. Such persons may be held in isolation in a unit for reasons of personal safety or for the purposes of the investigative process itself, but these units never take the form of solitary confinement cells. With regard to incommunicado detention as a punishment in prisons, it is noted that prisons are governed by the provisions of Supreme Decree No. 518, the Prison Regulations, the text of which may be found in annex V, which are currently undergoing a process of amendment and revision, with the definitive abolition of isolation cells as a disciplinary measure.

**Paragraph 10 (a)**

47. With regard to allegations of violence against members of indigenous peoples, in particular the Mapuche, it is noted that these are a matter of concern for the Executive and that a range of measures have therefore been taken to prevent such occurrences. In November 2014, a technical committee was set up for the review of police action in cases involving children and young persons, in particular those from an indigenous background, with the objective of reviewing the internal regulations of the Prison Service and the standard operating procedures for the police in cases where children were involved, whether as defendants, victims or witnesses of acts of violence, and of proposing adjustments in line with the need to protect and safeguard the rights of children and young persons.[29] The committee has prepared draft operating procedures for departures and transfers of young persons held in pretrial detention and for their secure escort to and from

[28] National Human Rights Institute. *Informe Anual* (Annual Report) 2014. p. 82.

[29] The bodies represented on the committee are the Ministry of the Interior and Public Security, the Ministry of Justice and Human Rights, the Ministry of Social Development and the Commission of National Inquiry.

courts. The document is currently under review and will enter into force upon signature by the authorities of the participating ministries and services represented on the committee.

48. The standard operating procedures for law enforcement and security forces in public demonstrations, during evictions, in the detention of offenders and in measures to restore public order include specific treatment for indigenous children and adolescents. In all these procedures, members of the Carabineros must make the use of force a last resort against an imminent threat or resistance, with due respect for the principles of legality, reasonableness and proportionality, and bearing in mind that, in indigenous communities, children and young persons are usually encountered alongside their parents. Where judicial orders are handed down, priority will be given to securing the assistance of experts with an understanding of the worldview of the indigenous community and able to provide information in its language.

49. In addition, the Carabineros and investigative police colleges have incorporated an extensive module on human rights education in their training curricula, stressing the importance of implementation of the guide on children's rights and multiculturalism for teaching purposes, which forms part of the training programme for lecturers and instructors at the Carabineros colleges, developed by the United Nations Children's Fund (UNICEF) to strengthen the capability of police employees in relation to the rights of children and indigenous peoples.

50. In 2013, the Carabineros established a police section comprising staff trained in the social and cultural identity of the Mapuche; this in turn led to the initiation of special indigenous community patrols. Since September 2013, coordination of the indigenous community patrols has been the responsibility of the Carabineros Department of Community Integration, which is currently staffed mostly by members of Mapuche origin. In turn, the Investigative Police has set up special police investigations brigades in Concepción and Temuco.

**Paragraph 10 (b)**

51. With regard to the investigation, prosecution and punishment of police abuse and violence, internal investigations have been carried out concerning any potential ill-treatment committed by members of the Carabineros against both adults and children and young persons during public demonstrations and police operations. These internal investigations have led to criminal charges and the imposition of disciplinary penalties. Details of these proceedings, disaggregated by age, sex and the penalties imposed, among others, may be found in annex VI.

**Paragraph 10 (c)**

52. The legal definition of terrorism in Chile was reviewed in 2010, on which occasion the anti-terrorism legislation was amended by Act No. 20.467, which removed from the definition the so-called presumption of terrorist intent, reduced the maximum penalty for certain fire scenarios of a terrorist nature and reaffirmed the right of the defence to cross-examine witnesses who have requested anonymity.[30]

53. In addition, the Government has promoted a bill to replace Act No. 18.314 of 1984, which defines terrorist acts and the corresponding penalties. In October 2014, a commission of experts appointed by the President technically evaluated the content of the act and provided a set of recommendations that formed the basis of the bill defining terrorist acts and the corresponding penalties and which amended the Criminal Code and Code of Criminal Procedure, set out in bulletin No. 9.692-07, merged with bulletin No. 9.669-07, which was submitted to the National Congress in September 2014. This initiative updated and refined the law criminalizing terrorist acts, with a clear definition and appropriate punishment for terrorist offences. The proposed changes have the effect of emphasizing that terrorism is not a national but a global phenomenon, and that counter-terrorism legislation

[30] Published in the Official Gazette of 8 October 2010.

is needed that does not focus on a specific social group and is line with international standards, as recommended to Chile by international bodies. This initiative is at first reading in the Senate Committee on the Constitution, Legislation, Justice and Regulations.

**Paragraph 10 (d)**

54. Following the death of José Facundo Mendoza Collío, a criminal investigation and subsequent trial were opened before the Third Military Court, which sentenced Master Corporal Miguel Jara Muñoz, member of the Carabineros Special Operations Group (GOPE), to three years of medium-term rigorous imprisonment of the medium degree, for his involvement as perpetrator of the offence of unnecessary violence resulting in death. In addition, through the Office of Administrative Oversight of Malleco prefecture, the Carabineros ordered an administrative inquiry, which ended with the aforementioned official being completely withdrawn from the ranks of the institution and losing his military status.

**Paragraph 11**

55. The government programme for 2014–2018 envisages the decriminalization of the voluntary interruption of pregnancy in cases of danger to the life of the mother, rape and foetal abnormality. On 31 January 2015, a bill decriminalizing the voluntary termination of pregnancy in three specific cases was submitted to Congress (bulletin No. 9895-11). The bill is at second reading and the Senate has endorsed the need for such legislation.

56. With regard to the allegations that HIV-positive women were forcibly sterilized, the Ministry of Health has been pushing forward the regulation of procedures for the sterilization of women and men in general, and recently for that of HIV-positive persons in particular.[31] In 2013 the Ministry of Health drafted a protocol on comprehensive sexual and reproductive health care for women living with HIV/AIDS, which encompasses a range of health measures and services for HIV-positive women, including voluntary and informed consent on access to sterilization benefits. This instrument was disseminated through the public welfare network. In 2015, the Ministry of Health initiated a process to update the protocol and the national standards for the regulation of fertility, giving greater weight to the need for informed consent in all matters relating to sexual and reproductive health, including that of surgical sterilization.

57. With regard to the system for complaints about acts of involuntary sterilization, there are legal provisions that guarantee the right of citizens of both sexes, including people with HIV, to seek information, make suggestions and submit or facilitate complaints relating to various health issues, which in turn are fed back to the management of the different public departments. The system established to process claims in the field of health is that indicated in Act No. 20.584 of 2012, which regulates the rights and duties of persons in relation to actions affecting their health care. Article 37 of this piece of legislation states that individuals may submit claims for enforcement of the rights conferred upon them by the Act to the institutional provider, which should have staff specially equipped for that purpose and a system for registering and providing written responses to the claims submitted. The provider shall take appropriate steps to ensure the successful resolution of the irregularities identified. If individuals deem that the response was not satisfactory or that the irregularities have not been resolved, they may appeal to the Health Supervisory Authority.[32] The Health Supervisory Authority is the government agency which, among its other responsibilities, oversees the public and private providers of health services. Similarly, any individuals who consider that they have been adversely affected by a health-care-related action may be assisted in exercising their right to initiate a mediation process. This is a non-adversarial procedure that aims, through direct communication between the parties and the intervention of a mediator, to achieve an out-of-court settlement of their case, under the terms of Act No. 19.966, which establishes a system of health

[31] See annex IX.

[32] Article 37 of Act No. 20.584.

guarantees and its supplementary rules. Recourse to criminal proceedings is also an available option: a criminal penalty for the culpable party is sought if an offence is deemed to belong to the category of having caused injuries and their aggravated forms. In addition, civil actions may be brought for contractual or tortious liability.

**Paragraph 12**

58. The national policy on human trafficking is being carried out through an intersectoral standing committee, established on 31 July 2008 by the Ministry of the Interior and Public Security, to coordinate actions, plans and programmes of the various institutions involved in preventing, suppressing and punishing trafficking in persons, in particular women and children.[33] In addition, we are able to report that Act No. 20.507, which came into force in 2011, criminalizes the smuggling of migrants and human trafficking and contains provisions aimed at the prevention and more effective criminal prosecution of those practices. This provision amended the Criminal Code by introducing the new articles 411 *bis*, 411 *ter*, 411 *quater* and 411 *quinquies*. In particular, article 411 *quater* refers specifically to trafficking in persons as understood at the international level.[34] Since 2014, the aforementioned intersectoral committee has been implementing a national plan of action against human trafficking, recently updated for the 2015–2018 period, which includes actions in the areas of prevention, prosecution and assistance to victims of crime.

