



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

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Committee against Torture

## Fourth periodic report submitted by Uruguay under article 19 of the Convention pursuant to the optional reporting procedure, due in 2018\*, \*\*, \*\*\*

[Date received: 9 July 2018]

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\* The third periodic report of Uruguay (CAT/C/URY/3) was considered by the Committee at its 1212th and 1215th meetings (CAT/C/SR.1212 and 1215). Having considered the report, the Committee adopted concluding observations (CAT/C/URY/CO/3).

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

\*\*\* The annex can be consulted in the files of the secretariat. It is also available on the website of the Committee against Torture.



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## I. Introduction

1. The present document constitutes the fourth periodic report to the Committee against Torture on the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and has been drafted in line with the optional reporting procedure adopted by the Committee at its thirty-eighth session in May 2007 (A/62/44, paras. 23 and 24).<sup>1</sup>
2. The list of issues prior to reporting (CAT/C/URY/Q/4), sent by the Committee to the Government of Uruguay on 1 June 2016, therefore forms the basis of this report.
3. The report was drafted by the National Mechanism for Reporting and Follow-up on Human Rights Recommendations,<sup>2</sup> whose functions include coordinating the preparation of the periodic reports that the State is required to submit to the United Nations human rights treaty bodies.
4. Prior to the submission of this report, civil society organizations concerned with the issues it covers were convened by the Ministry of Foreign Affairs, in its capacity as coordinator of the National Mechanism for Reporting and Follow-up on Recommendations, pursuant to Decree No. 89/2018 of 9 April 2018.
5. As part of the drafting process, consultations were held with the National Human Rights Institution and the Parliamentary Commissioner for the Prison System.

## II. General legal framework for combating torture and other cruel, inhuman or degrading treatment or punishment

6. Uruguay ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment pursuant to Act No. 15798 of 27 December 1985.
7. Uruguay thus incorporated into its national legislation a key international instrument for the adoption of legislative, administrative, judicial and other measures aimed at preventing acts of torture throughout the national territory.
8. In addition, on 27 July 1988, by means of a letter addressed to the Secretary-General of the United Nations and in accordance with article 21 of the Convention, Uruguay recognized the competence of the Committee against Torture to receive and consider communications to the effect that a State party claims that another State party is not fulfilling its obligations under the Convention.
9. In the same letter, and in line with article 22 of the Convention, Uruguay recognized the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim to be victims of a violation by a State party of the provisions of the Convention.
10. The definition of the offence of torture was incorporated into the national legal order through Act No. 18026 of December 2006, on cooperation with the International Criminal Court in combating genocide, war crimes and crimes against humanity (art. 22).
11. Pursuant to Act No. 17914 of October 2004, Uruguay ratified the Optional Protocol to the Convention against Torture, thus incorporating into its domestic law an instrument that establishes a system of regular visits undertaken by an independent international body to places where people are deprived of their liberty and requires the establishment of a national preventive mechanism for the prevention of torture and other cruel, inhuman or degrading treatment or punishment.
12. Within the inter-American system, Uruguay is also a State party to the Inter-American Convention to Prevent and Punish Torture, which it ratified through Act No.

<sup>1</sup> The information contained in this report relates to the period ending 31 March 2018.

<sup>2</sup> For more information on the National Mechanism for Reporting and Follow-up on Recommendations, please see the reply to the issues raised in paragraph 34.

16294 of August 1992, thus incorporating the principal binding inter-American instrument for the prevention and punishment of torture, as defined in the Convention in question, into the national legal order.

### **III. Replies to the specific issues raised by the Committee**

#### **Issues identified for follow-up in the previous concluding observations**

13. Uruguay has ratified or acceded to all the core human rights instruments in force and their optional protocols, including the Optional Protocol to the Convention against Torture and, with the adoption of Act No. 18026, has also complied with the implementing obligations arising under the Rome Statute, ratified pursuant to Act No. 17510 of June 2002.

##### **Adult prison system**

14. During the period under review, six complaints were received of apparently criminal acts that might constitute torture, one of which referred to the repressive measures used at the Libertad prison in 2016. The other complaints referred to specific acts of violence occurring outside the chain of command of the detention facilities in question – Unit No. 4 (COMCAR), the women-only Unit No. 5 and Unit No. 7 in Canelones – where pain and ill-treatment were inflicted as a form of punishment or to instil fear in prisoners. The cases were referred to the criminal justice system, where they remain at the time of submission of this report.

15. Regarding reinforced safeguards for persons deprived of their liberty, it should be noted that a person can be admitted to a detention facility only on the basis of a written court order containing the person's details and specifying the offence with which he or she is charged. Admissions to the prison system are managed centrally by the Admissions, Analysis and Referral Centre, which is responsible for profiling and initial classification. The Centre provides information about the system and detainees' rights and obligations and facilitates contact between detainees and their families. The newly adopted Code of Criminal Procedure provides for the supervision and enforcement of sentences as well as for mechanisms to ensure the effectiveness of safeguards. These tasks are entrusted to the Supervision and Sentence Enforcement Court of First Instance. In the current system, personnel of the opposite sex cannot serve in dormitory wings or carry out body searches, inspections or any other procedures involving private areas.

16. In addition, the National Rehabilitation Institute has implemented a prison administration system for recording information about persons deprived of their liberty or subject to alternatives to imprisonment. Complaints can be submitted to the Directorate of Internal Affairs or the Quality Management Service anonymously through a free hotline (0800-5000), and 837 complaints were received through this channel between 1 June 2016 and 24 July 2017. Of these, 106 were made by women prisoners, including 3 Brazilian nationals, from 10 detention facilities, and 731 complaints were lodged by men deprived of their liberty in 22 facilities, including 1 Paraguayan and 1 Argentine citizen. Ninety-five per cent of the complainants were white. Complaints are referred to the National Rehabilitation Institute to be processed and investigated. Between 1 October 2017 and 8 February 2018, the Quality Management Service received 497 complaints from persons deprived of their liberty in 18 detention facilities, with 95 per cent of complainants being white. All these cases were referred to the National Rehabilitation Institute.

17. Act No. 19355 of December 2015 created a justice support team specializing in crimes against humanity and attached to the Ministry of the Interior (art. 165) that is mandated to collaborate directly with legal officers of the judiciary and the Attorney General's Office in investigations into the human rights violations committed during the breakdown in the rule of law that occurred between 13 June 1968 and 28 February 1985.

18. Article 288 of the new Code of Criminal Procedure,<sup>3</sup> which entered into force on 1 November 2017, establishes the competence of the Supervision and Sentence Enforcement Court of First Instance for the purpose of “safeguarding the rights of inmates ... in respect of abuses and irregularities”. Articles 351 et seq. also provide for the use of habeas corpus “against torture and other cruel treatment or conditions of detention that violate human dignity”. Under article 49 (3), the Public Prosecutor’s Office can issue instructions to the authority in charge of prison facilities when it comes to the investigation of acts committed inside those facilities.<sup>4</sup>

### **Juvenile penal system**

19. The National Institute for the Social Inclusion of Adolescents (INISA) has effective complaint mechanisms in place for the juvenile penal system, including: (a) technical teams in each of its centres, where professionals (psychologists, social workers, teachers and lawyers) pass on to INISA’s Legal Department the facts reported to them, while maintaining the strictest professional confidentiality; (b) INISA’s central offices, which have extended business hours during which specialized staff of the Legal Department are available to receive complaints; (c) INISA’s website, through which complaints can be filed anonymously; and (d) regular, private meetings involving the Board of Directors and youth delegates from the centres.