59. Statistics relating to the offence of trafficking of persons and smuggling of migrants may be found in annex VII. Over the period from 2012 to 2015, the Investigative Police reported that there were a total of 101 victims of human trafficking, the majority of whom, representing 63 per cent of the total, were foreign citizens, of Bolivian nationality. Where the gender of the victims is concerned, men represented 79 per cent and women 21 per cent of all persons affected by the offence of human trafficking.

60. With regard to the offence of the smuggling of migrants, the Ministry of the Interior and Public Security reports that, over the period 2012–2015, the total number of victims of such smuggling was 232, the majority of whom were Colombian and Dominican nationals, at 34 and 33 per cent respectively, while the nationality with the smallest number of victims was that of Ecuador, with 2 per cent of the total. Where the gender of the victims of such smuggling is concerned, men represented 55 per cent of the total.

61. With regard to the number of complaints, investigations, prosecutions, convictions and sentences relating to the offence of trafficking of persons, over the period 2011–2015 the Ministry of the Interior and Public Security recorded 23 cases as having been investigated, of which 13 were for sex trafficking and 10 for labour trafficking; and 8 convictions, 7 for sex trafficking and 1 for trafficking for the purposes of forced labour, servitude, slavery or similar practices. Annex VII sets out data provided by the Investigative Police regarding the number of investigations conducted into offences of trafficking of persons and smuggling of migrants, of persons detained for such offences and of victims, together with data provided by the judiciary on cases brought to trial, convicted persons and other relevant information.

[33] Established by Exemption Decree No. 2821 of 2008, of the Ministry of the Interior and Public Security. With a mandate to coordinate the actions, plans and programmes of the various institutions involved in preventing, suppressing and punishing the trafficking of persons, especially of women and children. Comprising the Ministry of the Interior and Public Security, the Ministry of Foreign Affairs, the Ministry of National Defence, the Ministry of Justice and Human Rights, the Ministry of Health, the Ministry of Education, the Ministry of Labour and Social Security, the Department of Labour, the National Service for Women, the National Service for Minors, the Public Prosecution Service, the Carabineros of Chile, the Investigative Police, the Aliens and Migration Department, civil society organizations and international agencies.

[34] Article 3 (a) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (the Palermo Protocol), of 22 September 2004, ratified by Chile on 29 November 2004.

62. As for the system for the identification of victims and perpetrators of the offence of human trafficking, in most cases this resulted from complaints by third parties. Reports have also been filed by the families of victims and by victims themselves who have managed to escape from their traffickers. For the identification of the culprits priority has been given to the use of special investigative techniques, such as wiretapping and searching property, along with tracking and discreet surveillance. In this regard, it should be added that Act No. 20.405 creating the National Human Rights Institute vests in it the power to conduct legal proceedings with the courts for the offences of smuggling of migrants or trafficking of persons (art. 3 (5)).

63. With regard to the training of police officers to deal with cases of trafficking of persons, as part of the work of the intersectoral committee, a series of training courses has been carried out in all regions of the country for those institutions involved in the State's response to trafficking of persons: the Carabineros, the Investigative Police, the Department of Labour, the Public Prosecution Service, the Legal Assistance Agency, health-care providers and immigration officials, among others. Training has focused in particular on the use of tracking indicators appropriate to the jurisdiction of each institution involved. The action plan provides for the preparation of a handbook on tracking indicators, which is currently being drafted. In turn, the police and the Department of Labour have developed their own indicators guides and, since 2015, have been following a good practices guide in the criminal investigation of the offence of trafficking in persons.

64. In Chile, the provision of care for the victims of trafficking is organized in line with the intersectoral protocol for the provision of such care, whose purpose is to guarantee the effective exercise of the rights of the victims of this offence intended to ensure their care, protection and redress and the prevention of secondary victimization and to coordinate existing victim support services, made up of public institutions, civil society organizations and international agencies. The victims have access to the regional victim and witness support units in the Public Prosecution Service set up to provide guidance, protection and financial support. In addition, they receive care in the following areas: health, legal assistance, immigration rules and regulations, social assistance and education.

65. The National Service for Minors runs a specialized protection programme on the commercial sexual exploitation of children and adolescents, providing care for child and teenage victims of commercial sexual exploitation, in any of its forms: exploitation of children and teenagers, sex tourism, the trafficking of persons for sexual purposes and child pornography. This programme seeks to put an end to the violation of rights by promoting family and social integration and improving capacities for protection. Admission to this programme is administered by the family courts and the Public Prosecution Service, through referrals from the social welfare network, including the programmes of the National Service for Minors, and following identification of beneficiaries by the project task force.[35] In 2015, 499 child and adolescent victims of commercial sexual exploitation were admitted, of whom 86 per cent were girls and 14 per cent boys. Where age groups are concerned, the majority were between 12 and 17 years of age.[36] More specific figures for 2015 show that 13 victims of trafficking for the commercial sexual exploitation of children and adolescents were admitted, 12 girls and 1 boy, between the ages of 12 and 17.[37]

66. In addition, since 2012 the National Service for Women has run a shelter for women victims of human trafficking, which can accommodate ten women, of Chilean or foreign nationality and aged 18 years and over, with children where they have them, with priority

[35] The National Service for Minors has 17 specialized programmes, including the following: specialized protection programmes on the ill-treatment and sexual abuse of children; specialized comprehensive intervention programmes; specialized programmes on sex offenders; specialized programmes on the commercial sexual exploitation of children and young persons; specialized programmes for street children; legal representation programmes for child and teenage victims of offences.

[36] National Service for Minors, 2015 Statistical Yearbook, p. 77. Available from http://www.sename.cl/wsename/images/anuario_2015_final _00616.pdf.

[37] *Ibid.*, p. 76.

given to victims of trafficking for purposes of sexual exploitation. The shelter is currently being run under a cooperation and transfer agreement between the Metropolitan Regional Directorate of the National Service for Women and the non-governmental organization Raíces, with an annual budget contribution of 85 million pesos.[38] Between 2012 and mid-2014, this shelter housed 29 women.

67. It should be noted also that, under article 33 *bis* of Decree-Law No. 1.094, provision is made for a temporary residence permit, which from March 2015 has granted victims of human trafficking exemption from the payment of fees for a minimum period of six months, during which time it should be possible to conclude the criminal and civil actions in the respective court proceedings or to commence the process of regularizing their legal residence status.

68. Over the period from 2011 to 2015, a total of 98 temporary residence permits were granted to victims of human trafficking, contingent on the observance of the intersectoral protocol for the provision of care to the victims of human trafficking. Over the period to April 2016, four residence permits had been granted in accordance with article 33 *bis* of Decree-Law No. 1.094 of 1975, the Aliens Act.

69. It must be stressed that this is a residence permit which is provided under special conditions, to meet the need for prompt issuance and timeliness and to preclude secondary victimization. Pursuant to these special conditions the application for a permit for victims of human trafficking must be submitted by any public institution or non-governmental organization which is party to the intersectoral protocol or directly by the foreign person requiring the permit, which authorizes its holder to reside in the country and to conduct any lawful activity. The status of victim of human trafficking is accorded to a person through the procedure laid down in the intersectoral protocol, which involves the issuance of a comprehensive assessment report, an instrument developed and adopted by the public institutions and agencies party to the intersectoral protocol. The report must include the following elements: general background information about the case and identity of the victim; background and indicators that support the presumption of the commission of the offence of human trafficking; and the victim's needs. The report is drawn up as a separate document and will also be valid for use in the processing and receipt of various services provided under the intersectoral protocol.

**Paragraph 13**

70. The National Human Rights Institute is an autonomous body under public law, with legal capacity and its own assets.[39] In May 2013, it was accredited with the highest status (A) by the International Coordinating Committee of National Human Rights Institutions of the United Nations, certifying that its composition and functions are in accordance with the Paris Principles. In addition, the 2014–2018 government programme makes provision for an increase in its budget to support a phased expansion of its presence at the regional level. Thus, in 2015 and 2016, the Institute opened eight new regional offices in Arica and Parinacota, Antofagasta, Coquimbo, Valparaíso, Biobío, La Araucanía, Los Lagos and Magallanes and the Chilean Antarctic, with plans to expand its coverage in other regions of the country.

71. The 2014–2018 government programme includes a commitment to work for the establishment of an ombudsman's office. The constitutional reform bill that articulates that goal, set out in bulletin No. 6.232-07, is at its second reading in the Senate, currently undergoing pre-legislative scrutiny for the submission of comments. Establishment of such an office forms part of the debate around the institutional arrangements for human rights and how this office will relate to the National Human Rights Institute and ultimately with other specialized human rights bodies. The Executive is seeking to create a coordinated and

[38] Amount equivalent to $124,609.

[39] Established by Act No. 20.405, published in the Official Gazette of 10 December 2009.

coherent institutional framework to ensure the effective promotion and protection of human rights in the country.

72. This vision is set out in the bill submitted to the National Congress for the creation of the Office of the Children's Ombudsman, Bulletin No. 10.584-07, which defines it as an autonomous body under public law, with legal capacity and its own assets, with a mandate for the dissemination, promotion and protection of the rights possessed by children located in the territory of Chile. It is currently at first reading in the Senate Finance Committee.

**Paragraph 14**

73. Chile does not yet have a national mechanism for the prevention of torture. This notwithstanding, it should be noted that, pursuant to article 4 (2) of Act No. 20.405 creating the National Human Rights Institute, the Institute may commission one or more advisers, the Director or the Director's staff to enter public places where a person is being or may be held in detention. In connection with this provision, the National Human Rights Institute requested the Office of the Comptroller General of the Republic to rule on the basis on which it could enter any spatially restricted place under the charge of public officials where actions were being performed that could be construed as deprivation of liberty, including police vehicles. On 21 September 2012, the monitoring body issued Opinion No. 058070, maintaining that such an approach was appropriate provided that there was proper communication with the appropriate authorities of the Carabineros. Furthermore, by memorandum No. 516 of 17 December 2014, the National Director of the Prison Service issued instructions to regional directors and other authorities on the controls and collaborative arrangements for visits to inmates in prisons by representatives of the National Human Rights Institute.

74. The Government is, however, in the final stages of preparing a bill on the establishment of a national mechanism for the prevention of torture, in compliance with the Optional Protocol to the Convention against Torture, which shall be tabled before the National Congress in the first quarter of 2017.

## Article 3

**Paragraph 15**

75. Regarding the available appeal mechanisms related to the deportation of persons, Decree-Law No. 1.094 of the Ministry of the Interior and Public Security, of 1975, establishing rules governing foreigners in Chile, stipulates that persons who have been expelled from the country pursuant to a decree of the Ministry have a period of 24 hours from receiving notice of the decision in which to file a duly substantiated appeal to the Supreme Court. Once an appeal has been submitted, the deportation order is suspended pending the resolution of the appeal. The Supreme Court has five days from the submission of the appeal in which, working with dispatch, it must reach its decision. Once the stipulated period from the time of notification has elapsed, in cases where no appeal has been filed, where this was not applicable, or where an equal period has elapsed since the rejection of the appeal, the authority with jurisdiction under law, which in this case is the Section for Expelled, Deported and Exiled Persons, a unit of the National Aliens and International Police Administration in the Investigative Police, proceeds to comply with the deportation order.

76. The person against whom a deportation order has been rendered may also file an action for *amparo*, under article 21 of the Constitution, which may be invoked when a person's right to freedom of movement is infringed. The *amparo* action is heard at first instance by the respective court of appeal and at second instance by the Supreme Court. In this case, filing an *amparo* action does not suspend enforcement of the deportation order, unless a stay-of-action order has been handed down.

77. A person affected by a deportation order may also file an application for protection, in accordance with article 20 of the Constitution, if any of the rights enshrined in that article have been violated, and this action is heard by the same courts.

78. Act No. 19.880 of 2003, which establishes the basis for administrative procedures regulating the actions of State administration bodies, provides for other general means of appeal in respect of administrative decisions handed down by the authorities, and these are also available to foreign persons affected by a deportation order. They include an application to a higher administrative authority for reconsideration, a special application for review, and a request for nullification. Each of these remedies has its own time limit for submission.

79. During the period 2009–2014, a total of 5,116 deportations, 52,784 compulsory re-embarkations, 89 passive extraditions and 129 legal claims relating to deportation were registered;[40] [41] details on each of these matters, such as the list of requesting countries in extradition cases and the outcome of appeals, may be found in annex VIII.

80. With regard to persons whose custodial sentences were commuted to punishment in the form of deportation, it may be confirmed that, according to the computerized records of the Investigative Police, there are currently five persons registered as having received this penalty, but for convictions handed down in 1993 and 1994 for acts that occurred during the civilian and military dictatorship.[42] Further details on the decrees commuting those sentences may be found in annex IX.

**Paragraph 16**

81. With regard to the passive extradition procedure in operation in the country, a distinction must be made between requests processed under the old Code of Criminal Procedure and those under the new Code.[43] [44] The old system provides for a ruling at first instance, within five days, on the request for passive extradition. An appeal may be lodged within five days of notification and will be admitted for both effects; it will be heard by the Supreme Court through its Criminal Chamber and there will be no cassation proceedings against either form or substance. If no appeal was lodged against the sentence it will be brought before the Supreme Court. Under the new Code of Criminal Procedure, applications for review and nullification may be lodged against the sentence handed down. These appeals can be lodged together and submitted in the same written application, one in support of the other and within the time limit set for the appeal. The Supreme Court will hear both these appeal procedures in accordance with the general rules.

82. Chile has a judicial system of extradition in which the Supreme Court is the only body with jurisdiction in matters of passive extradition and, in consequence, the legal status and rights of persons being extradited are the same as those of any citizens appearing in criminal proceedings. Their defence, their right to testify or to remain silent, the resources available to them and respect for their basic rights are always guaranteed, both by the principle of objectivity that governs the actions of the Public Prosecution Service and by the ability of the defence to bring any violation to the attention of the investigating judge.[45] In this regard, in the domestic regulatory framework, existing treaties or, in their absence, the principles of international law are recognized as legal sources for any extradition (Code of Criminal Procedure, art. 449 (b)).

[40] Persons against whom a deportation order has been issued by the administrative authority.

[41] Persons who do not meet the requirements under the current immigration law for entry into the country.

[42] In other words, outside the period under consideration.

[43] Published in the Official Gazette of 19 February 1906.

[44] Published in the Official Gazette of 12 October 2000.

[45] The principle of objectivity requires the prosecuting body to investigate the background used in establishing the guilt of accused persons with the same diligence as those working to prove their innocence. The legal basis of this principle may be found in article 3 of Act No. 19.640 of 1999, the Constitutional Organic Act on the Public Prosecution Service. See: Gonzalo García Pino and Pablo Contreras. *Diccionario Constitucional Chileno* (Chilean Constitutional Dictionary), September 2014, Santiago, p. 747.

83. To date there are no records of persons having been deported, sent back or extradited to another State where there are substantial grounds for believing that they would be in danger of being subjected to torture. Chile has, however, signed extradition treaties with a number of countries which include clauses providing diplomatic assurances or guarantees that detention prior to extradition will be conducted within the time frame set out in the treaties and in subsequent provisions, and that the length of time that the person whose extradition was sought was held in detention in the requested State will be deducted from that person's remaining detention or custodial sentence which may subsequently be imposed.

84. The Ministry of Foreign Affairs has not applied any subsequent supervisory measures in respect of the cases indicated above, because such supervision would be the responsibility of the requesting judicial authority (the Supreme Court, the Court of Appeal, the criminal court or the guarantees court, as the case may be) or the concerned authority of the requested State, while it is the Ministry's job to facilitate the gathering of information required by the one or other of these authorities. There have been no recorded cases over the recent period of passive extradition requests in which Chile — as the requested State — has requested and accepted diplomatic assurances or guarantees.