20. INISA is currently working to form a group of lawyers and/or prosecutors to take charge of the preliminary procedures involved in identifying irregularities, safeguarding evidence and taking statements from victims and witnesses. This will strengthen the guarantees inherent in the procedures already in place.

21. Regarding prompt, impartial and effective investigations, in only one case brought before the Admissions, Assessment, Analysis and Referrals Centre has the Legal Department recommended that the authorities impose a penalty on a public official. The public official concerned has now mounted a defence in accordance with the principle of due process. In 2016, another incident came to light, concerning the provision of medication at the Hornero Centre, which is currently being dealt with by the Disciplinary Proceedings Department.

22. Since INISA was created as a decentralized body, efforts have been made to furnish the National Health Directorate, which was formed around the same time, with as many personnel as possible, including by regularizing the insecure status of those already employed on temporary contracts. Open merit-based competitions have been held, and legislative reforms have been initiated to permit health-care personnel to hold two positions simultaneously, so as to prevent the loss of quality, expert human resources. In addition, medical records have been standardized and will soon be digitized.

23. It should be noted that INISA’s current Board of Directors has consistently treated cases of ill-treatment as serious misconduct, thereby triggering the application of article 187 of Decree No. 500/991 which establishes that: “Suspending officials who are under investigation from duty as a preventive measure is mandatory if the acts at the origin of the complaint constitute serious misconduct. Suspension should be requested in the order for disciplinary proceedings and involves withholding the corresponding salary amounts.”

24. Since a suspension may not exceed six months, the Disciplinary Proceedings Unit of the Legal Department has redoubled its efforts to complete proceedings expeditiously in order to enhance the effectiveness of this measure. The recruitment of additional staff is planned in order to ensure that procedures do not exceed the maximum legal period of suspension. No cases of reprisals have been identified since 2016, when systematic record-keeping began. However, the authorities and technical teams in each of the centres are able to evaluate, recommend and arrange for the transfer of victims or complainants to other facilities.

<sup>3</sup> Act No. 19293, as amended.

<sup>4</sup> For more information: [http://www.impo.com.uy/bases/leyes-originales/ 19293-2014/49](http://www.impo.com.uy/bases/leyes-originales/19293-2014/49).

25. INISA does not have the budget or legal powers to provide redress, compensation or rehabilitation to victims of torture and ill-treatment. Instead, victims must submit their claims to the courts, which can order INISA to pay a specific amount in compensation.

#### **External monitoring mechanisms**

26. External oversight of places of deprivation of liberty is carried out by the Parliamentary Commissioner for the Prison System and the National Human Rights Institution, which is also the national preventive mechanism. Civil society organizations also visit and conduct inspections of detention facilities.

### **Article 1**

27. Although under the Criminal Code torture has not been defined as a separate offence in keeping with the definition contained in the Convention against Torture, Uruguay has incorporated the offence of torture into the national legal order by means of article 22 of Act No. 18026 of December 2006, on cooperation with the International Criminal Court in combating genocide, war crimes and crimes against humanity.

28. Article 22, paragraph 1, of the Act provides that: “Any State agent or anyone acting with the authorization, support or acquiescence of one or more State agents who inflicts any form of torture on a person deprived of liberty or under his or her custody or control or on a person who appears as a witness, expert or similar before the authorities, in any manner and for any motive, shall be punished with imprisonment for a term of between 20 months and 8 years.”

29. Article 22, paragraph 2, states that “‘torture’ shall be understood to mean: (a) any act by which severe pain or suffering, whether physical, mental or psychological, is inflicted; (b) subjection to cruel, inhuman or degrading punishment or treatment; or (c) any act aimed at dehumanizing or diminishing the physical or mental capacities of the victim, even if it does not cause pain or physical distress, or any act referred to in article 291 of the Criminal Code, where it is carried out for the purpose of investigation, punishment or intimidation”.

30. Moreover, in future legislation, the definitions of torture contained in the conventions ratified by Uruguay, such as the Inter-American Convention to Prevent and Punish Torture of 6 December 1985 (Act No. 16294 of 11 August 1992) and the Rome Statute of 1998 (Act No. 17510 of 27 June 2002), will have to be taken into consideration alongside article 1 (2) of the Convention against Torture.

31. Some case law provides that the offence of torture (art. 22), as enshrined in Act No. 18026, does not apply to State agents who inflict a form of torture or ill-treatment upon a person deprived of liberty since it is stated in article 19 of the Act, under the heading “Scope of general principles”, that the offences defined in chapter 2, which includes the aforementioned article 22, are considered to be crimes against humanity, and that crimes against humanity are regulated by article 7 of the Rome Statute, which was ratified through Act No. 17510.

32. Although there are no statistics on prosecutions for torture offences, it is safe to say that there have been no convictions for this offence in the period since the respective criminal offence was established. This does not mean, however, that forms of conduct that do not fall squarely within the definition of this offence go unpunished, since they would still constitute assault of another person. Similar forms of conduct may be considered offences of bodily harm occasioning serious or very serious personal injury or offences of intimidation. The National Human Rights Institution has recommended that this offence be included, along with the suggested adjustments, in the bill amending the Criminal Code, which is currently being considered by the House of Representatives.<sup>5</sup>

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<sup>5</sup> For more information, see: <https://parlamento.gub.uy/documentosleyes/ficha-asunto/105583/tramite>.

## Article 2

33. Please see reply provided in paragraph 15 above.

34. As regards the juvenile penal system, adolescents are admitted to the National Institute for the Social Inclusion of Adolescents (INISA) by court order only and are placed under the care of the Admissions, Assessment and Referrals Programme, which carries out a multidisciplinary analysis. A transfer board has been created to assign juveniles to the place in which they will complete the relevant socio-educational measure, taking into account their profile and the projects available at each facility. Each adolescent is provided with information about INISA, their rights and obligations and contact with the family and role models is facilitated. For this purpose, juveniles receive a copy of the disciplinary regulations and their family members are provided with a visitor's card. In this connection, each facility has a team of experts to whom complaints can be submitted confidentially. The Legal Department also receives complaints at its headquarters, in addition to carrying out emergency information procedures at each facility.

35. The budget of the National Human Rights Institution and Ombudsman's Office for the period 2015–2019 was approved by Senate resolution dated 22 December 2015. This budget covers all the human and financial resources required under the plan submitted by the Institution's Board of Directors to the President of the General Assembly. The majority of the budget approved is intended to provide the Institution with the technical staff required to perform its tasks and to finance the refurbishment of its headquarters. These budget allocations were increased by Senate resolution dated 26 July 2017.

36. On 16 May 2018, the Senate gave preliminary approval to a bill modifying Act No. 18446 on the creation of the National Human Rights Institution and Ombudsman's Office. The bill confirms the Board of Directors as the Institution's supreme authority and, in the light of its autonomous status, regulates the appointment of its officials, the aim being to consolidate the progress made during the start-up period and enter into agreements with State and non-State actors and international organizations. The bill is currently before the House of Representatives for discussion and approval.

37. The national mechanism for the prevention of torture is part of the National Human Rights Institution. Here, it is worth reiterating the resources allocated to the Institution through the Senate resolution of 22 December 2015,<sup>6</sup> which were later increased by Senate resolution dated 26 July 2017.<sup>7</sup> As previously noted, the majority of the funds allocated are being used to provide the Institution with the technical human resources it requires to adequately perform its tasks and to refurbish its headquarters.