**Paragraph 17**

85. Workers and migrant workers have the opportunity to appeal for the revocation of a deportation order. These means of appeal are explained in detail in the response to paragraph 15 of the list of issues.

## Articles 5–9

**Paragraph 18**

86. As reported in paragraph 1 above, Chile has provided a definition of torture in Act No. 20.968, in line with international human rights standards. The possibility of exercising universal jurisdiction for this offence is recognized in article 6 (8) of the Courts Organization Code.[46] In a recent judgment, the Supreme Court refers to the application of universal jurisdiction in matters concerning human rights, noting that the Convention against Torture is one of the sources of the law customarily cited in support of this jurisdiction, and recognizes that the legal basis in Chilean law for the application of the Convention against human rights violations is found in article 5 (2) of the Constitution.[47] To date, however, the Chilean courts have not exercised such jurisdiction over any person charged with this offence.

**Paragraph 19**

87. The agreement on extradition between the member States of the Southern Common Market (MERCOSUR), the Republic of Bolivia and the Republic of Chile does not specifically include the offences referred to in article 4 of the Convention against Torture, but, in its article 1, includes an open-ended clause for the identification of the offences that will give rise to extradition subject to the requirement of double criminality and the deprivation of liberty for a maximum duration of not less than two years.[48] Article 5 provides that extradition shall not be granted for offences which the requested State party considers political or related to any offences of that nature. The mere invocation of a political objective or motive does not mean that the offence will necessarily be categorized

[46] Article 6: Serious and ordinary offences committed outside the territory of Chile are subject to Chilean jurisdiction as follows: [...] 8. Those covered by treaties concluded with other Powers.

[47] Third chamber of the Supreme Court, application for protection by Leopoldo López and Daniel Ceballos. Case No 17.393-2015, judgment of 18 November 2015, third and eighth recitals.

[48] Published in the Official Gazette of 18 April 2012.

as such. Among the offences that are not considered political are genocide, war crimes or crimes against humanity that are in violation of the standards of international law.

88. For their part, on 25 May 2015 Chile and China signed an extradition treaty, which is being finalized at the domestic level. This treaty does not specifically refer to the offences identified in article 4 of the Convention against Torture as extraditable; instead, article 2 is drafted as an open-ended clause for the determination of those which may be so categorized, including offences that are criminalized in both States and that incur prison sentences for longer than one year or a more severe penalty.

89. With the entry into force of Act No. 20.357, the offences referred to in article 4 of the Convention against Torture are taken into account, but within the context of crimes against humanity and war crimes, using the definition of "torture" set out in its article 1, which establishes a penalty of more than two years for all its manifestations.

**Paragraph 20**

90. Since 2009 three treaties have been adopted on mutual judicial assistance in criminal matters. The first of these is the European Convention on Mutual Assistance in Criminal Matters, adopted in Strasbourg in 1959, together with its additional protocol of 1978 and second additional protocol of 2001, all in force in Chile since 23 March 2012. The second is the Treaty between Chile and Italy on Judicial Assistance in Criminal Matters, signed in Rome on 27 February 2002, in force since 5 September 2011. The third is the Agreement on Mutual Legal Assistance in Criminal Matters, between the member States of MERCOSUR, Bolivia and Chile, in force since 17 October 2009.

91. In addition, the judiciary has concluded a number of cooperation agreements and declarations with countries of the Union of South American Nations (UNASUR) and members of MERCOSUR, with the aim of widening the scope for cooperation and coordination between the national judiciaries of the different signatory countries. Of particular note is the declaration adopted at the fourth meeting of the chairs of the judiciaries of the member States of UNASUR, held in May 2009, with the aim of reaffirming extradition as a valuable tool for cooperation in combating widespread criminality.

92. Attention is also drawn to the Declaration of Common Principles on Judicial Cooperation, adopted at the first Judicial Summit of the Community of Latin American and Caribbean States and the European Union, held in Santiago in January 2013, whose main objective was to establish and maintain continuing dialogues to consolidate areas of cooperation and coordination between bodies and judicial powers. Another notable event was the seventeenth meeting of the Ibero-American Judicial Summit, bringing together the supreme and higher courts of justice and judicature councils of the member countries of the Summit, held in Santiago in April 2014. As an outcome of this forum, a declaration was signed reaffirming the commitment to international law and consensus was reached on the need to combat criminal activities and impunity for the most serious offences under international law and for crimes against humanity, and also for offences committed by transnational criminal organizations, and, in particular, to fight corruption by strengthening and improving international judicial cooperation.

93. Lastly, it should be noted that Chile does not have a law on international cooperation in criminal matters applicable to this area, nor are there specific cooperation agreements or treaties applicable to the offence of torture, in consequence of which passive and active extradition requests based on acts of torture or ill-treatment are processed in the same way as requests for mutual assistance relating to any offence. During the period under review, the Extradition and International Cooperation Unit of the Attorney General's Office of the Public Prosecution Service has received three passive extradition requests associated with offences of the nature in question, which were promptly resolved and further details of which may be found in annex X. No active extradition requests in criminal matters have been handled by the Public Prosecution Service.

## Article 10

### Paragraph 21

94. With regard to advances in strengthening educational programmes for law enforcement officials, we are able to report that the Investigative Police has extensive experience in training in human rights. Since 1992 their officials have been attending regular courses and programmes in this area, which were consolidated and upgraded from 2010 onwards, in a joint project with the Inter-American Institute of Human Rights. The courses are held at all educational levels. In the specific case of the School for Investigative Police, the three-year training course includes modules on ethics and human rights, approached from both theoretical and practical standpoints; in addition, as part of the curriculum for the training of detectives, the 2015–2018 programme includes a six-semester course on ethics, human rights, public security and citizenship. For their part, police officers of superintendent rank attend the Higher Academy for Police Studies and follow a one-semester course on human rights.[49]

95. In addition, the Investigative Police have at their disposal two important instruments: on the one hand, a code of professional ethics, updated in 2008, and a training module and supplementary methodological guide on human rights, public safety and policing, which was developed jointly with the Inter-American Institute of Human Rights.

96. Where specialization is concerned, the training units of the Investigative Police have developed two versions of the international diploma course on human rights and public safety in the context of police work, using both face-to-face and virtual teaching methods and based on hypothetical cases and the simulation of real situations. In addition, the Investigative Police has signed cooperation agreements with the National Human Rights Institute and the Public Criminal Defender Service in the academic, curriculum development and training sectors, with the aim of strengthening respect for and the guarantee of human rights in police work.

97. For its part, the Carabineros has begun a process of incorporating human rights in various areas of policing, implementing protocols for the prevention of torture and the excessive use of force, which include both operational work, through the updating of intervention protocols for the maintenance of law and order and the strengthening of internal control and monitoring mechanisms, and education, through the inclusion of human rights modules in its theoretical and vocational training curriculum.

98. With the aim of improving the quality of education in this area, in 2013 a new curriculum was introduced, for both initial and further training. This curriculum includes the study and application of the notions of international protection of the individual, the standing obligations of States in the international arena, the relationship between human rights, public safety and policing and human rights standards in law enforcement.

99. In November 2011, the Carabineros set up a human rights department, with responsibility for promoting the implementation of human rights standards applicable to police work under Chilean domestic law and international law. In addition, since 2013, this police department has been implementing a new training course on human rights as part of its initial and further training and capacity-building programmes. These include the teaching of international standards for the use of force, duties towards persons held in custody, the prohibition of torture and the protection of vulnerable groups.

100. Where the Prison Service is concerned, in June 2012, the Unit for the Protection and Promotion of Human Rights was created, as a body which reports to the National Director of the Service, with the responsibility of advising on the planning and development of policies and projects to ensure respect for and the protection and promotion of human rights and the implementation of the international human rights instruments. This Unit has been

[49] To obtain the rank of superintendent, officers must have completed 20 years of service in the institution.

able to expand its coverage at the national level by opening regional units, making it possible to develop permanent training and awareness-raising activities for its in-house staff, including, first, the inclusion in the curriculum of the Institutional School of a module on international standards and human rights, which includes the topic of torture and ill-treatment; second, an annual diploma course in human rights, run in conjunction with Diego Portales University, for officials and professionals in the Service who have direct dealings with the prison population; third, specialized seminars on human rights with specific reference to the rights of persons held in custody, gender violence, and other topics; fourth, the preparation of leaflets on rights and duties translated into English, Mapudungun, Aymara and Rapa Nui. By the end of 2015, the Unit had managed to train 1,539 officials from various correctional institutions throughout the country. It has launched a follow-up system, noting allegations and complaints of rights violations before these are referred to the relevant bodies to be resolved.

101. The recently established Office of the Undersecretary for Human Rights has a specific mandate in the area of human rights education. Act No. 20.885 refers to both training and education in the field of human rights and places particular emphasis on human rights training for public officials, and in particular those of the armed forces, the police and security forces and the Prison Service. On 11 September 2016, the President appointed the first Undersecretary for Human Rights, whose work over the past few months has concentrated on setting up this new service and, as prescribed by Act No. 20.885 on the introduction and operation of the service, the Office was launched on 3 January 2017.

**Paragraph 22**

102. Since 2009, the Forensic Medical Service has been running training sessions on the implementation of the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), three of which were conducted by experts from the International Rehabilitation Council for Torture Victims (IRCT) and one by experts from Physicians for Human Rights. In addition, two case-monitoring meetings have been held, with a view to reinforcing good practices and proposing strategies for further improvement with international experts from IRCT and the Guatemalan Community Research and Psychosocial Action Team.

103. Since December 2011, the Istanbul Protocol has served as the instrument that must be followed by experts when conducting examinations for injuries and evaluating the psychological harm of persons alleging the commission of acts of torture or ill-treatment by public officials. This means that the Forensic Medical Service currently has at its disposal a network of 78 professional experts, doctors and psychologists who together provide national coverage in carrying out appraisals at this level of expertise.

104. The Human Rights Department of the Carabineros is a strategic advisory body which aims to contribute to ensuring the highest standard of observance of human rights in all operational police work. In support of this institutional policy, the Carabineros signed a memorandum of understanding with the International Committee of the Red Cross on 18 January 2012. Through this work, it has succeeded in integrating human rights in education and in police practice, including with regard to observance of the international standard for the use of force and maintenance of law and order, the strengthening of the mandatory requirements to be followed in the deprivation of liberty and the obligation to protect persons belonging to vulnerable groups.

**Paragraph 23**

105. The National Service for Women, within the framework of the 2014–2018 national action plan on violence against women, has devised a strategy for the training, partly onsite, of officials of institutions involved in the detection, care and referral of cases of domestic violence. Together these institutions play a key role in ensuring compliance with the law with regard to violence against women. Accordingly, the training for officials includes a specific module for raising awareness among police officers so that they fully understand the relevance and extent of violence against women, and also the importance of the initial reception for victims, to ensure timely and effective care that will preclude secondary

victimization. Comparable awareness-raising and training activities for police officers are being carried out in different regions of the country.

106. The activities mentioned in the preceding paragraph include workshops for members of the Carabineros, at which, by use of a participatory approach, they are introduced to tools for an appropriate initial response in which, among other considerations, the women victims are not blamed, nor is the violence minimized. To this end, the soft skills of officials (such as active listening, body language, empathy and assertive communication) are developed, and they are familiarized with tools for an appropriate response to complaints, which are viewed as of critical importance for recording cases, punishing aggressors and protecting women victims of violence. For its part, since 2011, the Investigative Police, through the National Office on Offences against the Family, has been developing activities and awareness-raising and training programmes for police offers on gender-based violence.

107. According to figures obtained from the computerized databases of the Carabineros and provided by the National Service for Women, in 2014 there were 129,750 registered victims in police reports of complaints and arrests for domestic violence, of whom 104,530 (81 per cent) were women and 25,220 men; where sexual violence is concerned, the total number of victims was 9,214, of whom 8,005 (87 per cent) were women and 1,209 men. Statistical data from the judiciary on cases brought for offences involving different forms of violence against women may be found in annex XI.

108. According to its 2015 annual statistical bulletin, the Public Prosecution Service recorded the institution of 123,682 cases involving offences of domestic violence. Where sexual offences are concerned, there were 21,166 victims in total, somewhat less than the 22,311 recorded in 2014. In addition, it is reported that, of the 40 femicides perpetrated in 2014, 15 cases were closed following the suicide of the perpetrator, 22 cases were under investigation or awaiting trial and 3 ended with convictions.

109. With regard to the outcome of cases involving domestic violence, figures provided by the Public Prosecution Service show that, in 2015 in the criminal justice system, 9.57 per cent of cases ended with a conviction; 18.92 per cent with a conditional stay of proceedings; 12.10 per cent with a dismissal; in 25.5 per cent the charges were dropped; and 3.9 per cent were discontinued in application of the discretionary prosecution principle or the right not to investigate.

**Paragraph 24**

110. The judiciary, through the Judicial Academy, is planning a number of courses in the updated curriculum for the 2015 further development programme which are designed to enhance the skills of judges and officials working directly or indirectly to expedite the administration of justice in cases of torture. These include courses on the universal system for the protection of human rights, the inter-American system for the protection of rights and treaty compliance, and the duties of the State of Chile under international conventions, and a workshop on basic rules relating to offences against life and liberty, which look at such issues as unlawful detentions, with special emphasis on those carried out by government officials and the grounds on which they are imposed, the application of special measures as a punishment, and unlawful detentions and their procedural consequences, in addition to the offences of threat and coercion.

## Article 11

**Paragraph 25**

111. In compliance with international human rights standards, as of 2010, 11 administrative measures were introduced to improve prison conditions in the country. These measures took the form of the acquisition of new beds, mattresses and blankets; improved meals for detained persons, and better hygiene conditions; health care in emergency situations; improvements in the release conditions for inmates; and other measures. Another initiative provides that all detained persons must spend at least nine

hours outside their cells.[50] Each prison unit is responsible for how this time is spent, taking into account geographical factors, the staffing capacity and the number of detainees. Beyond that, confinement is required for the rest of the day, which may not be less than eight hours per day, as stipulated in article 27 of the Prison Regulations.

112. Furthermore, since 2014, instructions have been issued both for work on arrangements to reduce overcrowding in a number of the country's prisons and, at the planning level, to expand and redesign certain prison complexes, adding a total of 2,200 new places. There are also plans to build new units with a capacity for 800 new places and their respective social reintegration support units.[51] During the last quarter of 2013, the contractually managed Antofagasta prison was set up, to alleviate overcrowding, with an initial capacity of 1,160 places. There are plans to increase its design capacity by a further 20 per cent, to a total of 1,392 places. Where the Alto Hospicio complex is concerned, work is under way on the temporary establishment of two units for female inmates who were displaced following the earthquake and tsunami that struck the region in 2010. At the same time, there are plans for new infrastructure for the definitive accommodation of women detainees, through the construction of a new women's correctional facility comprising 11 new prison units with an installed capacity of 493 new places and increased capacity for male inmates, with 340 new places. In total, these new projects for expansion in the system of contractually managed prisons will provide an additional 1,633 places.

113. Regarding detention facilities for young persons, a centre was opened in 2012 in the Metropolitan Region with a 12,000 $m^2$ infrastructure, designed to accommodate 200 young offenders serving custodial sentences pursuant to Act No. 20.084.[52] This centre is specially designed to provide effective socio-educational care that includes skills development, physical and psychological health care, recreation and sport for the young inmates. Instructions have also been issued to custodial and pretrial detention centres to improve and protect the exercise of national and international rights and guarantees, for example, by following up requests by young persons regarding changes to their pretrial detention, the use of alternative non-custodial measures and the granting of temporary release, among others. These actions form part of the recognition of the rights and guarantees accorded to young persons serving sentences for convictions under criminal law.

114. In terms of infrastructure, a total of 10,289 million pesos was spent in 2015, tripling the budget of the previous year.[53] Those outlays relate to construction of the Talca custodial and pretrial detention centre and procurement, repairs and improvements relating to the security and living conditions of the custodial and pretrial detention centres throughout the country.

115. Finally, it should be noted that, through its regional ministerial offices, the Ministry of Justice and Human Rights coordinates the inter-agency oversight committees for young persons' detention centres, which monitor conditions in these facilities through their representatives, drawn from civil society, universities, the Public Criminal Defender Service, the Public Prosecution Service, the judiciary and UNICEF.