38. In relation to specialized medical and legal staff, the national preventive mechanism's team of experts has consisted of a lawyer, two psychologists and two social workers since 2016. Three additional experts (two lawyers and a doctor) are currently being recruited, but the selection process has yet to be completed.

39. The criminal justice system in Uruguay has been reformed. After several delays, the new Code of Criminal Procedure entered into force on 1 November 2017 through Act No. 19293 of December 2014. As a result, there has been a major change in the administration of criminal justice, entailing a shift from the inquisitorial to the adversarial system, under which public prosecutors are now responsible for investigations. Implementing this reform has required not only the introduction of the new Code but also a strengthening of the Attorney General's Office, which has replaced the judge in the investigation of cases. Act No. 19293 has already been amended several times to facilitate its implementation and will have to continue being adapted to the new system without undermining due process guarantees.

<sup>6</sup> <https://admin.parlamento.gub.uy/htmlstat/pl/otrosdocumentos/comisionadministrativa/PresupuestoCA2015.pdf>.

<sup>7</sup> <https://admin.parlamento.gub.uy/htmlstat/pl/otrosdocumentos/ComisionAdministrativa/RendicionCA2017.pdf>.

40. Pursuant to articles 18 and 19 of the new Code of Criminal Procedure, responsibility for administering justice in criminal matters lies with the judiciary and this responsibility may not be delegated.<sup>8</sup>

41. The transfer and promotion of judges has been regulated through Order No. 7772 of 19 August 2013.<sup>9</sup> The work of the Advisory Commission to the Supreme Court, which is responsible for advising the Court on the transfer and promotion of all judges in the country, is the cornerstone of the transfer and promotion system. The Advisory Commission's task is to grade judges at every level of the judicial service (Act No. 15750, art. 98) on the basis of their merits and training (Act No. 15750, arts. 97 (2) and (3)). For this purpose, the members of the Commission take account of the notes in the judges' files, the annual sworn declarations they make for the purpose of activity monitoring (training), the statistical data and inspection reports issued by the offices of the Supreme Court, the reports issued by the higher courts, taking account of both the grades awarded and their quantity, and by the institutions represented on the Commission, as well as any other additional information that the Commission deems to be appropriate. In this regard, the time taken to schedule hearings and any extensions to them, in particular, and the duration of the proceedings under the judge's charge, in general, must be borne in mind.

42. The Advisory Commission has five members: one Supreme Court justice, two Appeal Courts judges (one of whom is appointed by the Judges' Association of Uruguay), a practicing lawyer (put forward by the Uruguayan Bar Association) and a senior lecturer from the Faculty of Law of the University of the Republic. The Commission submits a list of suitable candidates to the Supreme Court by 15 December of each year. The background checks it carries out are made available to the judges concerned so that they may review them, if they so wish.

43. In relation to the independence of public prosecutors, under article 4 of Act No. 19334 of 14 August 2015, establishing the decentralized Attorney General's Office, the executive branch has oversight only of the Office's administrative activities; it plans its own budget. In addition, the technical independence of the Chief Public Prosecutor and Attorney General, and of public prosecutors in general, is enshrined in article 46 of the Code of Criminal Procedure.<sup>10</sup> In article 3 of the new Organic Act No. 19483 of 5 January 2017, concerning the Public Prosecution Service, the principle of operational autonomy is established, while provision is made in article 5 for the technical independence of prosecutors in the exercise of their functions.<sup>11</sup> Article 45 makes provision for a competitive examination for recruitment to the Attorney General's Office, with the aim of providing the Senate with candidates for appointment as prosecutors and creating teams of the most suitable and competent personnel to carry out the Office's functions.

44. The gender-based violence response system comprises various support mechanisms. Women aged over 18 years old have access to different services depending on where they are in the process. The network of services for a life free from gender-based violence has 27 services for women victims of gender-based violence; 18 local cooperation mechanisms; 6 support teams for men who are or have been violent towards their partners or ex-partners; a support unit for women victims of trafficking for the purpose of sexual exploitation, with countrywide coverage; a mobile team with national reach; temporary housing alternatives around the country for women escaping domestic violence, provided pursuant to an agreement with the Ministry of Housing, Land Management and the Environment; a short-stay home with national coverage for women victims of domestic violence who are in immediate danger; a halfway house; and access to work skills training, which is provided by the National Institute of Employment and Vocational Training.

<sup>8</sup> Act No. 19293, as amended. Entered into force on 1 November 2017.

<sup>9</sup> Order No. 7772: see Annex No. 1.

<sup>10</sup> <http://www.impo.com.uy/bases/leyes-originales/19293-2014/46>.

<sup>11</sup> <http://www.impo.com.uy/bases/leyes/19483-2017/5>.

45. Administrative data from the gender-based violence response system of the Ministry of Social Development (MIDES) is provided below.<sup>12</sup> The Ministry's support unit for women victims of trafficking for the purpose of sexual exploitation and the gender-based violence victim support service record the ages of service users, which are here shown in age ranges.

**Number of women using the gender-based violence victim support service, by age and year<sup>13</sup>**

| Age group    | 2014       | 2015         | 2016         |
|--------------|------------|--------------|--------------|
| 17 and under | 6          | 10           | 11           |
| 18–29 years  | 225        | 656          | 642          |
| 30–49 years  | 465        | 1 385        | 1 232        |
| 50–64 years  | 117        | 358          | 312          |
| 65 and over  | 28         | 86           | 73           |
| <b>Total</b> | <b>841</b> | <b>2 495</b> | <b>2 270</b> |

*Source:* Inmujeres/MIDES gender information system (SIG), based on administrative records.

46. In 2017, the gender-based violence response system assisted 26,626 women and handled 11,155 enquiries.

**Number of complaints and homicides of women linked to domestic violence**

| Year | Number of complaints of domestic violence | Number of complaints per day | Homicides of women linked to domestic violence |
|------|---|------------------------------|--|
| 2014 | 23 648                                    | 77                           | 24   |
| 2015 | 25 644                                    | 85                           | 24   |
| 2016 | 24 454                                    | 79                           | 29   |
| 2017 | 39 226                                    | 107                          | 31   |

*Source:* MIDES.

47. In 2017, the Ministry of Health treated 4,419 women victims of domestic violence, 1,758 of whom were considered to be in medium- or high-risk situations. The emergency services dealt with 347 incidents of sexual violence and 536 relating to physical violence.

48. With regard to domestic violence against children and adolescents, part-time care was provided to 1,398 children and adolescents in 2016. The Uruguayan Institute for Children and Adolescents (INAU) has six shelters providing full-time care for children and adolescents together with women victims of violence.

**Number and age of children and adolescent victims of domestic violence in 2016**

| Year | 0 to 3 years | 4 to 5 years | 6 to 12 years | 13 to 17 years | Over 18 years | Total |
|------|--------------|--------------|---------------|----------------|---------------|-------|
| 2016 | 19           | 14           | 104           | 98             | 8             | 243   |

*Source:* INAU.

<sup>12</sup> Both services also record the racial or ethnic origin of service users; however, the data collected are not sufficient to be submitted. Continuous efforts are being made to improve data-registration systems and to ensure that all variables are completed, in particular racial or ethnic origin.

<sup>13</sup> Information for the year 2017 was being processed at the time of finalizing this report.