**Paragraph 26**

116. Similarly, and as reported by Chile in its State's response to the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, overcrowding in the custodial units of the correctional facilities in Chile is steadily being reduced. In addition, an increased number of persons are serving sentences in the open

[50] Information set out in memorandum No. 724 from the Prison Service of Chile of 17 August 2010.

[51] The social reintegration support units consist of classrooms, professional care facilities, multipurpose rooms and other facilities within the prison premises.

[52] Act establishing a young persons' criminal liability system for offences under criminal law, published in the Official Gazette of 7 December 2005.

[53] Amount equivalent to $14,801,581.62.

prison regime.[54] Thus, there were 102 young persons serving custodial sentences in the juvenile sections of the Prison Service, representing a 13.5 per cent occupancy rate of their custodial capacity.

Table 1
**Prison population in the closed regime vs. open regime (2010–2016)**

| *Type of population* | *2010* | *2011* | *2012* | *2013* | *2014* | *2015* | *2016** |
|---|---|---|---|---|---|---|---|
| Closed regime | 42 868 | 43 006 | 40 734 | 37 059 | 34 180 | 32 406 | 27 877 |
| Open regime | 54 872 | 53 434 | 51 420 | 50 150 | 50 773 | 56 060 | 58 946 |

*Source:* Prison Service of Chile.
* 2016 data as at 31 October.

117. For occupancy rates in the centres of the National Service for Minors, with regard to the number of places specified for each custodial system (pretrial detention centres or closed regime centres), see annex XII.

**Paragraph 27**

118. The Prison Regulations provide for the use of solitary confinement as a punishment for serious offences under the disciplinary system, stipulating that the punishment must be duly substantiated and used as a last resort. According to information provided by the Prison Service, over the course of 2012, solitary confinement accounted for 71.7 per cent of punishments, while in December 2014 it represented only 29.6 per cent. Accordingly, the use of those measures has declined significantly since 2013.[55] According to data provided by the Prison Service, across the country 6,621 punishments were imposed in the form of solitary confinement between January and September 2016, representing 23.4 per cent of the total. Figures on the number of punishments imposed between November 2012 and September 2015, broken down by type of punishment, may be found in annex XIII. The Office of the Undersecretary for Human Rights conducted a comprehensive review of the Prison Regulations in conjunction with the Prison Service of Chile, the Office of the Undersecretary for Justice and the Ministry of Women and Gender Equity, among others, with the objective of providing a perspective on human rights, taking into account international standards, in particular the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules) and the United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (Bangkok Rules). One of the topics reviewed was that of the disciplinary procedures and punishments applicable to persons deprived of their liberty. The review had at as its objective the substantiation of punishments and the reduction of discretionary powers in the matter of their imposition, with particular attention to solitary confinement. The revised text of the Prison Regulations is currently passing through formal channels prior to its administrative adjustment.

119. With regard to the detention of persons deprived of their liberty in isolation cells and the use of this measure as a punishment for young persons subject to disciplinary measures, it should be clarified that this measure is not envisaged by Act No. 20.084 and its regulations.[56] In line with article 75 of those regulations, only when the personal safety of the offender or of the other young persons is seriously threatened may steps be taken to

[54] Both the report of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on its visit to Chile and the State's response are publicly available at: http://www.minjusticia.gob.cl/estado-de-chile-y-prevencion-de-la-tortura/.

[55] Set out in Exemption Resolution No. 4247 of 10 May 2013 of the National Directorate of the Prison Service. These criteria are intended to ensure that the punishment imposed is reasonable and proportionate to the misconduct and that inmates are not punished twice for the same deed.

[56] Set out in Supreme Decree No. 1378 of 2006, of the Ministry of Justice and Human Rights.

separate the group and offenders must be held in single rooms and for a maximum of seven days. Further details may be found in annex XIV.

**Paragraph 28**

120. For statistical data on deaths between 2010 and 2015 of persons under the custody of the Prison Service, see annex XV. With regard to deaths in custody between 2010 and 2014 in detention centres for young persons, details of each case and the findings of the associated investigation may be found in annex XVI.

121. With regard to measures to prevent the recurrence of similar cases, by use of circulars Nos. 2.308 and 2.309 the National Service for Minors regulated the procedure to be applied to acts that may constitute an offence against or the physical or psychological ill-treatment of children and young persons under the care of centres directly administered by the National Service. The circulars provide a definition of abuse and reaffirm the best interests of the child as the guiding principle in related proceedings.[57] In addition, attention is drawn to the work of the inter-agency oversight committees for young persons' detention centres, which ensure continuous monitoring of the conditions in such facilities.

122. Following the fire at the San Miguel Prison, on 8 December 2010, we are able to report that, after investigation by the Public Prosecution Service, those accused of the offences of multiple homicide, negligent homicide and negligent injury were acquitted by the Court of Appeal in San Miguel. Details of the investigation into that fire may be found in annex XVII.

123. With regard to measures taken to eradicate brawling and violence in prisons, particular attention is drawn to the establishment by the Prison Service, in 2012, of its Unit for the Protection and Promotion of Human Rights. Its specific tasks include the roll-out at the national level of a human rights protection system for persons under the custody and control of the Prison Service and the promotion of a culture that ensures respect for the rights of persons deprived of their liberty by developing training measures for the officials who deal directly with them. In 2013, 218 officials of the various sectors of the Prison Service were certified as human rights monitors and, in 2014 and 2015, 77 officials received training in the human rights course at Diego Portales University. In addition, in 2014, the Prison Service set up its regional units for the protection and promotion of human rights, which include among their responsibilities the decentralization of plans and programmes and the referral to the appropriate prison authority of complaints of rights violations that might apply to the prison population, the monitoring of those complaints and the provision of information.

124. In addition, the following remedial actions have been taken: presentation in November 2013 of a 2012 study of brawling in the Santiago Sur remand centre; a comparative study of brawling in integrated units in the Metropolitan Region (the information-gathering process began in November 2013), and the implementation of the national register of dangerous prisoners. In November 2013, a list was drawn up of the 259 inmates across the country currently registered as dangerous and posing a risk. On the basis of this document, the regional authorities, working in conjunction with the Department of Prisons Intelligence and Analysis, were required in 2014 to update their records from time to time.

[57] In application of article 5 of Decree-Law No. 2.465, creating the National Service for Minors; article 49 (II) of Act No. 20.084 on the criminal liability of young persons, concerning the rights of young people during the enforcement of penalties; articles 7 and 8 of the regulations in application of Act No. 20.084 on the obligation to inform the respective authority, immediately and without undue delay, of situations that have come to light and that might constitute ill-treatment or a violation of fundamental rights; and article 175 of the Code of Criminal Procedure, on the duty to report.

## Articles 12 and 13

### Paragraph 29

125. Detailed statistical data provided by the judiciary and the Directorate General of Investigative Police relating to criminal cases brought before the ordinary courts may be found in annex XVIII.

### Paragraph 30

126. The Office of the Undersecretary for the Interior at the Ministry of the Interior and Public Security is currently undertaking an analysis of the manner in which information is gathered and processed by this registration system.

127. The Ministry of the Interior and Public Security reports that the Department for Criminal Analysis of the Carabineros has no figures on cases of violence against women and other groups during the suppression of demonstrations or in places of detention.

### Paragraph 31

128. The Public Prosecution Service may apply to the court or take direct measures to protect victims of offences, to assist them in their participation in the proceedings and to avert or at least reduce to the minimum any disruption during the proceedings in which they need to engage.[58] There are also legal mechanisms for the protection of persons deprived of their liberty. Thus, judges at different hierarchical levels of the judiciary carry out prison visits to ascertain whether inappropriate treatment is being inflicted on persons deprived of their liberty, if their rights to defence have been restricted or their cases unlawfully prolonged.[59] In addition, the National Human Rights Institute has the power to instruct officials to enter public premises where persons are being or may be held in custody to determine whether they have been victims of acts of torture and to initiate legal action before the courts. The Government is carrying out a plan of visits to correctional facilities to respond to the concerns raised by the judiciary, through appropriate management actions in accordance with the gravity of the facts and by providing forums for the regular review of the comments.