**Number of children in part-time care in the community**

| Year | 0–3 years | 4–5 years | 6–12 years | 13–17 years | Over 18 years | Total |
|------|-----------|-----------|------------|-------------|---------------|-------|
| 2016 | 161       | 103       | 410        | 276         | 19            | 996   |

Source: INAU.

49. In 2017, 3,155 cases of serious violence against children and adolescents were recorded, which was equivalent to almost 9 cases of violence being logged into the system every day – or 1 case at least every three hours. There was a slight predominance of girls in situations of violence (56 per cent) compared to boys (44 per cent). The largest proportion of cases of violence affected the 6–12-year-old age group, which accounted for 42 per cent of the total, and there was a small increase in the number of cases involving adolescents. There was also a percentage increase in the number of cases of sexual abuse and neglect recorded. At a ratio of 3:1, girls and adolescents were twice as likely as boys to be affected.

50. In November 2017, the United Nations Children's Fund (UNICEF) published a compendium of all information available in Uruguay about violence and children in a report entitled *Overview of violence against children in Uruguay*.<sup>14</sup> According to the study data, one child in every four suffers physical violence and one in every two experiences psychological violence. This figure represents around 350,000 children, while some 160,000 children experience corporal punishment. In addition, data from the gender-based and generational violence survey reveal that around 150,000 children are witnesses of violence at home.

51. Following the entry into force of the new Code of Criminal Procedure and the enactment of Act No. 19483, pursuant to which the Attorney General's Office was granted the power to issue general instructions to prosecutors in order to improve the running of the service and ensure the fulfilment of its duties, general instruction No. 5 concerning support and protection for victims and witnesses was adopted on 11 October 2017.<sup>15</sup>

52. On 13 December 2017, Act No. 19580 concerning gender-based violence against women was adopted. It represents a major step forward in terms of the intersectoral responses that the member institutions of the council responsible will have to implement.

53. Regarding measures of redress, in 2017 the Social Security Bank awarded 173 special family allowances and 179 pensions to orphans of persons killed as a result of domestic violence – a total of 352 awards in all.

54. In addition, article 8 (l) of Act No. 19580 recognizes the right “to truth, justice and reparation through simple and prompt recourse to a competent court” among the rights that must be guaranteed to women victims of violence in administrative or judicial proceedings.

55. Between 2014 and 2017, 372 women were admitted to the support unit for women victims of trafficking for the purpose of sexual exploitation. This women-only unit admitted 116 women in 2014, 99 in 2015, 86 in 2016 and 71 in 2017. Of these women, 50 per cent were aged between 18 and 29 years old when they were admitted, 43 per cent were aged between 30 and 49 years old, 5 per cent were over 50 years of age and 2 per cent were minors under 18 years old. It should be noted that the unit treated minors in only isolated, exceptional cases, since, by law, the Uruguayan Institute for Children and Adolescents is required to handle such cases.

56. During the period 2014–2017, 66 per cent of the women admitted were from the Dominican Republic. Around 22 per cent were Uruguayans (internal trafficking) and the remainder were from Paraguay (3 per cent), Peru (3 per cent), Brazil (2 per cent) and elsewhere (2 per cent).

<sup>14</sup> [http://www.bibliotecaunicef.uy/doc\\_num.php?explnum\\_id=182](http://www.bibliotecaunicef.uy/doc_num.php?explnum_id=182).

<sup>15</sup> <http://www.fiscalia.gub.uy/innovaportal/file/4405/1/instruccion-nro5.pdf>.

**Country total, 2014–2017**

| Year | Women | Men | Total |
|------|-------|-----|-------|
| 2014 | 116   | 0   | 116   |
| 2015 | 99    | 0   | 99    |
| 2016 | 86    | 0   | 86    |
| 2017 | 71    | 0   | 71    |

*Source:* SIG/Inmujeres/MIDES based on the administrative records of the gender-based violence response system.

**Age groups of women admitted to the support unit for women victims of trafficking for the purpose of sexual exploitation****Country total, 2014–2017**

|                |             |
|----------------|-------------|
| Under 18 years | 2%          |
| 18–29 years    | 50%         |
| 30–49 years    | 43%         |
| 50 and over    | 5%          |
| <b>Total</b>   | <b>100%</b> |

*Source:* SIG/Inmujeres/MIDES based on the administrative records of the gender-based violence response system.

**Nationality of women admitted to the support unit for women victims of trafficking for the purpose of sexual exploitation****Country total, 2014–2017**

|                    |             |
|--------------------|-------------|
| Uruguay            | 22%         |
| Dominican Republic | 66%         |
| Brazil             | 2%          |
| Paraguay           | 3%          |
| Peru               | 3%          |
| Other              | 4%          |
| <b>Total</b>       | <b>100%</b> |

57. In 2017, Operation Red Light, an investigation into cases of trafficking for the purpose of sexual exploitation, was launched in cooperation with Argentina. As a result of the investigation, one woman was convicted and imprisoned for a continuing offence of pimping after being found to have benefited from the sex work of at least nine adult women, three of whom were of Argentine nationality.

58. The National Committee for the Eradication of the Commercial and Non-Commercial Sexual Exploitation of Children and Adolescents has implemented its second Plan of Action, entitled “100 actions against the commercial exploitation of children and adolescents, 2016–2021”.<sup>16</sup> This second National Plan of Action contains strategic pointers for determining the guiding principles and strategic operational lines of action. A particular aim of the Plan is that all actions should be implemented using a human rights-based approach that takes account of the country’s particular geography and incorporates age, gender, diversity, disability, ethnicity and racial perspectives. The Plan provides for the National Committee to take action in various contexts, such as in border areas and near to manufacturing and logistics enterprises, among others. In 2018, work on awareness-raising

<sup>16</sup> See Annex 2: “Second Plan of Action 100 actions against the commercial exploitation of children and adolescents, 2016–2021”.

activities has begun and meetings have been held at the offices of the National Committee to prepare for the Plan's implementation.

59. The Plan's components and actions are: (a) prevention and promoting rights, which includes implementing the "Good Treatment" campaign in conjunction with civil society organizations, more than 500 adolescents and 100 institutions, organizing a workshop on preventing sexual harassment, in cooperation with the National Association of Non-Governmental Organizations (ANONG), regional administrations, local committees and film groups, and providing training for 29 officials and civil servants and 40 persons from the Community Programme; (b) protection, which includes contributing to the comprehensive bill on combating exploitation and trafficking and the bill amending the new Children's Code; and (c) support services and the restoration of rights. These actions are implemented in coordination with specialized teams. A regional mechanism for dealing with gender-based and generational violence is in place and mobile teams in Montevideo and Paysandú are also supported.

60. The National Consultative Council on Domestic Violence has drafted, and is currently implementing, the 2016–2019 Plan of Action for a Life Free from Gender-Based Violence, which incorporates a generational perspective. Its purpose is to help to build a national public policy to prevent, combat and reduce gender-based violence in all its forms and to provide redress. It includes actions to address trafficking in persons that are undertaken by the Inter-Agency Committee to Prevent and Combat Human Trafficking.

61. In 2014 the Ministry of the Interior adopted a national plan of action that is currently being updated and improved as part of the work of the Working Group to Combat Human Trafficking and the Sexual and Commercial Exploitation of Children and Adolescents. A proposal for the National Plan of Action for the period 2016–2020 is awaiting approval by the executive branch.

62. The Inter-Agency Committee to Prevent and Combat Human Trafficking was created pursuant to Executive Decree No. 304/015. Its duties include drafting, proposing and monitoring a national plan of action for fulfilling the obligations assumed by ratifying the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (the Trafficking in Persons Protocol). The Inter-Agency Committee is currently drafting a 2018–2020 plan of action, for which purpose the International Organization for Migration (IOM) funded the cost of hiring a consultant to advise on the drafting process.

63. From July 2015 to August 2016, the Inter-Agency Committee was working to develop an input document for a comprehensive bill on preventing and combating human trafficking and exploitation, based on an agreement between the IOM and the Uruguayan Ministry of Foreign Affairs. On 23 September 2016, which was the International Day against Sexual Exploitation and Trafficking of Women and Children, the input document was presented to the institutions with competence in this field and to the Senate Special Committee appointed to analyse the human trafficking situation in Uruguay. At a Council of Ministers meeting on 9 October 2017, the Government submitted the comprehensive bill on preventing and combating human trafficking and exploitation to the General Assembly. The bill was sent to the Senate Special Committee and then to the Senate, which approved the text on 14 November before forwarding it to the Chamber of Representatives.

64. Also with a view to preventing, combating and punishing human trafficking, various campaigns have been run to raise public awareness of the issue, using the media, and information and communications technology and other channels of communication to send out a strong message against human trafficking and the sexual exploitation of children. Examples include the "Healthy Tourism" campaign, the "Southern Common Market (MERCOSUR) Free from Trafficking in Persons" regional campaign, the "Stop Collaborating" campaign, the "Welcome to Uruguay: Country of Good Treatment" project, the "Keep to the Right" initiative and the "No Excuses" advertising campaign.

65. Uruguay has signed the Convention for the Suppression of the Traffic in Persons, the Convention against Torture, the Inter-American Convention to Prevent and Punish

Torture and the Optional Protocol to the Convention against Torture, all of which have entered into force in Uruguay.

66. With regard to actions taken to prevent and combat trafficking in persons in conjunction with other countries at the national, bilateral and subregional levels, the Coordination Mechanism for Assistance to Women Victims of International Trafficking (MERCOSUR/CMC/DEC. No. 32/12) links the MERCOSUR Network to the entities involved in providing support to women victims of international trafficking in cases occurring in MERCOSUR countries.

67. In April 2016, a refresher seminar on trafficking in women in the MERCOSUR region, with an emphasis on border areas, and a meeting of the Coordination Mechanism for Assistance to Women Victims of International Trafficking were held in Asunción, Paraguay. The objective was twofold: to strengthen the capacities of border officials and civil society representatives involved in the identification, referral and protection of women victims of trafficking, and to create a space for dialogue and information exchange with representatives of the Coordination Mechanism. Border officials provided inputs to contribute to the development of the Coordination Mechanism's short-term workplan and tools for the data collection, reporting and follow-up activities that are required under the Mechanism's procedural protocols.

68. In June 2016, in Montevideo, a regional workshop on the establishment of the MERCOSUR Coordination Mechanism for Assistance to Women Victims of International Trafficking took place, with participants from MERCOSUR member countries and representatives of the Plurinational State of Bolivia, the MERCOSUR Institute of Public Policies on Human Rights and IOM.

69. With regard to redress, it should be noted that article 5 (j) of the previously mentioned comprehensive bill on preventing and combating human trafficking and exploitation recognizes “the right of victims of trafficking and exploitation to truth, justice, reparation and guarantees of non-repetition through simple and prompt recourse to a competent court”.

### Article 3

70. Uruguay is party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. At the national level, Act No. 18076, adopted on 19 December 2006, regulates the right to refuge and the status of refugees in Uruguay and is a normative framework guaranteeing human rights in accordance with relevant international standards. Under the Act “all persons have the right to apply for and receive refugee status in Uruguay, to protect their life, physical, psychological and intellectual integrity, freedom and safety” (art. 1).

71. Any application for refugee status imposes a duty on the State to respect, *inter alia*, the following principles:

- The principle of “non-refoulement at the border”, pursuant to which any public official controlling migration at a land, sea, river or aerial border post must refrain from prohibiting the conditional entry to the country of any person who expresses their intention to apply for refugee status.
- The principle of “non-refoulement” establishes that any public authority must refrain from returning, expelling, extraditing or applying any other measure that involves returning the applicant or refugee to the borders of the country where his or her life, physical, psychological and intellectual integrity, freedom or safety are in danger.

72. The principle of “non-expulsion” from Uruguay applies to refugees and persons applying for refugee status until a final decision on their case has been reached. A person may be expelled only on the basis of security or public order concerns and in accordance with the legal procedures in force. The person concerned must be notified of the decision in person, is entitled to legal assistance and may challenge the administrative order using the remedies provided for in articles 317 to 319 of the Constitution and other relevant legal provisions. The lodging of appeals has suspensive effect on expulsion decisions.

73. Notwithstanding the foregoing, it should be noted that, to date, no expulsion has ever been carried out.

74. Persons applying for refugee status have the right, in the event of an extradition request prior to or during the course of their application, to have their application settled prior to their extradition. If they are granted refugee status, the extradition request becomes null and void.

75. With regard to differential treatment, the Act provides for the best interests of the child or adolescent to be protected throughout the proceedings. All children and adolescents have the right to apply for and be granted refugee status, irrespective of the persons acting as their legal representatives. If unaccompanied, they must be provided with legal assistance, as any action taken in the absence of an attorney is considered null and void. Furthermore, the family court must be immediately notified of their application so that it may take the appropriate measures.

76. However, during the period under review, no cases involving unaccompanied refugee children or adolescents were registered.

77. With regard to applications for refugee status made by women, applicants must be interviewed individually, separately from their partners or companions. This serves as a guarantee and ensures confidentiality during the process.

78. Persons applying for refugee status are kept duly informed of the status of the proceedings, as well as of their rights, at all times.

79. As to important developments in this area, it should be noted that, as part of events to commemorate the thirtieth anniversary of the Cartagena Declaration on Refugees (Cartagena +30), and with the active participation of Uruguay, in 2014 the countries of Latin America and the Caribbean adopted the “Brazil Declaration and Plan of Action”, thereby renewing their commitment to the international protection of refugees, displaced and stateless persons and reaffirming the importance of consolidating national refugee status determination systems, strengthening the capacity and knowledge of asylum authorities and introducing efficient management concepts and procedures.

80. In 2016, the National Refugee Commission and the Office of the United Nations High Commissioner for Refugees agreed on a programme of work for 2016–2018 that includes the institutional strengthening of the permanent secretariat of the National Refugee Commission through action to improve its technical and operational capacities and provide it with the human and material resources necessary to perform the specific functions falling under its remit pursuant to Act No. 18076.

81. Act No. 18076 of 5 January 2007, on the return of persons recognized as refugees, expressly prohibits returning refugees to a place in which their life, physical, psychological and intellectual integrity, safety or freedom are in danger. Moreover, the decisions adopted by the National Refugee Commission may be appealed using the remedies provided for in articles 317 to 319 of the Constitution.