129. The Carabineros reported that no complaints had been filed regarding threats by police officers.

### Paragraph 32

130. Where police violence is concerned, complaints about abuses by the Carabineros are investigated by that institution and, where misconduct is proved, disciplinary punishments are imposed. Situations that constitute criminal offences are referred to the criminal justice system. Between 2010 and mid-2015, 737 cases were investigated involving possible excessive use of force. Of these, 392 were referred to the courts, and 137 incurred disciplinary punishments (in 10 cases, involving dismissal).

131. In addition, the Carabineros has carried out a review of its protocols for the maintenance of law and order, with the aim of ensuring that they comply with international human rights standards. Since 2014, these protocols have been publicly available, enabling citizens to exercise greater control over police actions.[60]

132. Where the Directorate General of Investigative Police is concerned, the Investigative Police School has developed regular training programmes in human rights, which have been consolidated and upgraded since 2010, and for its part the School has provided significant opportunities for raising awareness, education and training on this topic. Since

[58] Act No. 19.640, establishing the Constitutional Organic Act on the Public Prosecution Service.

[59] Act No. 7.421, adopting the Courts Code, in particular articles 567–585.

[60] Available from protocol http://deptoddhh.carabineros.cl/assets/protocolos_mantenimiento_del_orden_publico.pdf.

2010, the Directorate General of Investigative Police has initiated 36 administrative proceedings that seek unequivocally to clarify possible facts regarding this issue, in addition to applying the appropriate sanctions in cases where the incident under investigation has been verified.[61]

**Paragraph 33**

133. For this information, see the response to question 6 of the list of issues.

**Paragraph 34**

134. The Prison Service initiated disciplinary proceedings relating to the attempted escape by repeat offenders from the Talagante remand centre on 29 January 2012, in which the inmate Rodrigo Eduardo Jiménez Donoso was killed. The disciplinary process has been completed, with the dismissal of staff members. A case has also been brought before the courts, which was investigated by the Talagante local prosecutor's office and provisionally shelved in September 2012.

**Paragraph 35**

135. In accordance with national legislation, the deadline for the categorization of new cases of political prisoners who disappeared and were executed and the victims of political imprisonment and torture was six months following the establishment of the Commission in question.[62] This deadline was extended owing to the amount of new information received by the Commission, which concluded its work on 17 August 2011, at which time it officially handed over its final report to the President and was then disbanded. The majority of the cases were resolved unanimously by the Commission, leading to convictions in 30 cases of political prisoners who had disappeared and been executed and 9,795 cases of victims of political imprisonment and torture. The Advisory Commission's mandate ended after being extended for a further six months.[63]

136. In May 2015, a working group was formed, made up of representatives of groups of victims, the Government and ecumenical bodies, which agreed on a number of matters concerning reparations for victims. In that context, on 29 October 2015, Act No. 20.874 was promulgated, granting a one-off reparation to the victims of political imprisonment and torture recognized by Chile.

## Article 14

**Paragraph 36**

137. Details provided by the judiciary of claims relating to torture that have been lodged and finalized may be found in annex XIX.

**Paragraph 37**

138. Where victims of police brutality are concerned, the Ministry of the Interior and Public Security has provided them with assistance and support, through its programme for the support of victims of violent crimes.

**Paragraph 38**

139. Chile has taken the necessary steps to ensure access to the Compensation and Comprehensive Health-Care Programme and to rehabilitation by accredited consultants. With the issuance of the list of persons identified in 2011 by the Presidential Advisory Commission for the Recognition of Disappeared and Executed Political Prisoners and the

[61] 27 administrative proceedings and 9 preliminary investigations.

[62] Article No. 3 of the transitional provisions set out in act No. 20.405.

[63] Act No. 20.496.

Victims of Political Imprisonment and Torture, the budget allocated for 2012 was raised to 1,183 million pesos, representing an increase of over 20 per cent.[64] Reparation is considered both for the actual victims and for their families up until the third generation, depending on where the repression originated, the age of the victims and the composition of the family at the time of the acts of violence. This reparation includes social security, education, housing and health benefits. In 2015 the programme had a total budget of 4,718 million pesos, with a 95.72 per cent budget implementation rate, which involved the coverage of 30,633 new beneficiaries under the reparation laws, Acts Nos. 19.123, 19.980, 19.992 and 20.405 and under the provisions of the supplementary technical regulations of the Ministry of Health, pursuant to Exemption Resolution No. 437 of June 2006, which applies to persons who went into political exile and are deemed eligible because they have been politically exonerated and have experienced other situations such as having to live in hiding and undergo detention or exclusion and who have documentary evidence of those experiences.[65] It should be noted that beneficiaries of the Compensation and Comprehensive Health-Care Programme, in addition to receiving specialized care from its health teams, have access to the full range of medical programmes and services that are provided in the establishments of the health-care network, at the various levels of care.

140. The Ministry of Health maintains at least one Compensation and Comprehensive Health-Care Programme team in each of the 29 health services in the health-care network, ensuring life-long entitlement to the benefits. In February 2015, the Office of the Undersecretary for Welfare Networks at that Ministry circulated new Compensation and Comprehensive Health-Care Programme guidelines to all the health service directors, with instructions on the proper management of resources to ensure availability and accessibility; the incorporation of quality criteria and criteria on user satisfaction with rehabilitation services; the provision of continuing training for workers of the network to meet demand and ensure quality; the compilation of data necessary for analysis and systematization purposes; and attention to gender perspective and cultural relevance at all stages.

141. As for the total number of beneficiaries, 130,129 victims of torture and their affected first and second generation family members have been accepted into the Compensation and Comprehensive Health-Care Programme. Details of these figures may be found in annex XX.

142. As yet, there are no arrangements for access to services of the Compensation and Comprehensive Health-Care Programme for victims living outside Chile. To date there are no cooperation agreements with other countries on the provision of care and rehabilitation services.

143. Among the strategies in effect to provide care for victims of sexual violence, of note are the emergency shelters installed in 2002, the outcome of a joint project of the Public Prosecution Service and the Ministry of Health designed to create areas for hospital emergency services that will provide the necessary conditions for priority and quality care that does not victimize and thus ensure that the required medical and judicial procedures are effectively and efficiently delivered. There are currently 24 reception rooms in use across the country, and this year will see the completion of 16 rooms equipped to the level of a hospital clinical forensic unit and two laboratories in the Metropolitan Region equipped to process chlamydia and gonococcus samples. Most of the services provided are in the areas of gynaecological and mental health care. In 2015, 1,303 victims of sexual abuse (1,034 women and 269 men) received assistance under the Mental Health Programme; while, where response to gender-based violence is concerned, in the same year, the emergency services attended 1,067 victims of rape (913 women and 154 men).

144. In addition, the Ministry of Health is carrying out a number of measures and services for the care of these victims, such the preparation, in 2011, of a guide on the care of children and young persons who are victims of sexual abuse and the training of more than

[64] Amount equivalent to $1,720,239.35.

[65] Amount equivalent to $6,861.06.

300 professionals throughout the country. Since 2008, the Ministry of Health has had a health policy on gender violence, which is currently undergoing review and updating.

## Article 15

### Paragraph 39

145. Evidence obtained in violation of fundamental guarantees may be excluded by the judge responsible for procedural safeguards at the detention hearing and subsequently at the hearing in preparation for trial (Code of Criminal Procedure, art. 276). Evidence obtained through actions or proceedings that have been declared invalid or have infringed or violated the basic rights or guarantees of a suspect (unlawful evidence) cannot therefore be invoked or validated. If a court validates evidence obtained following an infringement of rights or constitutional guarantees or of international treaties ratified by Chile, an appeal may be made to annul the oral proceedings in which the infringement has been established, to be heard by the Supreme Court, in accordance with article 373, paragraph (a), of the Code of Criminal Procedure.

## Article 16

### Paragraph 40

146. Statistical data on the Carabineros, relating to police reports with complaints of possible excessive use of force, may be found in the table in annex II.