82. Between 2014 and 2017, 2,974 applications for refugee status were received, 80 of which were granted, 53 of which were refused, 749 of which were archived and 2,608 of which are still being processed. None of these applications for refugee status were made on the grounds of torture, ill-treatment or inhuman, cruel or degrading treatment, or due to a risk of being subjected to torture if returned. Notwithstanding the absence of cases, Act No. 18076 of 5 January 2007 prohibits the return, expulsion, extradition or application of any measure that involves returning the applicant or refugee to the borders of the country in which his or her life, physical, psychological and intellectual integrity, freedom or safety are in danger (art. 13). From a legal standpoint, an expulsion may take place only when an applicant has not been granted refugee status or when a cessation clause has been applied to a refugee and he or she is not eligible for any other common migrant status, and a final decision (which is not subject to further appeal) has been issued. Under article 40 of the same Act, the National Refugee Commission’s decisions may be appealed using the remedies provided for in articles 317 to 319 of the Constitution. These remedies include requests for review either by the authority that issued the decision or by its superior authority, and, where appropriate, petitions for annulment by the Administrative Court, a

judicial body established by the Constitution. The lodging of appeals has suspensive effect on expulsion decisions.

83. It should be noted that, as Uruguayan law makes a distinction between “asylum” and “refuge”, the replies given to the issues raised under article 3 refer to “refuge”, as opposed to “asylum”, on the understanding that this is the concept to which the Committee is referring. This assumption notwithstanding, there have been no applications for asylum based on the abovementioned grounds either.

84. The diplomatic assurances or equivalent guarantees that Uruguay might grant in a case of diplomatic or territorial asylum are those arising from the international conventions to which it is a party, which include the Havana Convention on Asylum of 1928 and the Caracas Convention on Diplomatic Asylum of 1954.

85. In 2016, 94 extradition requests were processed in which Uruguay was the requested State, compared with 92 requests in 2017 and 41 thus far in 2018.

86. There were no extraditions, returns or expulsions of refugees and/or asylum seekers on the grounds of torture or ill-treatment during the period under review.

## Articles 5 to 9

87. To ensure compliance with article 5 of the Convention, articles 4.2 and 5 of Act No. 18026 enshrine the principles of *“aut dedere aut judicare”* (either extradite or prosecute) and “universal jurisdiction”, according to which the State in which the person suspected of having committed offences is found must choose either to surrender the suspect to a requesting State or to the International Criminal Court or to prosecute him or her as if the offences had been committed within its territory or its effects were produced there, under the conditions established in the Act.

88. During the reporting period, Uruguay signed two extradition treaties, one with Portugal and one with Italy, which are not yet in force. In both cases, and in line with current trends, the treaties do not cover specific offences that give rise to extradition but instead establish a condition, in the form of a sentence, that is applicable to various criminal offences (a “custodial sentence with a maximum duration of at least two years” and “a custodial sentence of at least two years”, respectively), thereby ensuring that most cases involving torture would result in extradition.

89. The Code of Criminal Procedure expressly provides that extradition proceedings shall be governed by the provisions of the international treaties and conventions ratified by Uruguay. The Convention was ratified by Uruguay in 2005. Extradition proceedings would also be initiated in respect of the offences established in Act No. 18026 (which include torture) and the Rome Statute of the International Criminal Court.

90. During the reporting period, Uruguay has not concluded any mutual legal assistance treaties.

## Article 10

91. As part of efforts to strengthen the institutional capacity of the national prison system, prison officers continue to receive training through the Prison Training Centre. The Centre is a specialized technical unit that offers in-service vocational training for all prison officers. Human rights training is a cross-cutting component of the curriculum for both induction and specialization. All staff receive training under the human rights programme that specifically addresses the conceptual, procedural and attitudinal issues linked to the prevention, investigation and punishment of torture and cruel, inhuman or degrading treatment. The Centre has been developing training policies since its inception, incorporating into the curriculum courses on human rights and the prohibition of torture, or linked to human rights and the prohibition of torture through their pedagogical, theoretical and methodological approaches and basic content, addressing the issues from legal, ethical, professional and social perspectives. These courses address human rights including the

safeguards that all officers are required to promote, facilitate and oversee, as well as the penalties associated with failure to provide these safeguards.

92. A new curriculum has been developed with a view to providing comprehensive training taught by specialist civilian personnel in detention facilities. The curriculum includes programmes on treatment, safety, administration and management, gender, human rights, information technology, preventive health care and physical education. In August 2017, 93 prison officers completed their training, while 223 officers are currently undergoing training. As part of the institutional strengthening process, role-playing workshops for prison officers have been held since August 2015. This training has also been extended to the National Police and Republican Guard Academy, the only police academy in Latin America to offer such training. This training tool is designed to improve officers' motivation at work, make them more aware of their vocation, strengthen their sense of workplace identity and foster good labour relations, teamwork and a sense of belonging within the national prison system.

93. The police training programme includes human rights in its curriculum. Human rights feature in various modules, including police operations, police firearm training techniques, and self-defence, in which rational, proportionate and progressive use of force is advocated. At the National Directorate for Police Training, all forms of treatment detrimental to human dignity are prohibited in interpersonal relations and educational guidelines, as is the use of denigrating terms or stigmatizing practices that undermine self-esteem and physical or psychological integrity. The programme of training on the new Code of Criminal Procedure also covers these issues.

94. In 2017, the Race and Ethnicity Unit of the Ministry of the Interior held culture and education days in Unit No. 4 (Santiago Vázquez) and Unit No. 6 (Punta de Rieles). In May 2018, similar events were held in Unit No. 1, the only facility managed under a public-private partnership (Punta de Rieles). In 2017, five workshops on the subjects of Uruguayans of African descent, children and adolescents, and the nuclear family were held for a total of 200 persons deprived of their liberty, with the participation of family members. In coordination with the Prison Training Centre, 248 new prison officers have been trained.

95. One of the first initiatives of the current administration of the National Institute for the Social Inclusion of Adolescents, which took office on 20 May 2015, was to establish in-service training on human rights for all staff members. On 27 May 2015, the first course for directors was held, led by the National Human Rights Institution, the Parliamentary Commissioner for the Prison System and the President of the National Institute for the Social Inclusion of Adolescents. This training has been continued for all levels of the administration following the signature of a memorandum of understanding with the United Nations Resident Coordinator Office, UNICEF and the United Nations Office on Drugs and Crime.

96. Efforts have been made to update the protocols already existing in 2015. Fourteen thousand copies have been published of the protocols on: (1) visits; (2) the disciplinary system; and (3) restraint procedures. The effectiveness and evaluation of this ongoing human rights training programme, combined with the update of the aforementioned protocols, have clearly led to a decrease in the number of complaints of violence against inmates by staff. The use of identification mechanisms has also been made mandatory and an email account for anonymous complaints has been set up.

97. Using the communication media, the authorities have also drawn attention to the need for any person who becomes aware of any irregularities within the system to be able to immediately contact the Legal Department or request a meeting with the prison's board of directors. In response, the directors will immediately file the relevant criminal complaints and initiate investigations, in several cases having gone so far as to request dismissal.

98. With regard to the judiciary and to judges in particular, there is a specific module on human rights in the initial training course for aspiring judges. Courses on human rights are also given as part of the compulsory in-service training programme for judges. These courses consider human rights treaties relating to the prevention of torture as well as many other international instruments.

99. Since 2013, the Ministry of the Interior has been organizing training events for staff on the subject of torture and medical and legal provisions. These have included courses on the medical and legal aspects of the clinic for persons deprived of their liberty; updates on the medical and legal principles applicable to vulnerable population groups; protocols supporting prison reform for persons deprived of their liberty, covering admissions and precautionary measures; protocols on admission and personal guarantees for adolescents deprived of their liberty; appropriate treatment and support for victims; measures to prevent torture and legal principles in the context of deprivation of liberty; and legal analysis of case histories of persons deprived of their liberties.

100. Since 2016, the State Health Services Administration has offered courses for general practitioners and nurses, who provide emergency care in the event of injuries. The training covers the Istanbul Protocol and the analysis of injuries for signs of torture.

101. The Attorney General's Office does not provide training programmes of this kind for prosecutors.

## Article 11

102. Act No. 18315 of 5 July 2008 on police procedures includes provisions governing arrest, including the arrest of persons and the seizure of vehicles, in several of its articles. Articles 38 to 42 regulate the concept of arrest and the precautions to be taken when making an arrest. The Act also regulates identification and identity (art. 43), arrest procedures (art. 47 et seq.), arrests without a warrant and police conduct, the right of the arrested person to be informed of the grounds for his or her arrest, communication with the detainee's family, registration of arrested persons, communication with the detainee's attorney, arrests during a raid and the seizure of vehicles.

103. In November 2017, the new Code of Criminal Procedure entered into force, article 220 of which regulates arrests. At the end of 2017, instructions for police action on the basis of the new Code of Criminal Procedure and the Police Procedures Act were approved, together with a booklet on the rights of the accused.

104. In May 2018, the third update of the protocol for the provision of assistance to children and adolescents whose guardians are deprived of their liberty was approved. This protocol provides guidance for making planned and in flagrante arrests in the presence of a child or adolescent and has the backing of the Ministry of the Interior (which established a dedicated working group by ministerial decision in December 2014), the Ministry of Social Development, the judiciary, the Uruguayan Institute for Children and Adolescents, the National Institute for the Social Inclusion of Adolescents, the Committee on the Rights of the Child (Uruguay) and the Attorney General's Office.

105. The new police training plan introduced in 2016 consists of a single programme of study that includes human rights as a cross-cutting component of the various subjects it covers. The plan includes joint activities coordinated with the police operations units and covers police firearm training techniques and self-defence. Special emphasis is placed on the rational and progressive use of force and on arrest techniques. In addition to the courses for candidates for promotion, diagnostic evaluations are conducted to identify needs for refresher courses that provide students with a means to brush up their skills.

106. Training on techniques for intervening in crisis situations in detention centres is also provided, and in December 2017 a training course for police trainers was held. There are also training workshops on respecting gender identity during search and arrest operations and using inclusive language in operations of this kind. A particular strength of the new plan is that it uses extracurricular activities as academic opportunities for continued improvement and frequent review, through diagnostic evaluations conducted by the coordinators, according to needs identified at the academic, normative and operational levels.

107. As at 31 March 2018, the total number of persons deprived of their liberty in Uruguay was 10,202. Of this total, 9,699 were men, 503 were women (including 15 trans

women<sup>17</sup>), 6,464 were undergoing trial and 3,738 had been convicted. As at 31 March 2018, the total included 309 foreign nationals, 282 of whom were men (102 Brazilians and 87 Argentines) and 27 of whom were women (11 Argentines and 7 Brazilians). As at December 2017, 46.5 per cent of the total prison population, or 10,275 persons deprived of their liberty, were in employment, due in part to an increase in agreements and the development of the Citizen Action Brigades. These Brigades do work in the community such as building and renovating squares, hospitals and secondary and primary schools.

108. Persons deprived of their liberty are assigned to prison units based on their status (i.e. convicted prisoners versus persons undergoing trial) and their gender. In application of the new Code, certain blocks or wings within each unit are set aside for persons being held in pretrial detention. The Ministry of the Interior is still in the process of finalizing a draft law on the organization of the national prison system, which includes a proposal to create a decentralized National Rehabilitation Institute that would report to the Ministry of Education and Culture. It is currently collecting the signatures of the relevant Ministries.

109. The new Code of Criminal Procedure allows for pretrial detention in specific cases, subject to a time limit established therein in order to prevent its use as a measure of first resort, and introduces various alternatives to detention in addition to those already in place. Act No. 19446 of October 2016 establishes the framework for probation and supervised release schemes overseen by the Probation Supervision Office, the organizational structure of which has been strengthened in order to guarantee the resources necessary to monitor and supervise probation effectively. In respect of women, the Code provides for pretrial detention to be terminated or replaced by an alternative measure if the accused is at least five months pregnant or, in the case of breastfeeding mothers, during the first year of breastfeeding. Article 235 of the new Code of Criminal Procedure specifies the time limits for pretrial detention. For supervised probation, an individual intervention programme, consisting of scheduled activities that the convicted person must perform under the supervision of the Probation Supervision Office, must be designed, monitored and assessed. In the light of this new work requirement, the Office has devised a new management organization chart, using the management structure of an individual prison unit, with one directorate and three sub-directorates (technical, administrative and operational), all of which consist of specialized staff. There are plans to recruit more staff to enhance the Office's technical capacity, and a competition for prison officers interested in working as probation officers is being organized. The Probation Supervision Office currently has 53 community service agreements in place in Montevideo, in which around 1,038 persons on probation are taking part, doing community service on the order of the minor offences court while under house arrest.

110. Health care is provided by the Integrated System for Persons Deprived of their Liberty forming part of the State Health Services Administration in seven prisons, most of them located in the metropolitan area. In other prisons, care is provided by the National Police Health Directorate. In the event of hospitalization and surgical intervention, patients are transferred to the departmental hospitals run by the State Health Services Administration.

111. With regard to the location of persons in pretrial detention and convicted persons, all persons deprived of their liberty previously being held on the fifth floor of the Admissions Unit were transferred to maximum security block No. 12 in Unit No. 4, so that the premises could be used for other purposes. Due to the high rate of pretrial detention, there is currently only one prison unit reserved exclusively for convicted prisoners.

112. There is a centre for short-term admissions, assessment and referral in the metropolitan area. The team of experts assigned to this centre draws up a profile of all

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<sup>17</sup> The trans women deprived of their liberty are being held in different detention facilities:  
Admissions, Assessment and Referrals Centre: 1 trans woman  
Unit No. 3 (Libertad): 1 trans woman  
Unit No. 4 (Santiago Vázquez): 11 trans women  
Unit No. 12 (Cerro Carancho Rivera): 1 trans woman  
Unit No. 22 (Rocha): 1 trans woman.

persons deprived of their liberty upon their admission so that, based on the findings of this exercise, detainees may be placed in the facility best suited to their profile.

113. All prison units have piped drinking water provided by the State Sanitary Works and all structures are properly ventilated, have access to natural light and are in line with other standards established in the Nelson Mandela Rules.

114. The statistical data compiled by the Parliamentary Commissioner for the Prison System have been published in the Statistical Bulletin for 2016 and the Statistical Bulletin for the first half of 2017. These bulletins analyse information on various aspects of the prison system, including trends over time and any problems the data reveal, in order to inform the work of the relevant institutional and social actors.<sup>18</sup>

115. The Parliamentary Commissioner for the Prison System has brought the situation of the prisoners allegedly being held in isolation to the attention of the Prison System Oversight Committee and has also sent a note containing recommendations to the Ministry of the Interior. Furthermore, in its annual reports for 2016 and 2017 it states that, in its opinion, a system of solitary confinement continues to be used in block No. 12 of Unit No. 4 and recommends that the system be overhauled by bringing in new staff to address the situation of the persons being held there and ensure that they have adequate human contact for more than two hours a day, something they are currently lacking.<sup>19</sup>

116. According to the Ministry of the Interior, this block, which forms part of a maximum security unit, is operating in accordance with the Nelson Mandela Rules. Detention in maximum security prisons is ordered for those convicted of criminal offences deemed to be of an extremely dangerous nature due either to the unusual or aggravated use of violence or the degree of organization but does not at any time entail isolation or the loss of prisoner rights in terms of conditions of detention, which include ventilation, light, general and personal hygiene, food, bedding, access to reading materials, communication with the outside world through family visits, conjugal visits, medical supervision, administration of medicines, outdoor, social services and legal assistance.