147. With regard to the case of the death of Manuel Gutiérrez, aged 16, a criminal investigation was launched and the proceedings heard by the second military court of Santiago, in which the Ministry of the Interior and Public Security appeared as plaintiff. In the proceedings at first instance, Sergeant Miguel Millacura Cárcamo was sentenced for his involvement as a perpetrator of the offence of unwarranted violence resulting in death. This offence was recategorized by the Supreme Court in the cassation proceedings brought by the defence and Sergeant Millacura was finally sentenced to 400 days' medium-term rigorous imprisonment of the minimum degree for the offence of negligent homicide of Manuel Gutiérrez. For its part, the Carabineros Office of Administrative Oversight at the metropolitan area headquarters ordered an administrative inquiry following the death of Manuel Gutiérrez in August 2011. This ended with disciplinary sanctions consisting of entries in the professional records of commissioned and non-commissioned officers who had been on duty that day, and with the suspension for "misconduct" of two of the officials directly involved in the use of firearms.

### Paragraph 41

148. Act No. 20.286 amended article 234 of the Civil Code — which states that parents have the power to punish their children, as long as such punishment does not adversely affect their health or personal development — with the additional provision that that right shall exclude all forms of physical and psychological abuse and shall in all cases be exercised in accordance with the law and the Convention on the Rights of the Child.

149. In addition, a bill is currently passing through the channels on the criminalization of acts of ill-treatment or cruelty against children and young persons that lie outside the scope of domestic violence. The bill, set out in bulletin No. 9.179-07, deleted the second paragraph of article 62 of Act No. 16.618 and extends the range of acts punishable under criminal law that lie outside the scope of domestic violence. This bill is at first reading in the Senate and its passage is being backed by the National Children's Council. It seeks to criminalize corporal punishment without injury and the cruel and humiliating treatment of children and young persons. Similarly, attention is drawn to the bill set out in bulletin No. 10049-18, which criminalizes the abuse of older persons by persons responsible for their care, currently at second reading in the Senate. Both projects are supported as urgent measures by the Government.

150. Attention is also drawn to the bill amending the Criminal Code, Decree-Law No. 645 of 1925 on the consolidated register of convictions, and Act No. 20.066 on domestic violence, which are aimed at stiffening the penalties and other applicable sanctions for offences committed against minors and other persons in vulnerable situations, with reformulated proposals, set out in bulletins Nos. 9.279-07, 9.435-18, 9.849-07, 9.877-07, 9.904-07 and 9.908-07. Under this Act, victims of ill-treatment are children under the age of 14, older persons and persons with disabilities, as defined by Act No. 20.422, laying down rules for equal opportunities and the social inclusion of persons with disabilities. The Government submitted comments on 9 September 2015 and, in October 2015, the bill was given a high priority ranking. Since 14 December 2016, the bill has been at third reading in a joint committee.

151. Lastly, a bill on a system of guarantees for the rights of children, set out in bulletin No. 10.315-18, at first reading in the Chamber of Deputies, incorporates a general rule banning any form of violence against children, including torture and degrading treatment, and provides for the creation of efficient institutional coordination arrangements to combat violence against children. The bill is currently at its final stage.

**Paragraph 42**

152. Act No. 20.786, promulgated on 27 October 2014, amends the hours of work and rest and the pay structure for domestic workers, and prohibits the requirement that a uniform be worn in public places. Among other advances, this act provides for the registration and auditing of contracts; a ban on deductions from pay for accommodation and meals, and the creation of a national day for women domestic workers. Furthermore, in September 2014, the President issued a presidential message calling for the ratification of the Domestic Workers Convention, 2011 (No. 189), adopted by the International Labour Organization (ILO) on 16 June 2011. Following ratification of that Convention by the National Congress in March 2015, the Government deposited the instrument of ratification with ILO in June 2015, making Chile the nineteenth member State of ILO and the tenth Latin American State to ratify the Convention.

153. In addition, the Ministry of the Interior and Public Security and the Ministry of Health have concluded a cooperation agreement for the protection of maternity rights, aimed at facilitating access to health services in the public network by foreign workers who fall pregnant while in Chile; they will now be able to apply for a temporary residence permit certifying that their pregnancy is being monitored in the health centre for their residential area.

154. Lastly, to ensure appropriate protection for migrant women who are victims of domestic violence, an agreement has been concluded on collaboration and joint action between the Ministry of the Interior and Public Security and the National Service for Women, set out in Exemption Resolution No. 80.388 of 2009, to give them access to the network of protection for victims of domestic violence and to enable them to take the necessary measures to expedite their asylum applications in response to their particular vulnerability, so that they can be granted temporary residence visas. This agreement was implemented through order No. 17.952 of the Aliens and Migration Department of the Ministry of the Interior and Public Security of 2011, which is currently being updated.

**Paragraph 43**

155. With regard to the current status of those people who were imprisoned, tortured, and later forced to leave the country during the civilian and military dictatorship, there is no information beyond that noted in the response to paragraph 15 of the list of issues, regarding persons who were exiled and still cannot return to Chile.

## Other matters

### Paragraph 44

156. Currently the reporting, investigation and punishment of acts that are terrorist in nature are regulated by act No. 18.314, which defines terrorist acts and establishes the applicable penalties.

157. Under the government programme, on 4 November of 2014, a bill was tabled before the National Congress, as set out in bulletin No. 9.692-07, which seeks to identify and punish terrorist acts, by amending the Criminal Code and the Code of Criminal Procedure and aligning national legislation with international standards in that domain. As things stand, this bill has been merged with the parliamentary motion set out in bulletin No. 9.669-07, which is at its first reading in the Senate.

158. In compliance with the government programme, which provides that Act No. 18.314, which defines terrorist acts and establishes the related penalties, shall not be applied to members of the indigenous peoples for acts related to the expression of social demands and, as noted by Chile in its report to the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, since 11 March 2014 to date [December 2016], 18 complaints have been lodged concerning offences covered by Act No. 18.314 and 50 complaints concerning offences covered by the State Security Act and none of these complaints have sought the criminal prosecution of actions by indigenous peoples to claim their rights.[66] In November 2014, a bill was tabled (bulletin No. 9692-07) with the aim of revising the current legislation regulating terrorist offences, to bring it into line with international standards in this area. This bill is currently at first reading in the Senate.[67]

### Paragraphs 45, 46 and 47

#### Establishment of the Office of the Undersecretary for Human Rights

159. On 5 January 2016, Act No. 20.885 was promulgated, amending Decree-Law No. 3.346 of 1980 and setting forth the Organic Act on the Ministry of Justice and Human Rights. This legal instrument expands the portfolio of this government office, which is now called the Ministry of Justice and Human Rights, to include the role of fostering and promoting human rights. Two agencies were created through the new Act: the Office of the Undersecretary for Human Rights, to serve as the initiator and coordinator of public policy and legislation in the field of human rights, under the Ministry of Justice and Human Rights, and the Interministerial Committee on Human Rights, as an advisory body to the President in formulating guidelines for the Government's intersectoral policy in the field of human rights. The Undersecretary for Human Rights will act as executive secretary of the Interministerial Committee.

160. Act No. 20.885 provides for the creation of an instrument that will establish national policy in this domain through the national human rights plan, the main product of the work and coordination of this new agency with the Interministerial Committee. The plan is designed to track the international human rights obligations assumed by Chile that are still unfulfilled, and also to promote the adoption of public policies aimed at the promotion and protection of human rights. The plan, which will have a lifetime of four years, will set out the policy in this area and will formulate targets and goals with compliance benchmarks, identify financial resources and allocate responsibilities and arrangements for the monitoring and evaluation of results, in order to identify difficulties and guide the choice of appropriate remedial action or additional measures.

[66] Government programme, p. 174. Available from http://www.gob.cl/programa-de-gobierno/.

[67] Response of the Government of Chile to the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 2016, p. 16.

161. The national human rights plan, which must be formulated within a statutory time limit of one year from 1 January 2017, will address at a minimum the following issues: designing public policies on the conduct of investigations, imposition of penalties and payment of reparations for crimes against humanity, genocide and war crimes; preserving the historical memory of human rights violations; promoting non-discrimination in accordance with the existing national and international standards; fostering human rights education and training at all teaching levels, and also in skills-development and in-service training programmes for public officials; and promoting observance of precautionary and provisional measures, amicable solutions and international judgments.[68]

162. Act No. 20.885 provides for the full transfer of the human rights programme of the Ministry of the Interior and Public Security to the new Office of the Undersecretary for Human Rights.

[68] Article 14 of Act No. 20.885.