117. In October 2017, the Parliamentary Commissioner for the Prison System issued a special report on Unit No. 13 (Las Rosas, Maldonado). The report considers the general state of the Unit and the recent growth in its population, which has not been matched by corresponding increases in its resources, programmes and staffing levels. On 26 April 2018, the annual report for 2017<sup>20</sup> was submitted to the Prison System Oversight Committee. The report provides an overview of the prison situation and makes 31 public policy recommendations and 20 specific recommendations for prison management relating to prisoner treatment, health, education, work, release, public defence, alternative measures, solitary confinement and reform of the most critical conditions of detention. Conclusions and recommendations are issued for each of the country's 29 prison units.<sup>21</sup> With regard to health care, a memorandum was submitted to the prison authorities and the health authorities drawing attention to 20 cases that required immediate medical attention as well as to various hygiene issues. In addition, the Commissioner's Office called for the establishment of a working group composed of all health- and prison-sector stakeholders and tasked with identifying existing problems and outstanding issues.

118. In response to the requests for information made by the Parliamentary Commissioner following his visits to detention facilities, the Ministry of the Interior has made the appropriate inquiries of the National Rehabilitation Institute and the relevant divisions of the Ministry. The Parliamentary Commissioner's recommendations are being reviewed in collaboration with the National Rehabilitation Institute authorities and are being implemented to the extent possible.

119. Various measures have been taken to improve infrastructure and increase capacity within the prison system. New buildings have been constructed for the mothers with

<sup>18</sup> Available at <https://parlamento.gub.uy/cpp>.

<sup>19</sup> Available at <https://parlamento.gub.uy/cpp>.

<sup>20</sup> See the 2017 Report of the Parliamentary Commissioner for Prisons: <https://parlamento.gub.uy/cpp/documentos/informes>.

<sup>21</sup> Available at <https://parlamento.gub.uy/cpp>.

children facilities in Rivera, Maldonado, Lavalleja, Soriano, Tacuarembó (women's wing) and Florida. New blocks have been built and others refurbished in Unit No. 4, Women's Unit No. 5 has also been refurbished and a new block is currently being built at Canelones prison.

120. Policy measures aimed at eliminating overcrowding have included the opening of Unit No. 1 in Punta de Rieles in January 2018, a part public, part privately run prison that is the only one of its kind in Uruguay and has increased prison capacity by 1,960 places. The construction of Unit No. 29 in Florida has also been completed, apart from the finishing touches, with space for 173 persons deprived of their liberty (including 21 places for women and mothers with children). Work continues on the total reconstruction of two blocks in Unit No. 4 located in Santiago Vázquez. In 2017, work began on the construction of a new cell block at Unit No. 27 in Artigas and a call for tenders was issued for the construction of a new wing at Unit No. 7 in Canelones.

121. Since 2010, work to improve the prison system has pursued three distinct but complementary goals: (1) to put an end the current severe overcrowding by constructing new buildings and new plazas in existing facilities; (2) to establish a system where detainees can move between different security levels in prison institutions, based on the classification of both the prison and the detainee; and (3) to broaden the range of prisoner rights and obligations to include the concept of prison privileges, which are earned and lost according to conduct.

122. When all detention facilities for persons deprived of their liberty were brought under the umbrella of the National Rehabilitation Institute in October 2015, an institutional restructuring drive was initiated with a view to strengthening the prison system nationwide, fostering harmonized criteria and harmonized application of prison policy and creating maximum, medium and minimum security detention facilities and/or wings within individual prison units.

123. The table below shows changes in the prison population, prison capacity and overcrowding between 2005 and March 2018:

**Table 1**  
**Changes in the prison population, prison capacity and overcrowding**

| Year                | Total capacity | Population | Overcrowding Density per 100% |
|---------------------|----------------|------------|-------------------------------|
| 2005                | 4 540          | 6 212      | 137                           |
| 2010                | 6 581          | 8 700      | 132                           |
| 2015                | 9 176          | 9 840      | 107                           |
| 2016                | 9 546          | 10 416     | 109                           |
| 2017                | 9 927          | 10 241     | 103                           |
| As at 31 March 2018 | 11 887         | 10 202     | 86                            |

124. Although it can be said that overcrowding is generally no longer an issue, efforts to address the problem continue in specific detention units where overcrowding still exists, including at Unit No. 4 (two of its blocks), Unit No. 7 (one block), Unit No. 13 (two blocks), and Units Nos. 20 and 21.

125. Work also continues on the remodelling of block Nos. 1 and 2 in Unit No. 4, which will increase the Unit's capacity by 600 places. The new semi-private Unit No. 1 in Punta de Rieles is gradually being filled. Once the transfer of detainees to this facility is complete, persons deprived of their liberty in the various other units will be relocated with a view to ending overcrowding.

126. Another important policy in this process has been the introduction of a system in which persons deprived of their liberty can progress between different security levels in prison, and are thus guaranteed the possibility of earning greater privileges during their detention, based on their involvement in the various activities organized in the unit. The

National Rehabilitation Institute is involved in the various support programmes through its National Technical Subdirectorate, which offers programmes through its socio-educational coordination unit. There are three general programmes and three specific programmes:

- General:
  - (1) Education and culture;
  - (2) Productive and labour initiatives;
  - (3) Sports and recreation.
- Specific:
  - (1) Support programme for foreign nationals and migrants deprived of their liberty;
  - (2) Support programme for persons with disabilities who are deprived of their liberty;
  - (3) Support programme for mothers with children.
- Programmes designed to reduce reoffending and psychosocial vulnerability are also offered through a psychosocial coordination unit. These are the:
  - (a) Sexual assault control programme;
  - (b) Intervention programme for perpetrators of gender-based violence;
  - (c) Drug addiction support programme, designed in conjunction with the National Drug Authority and the Integrated System for Persons Deprived of their Liberty within the State Health Services Administration. This programme is being implemented in four units in the metropolitan area.

127. The Prison Management Information System is in the process of centralizing data held on persons deprived of their liberty in the country's prison units and various related indicators. Currently, it has information on 80 per cent of all units, including all those in the metropolitan area, which house 70 per cent of the total prison population. The system provides access to judicial information, as well as information on accommodation, transportation, temporary releases, transfers and visits – in other words, information of a general nature plus certain details specific to individual persons deprived of their liberty. Information on the activities of the Probation Supervision Office is recorded in the system, and there are also plans to incorporate the files on detainees' educational progress and the number of offences they commit while in prison in order to achieve the greatest possible data accuracy.

128. Semi-private Unit No. 1 in Punta de Rieles opened in January 2018. At the time of writing, 600 persons deprived of their liberty have been transferred to this unit from facilities in the metropolitan area and the rest of the country. The unit is being populated in a systematic manner until all available places have been filled.

129. Detainees were selected for placement in this unit on the basis of personal interviews conducted in accordance with the offender assessment guide used by the Inter-American Development Bank. The aim of the interviews was to determine possible levels of risk and to identify persons whose profile was suitable for placement in a unit where conditions of detention differ from those found in other National Rehabilitation Institute units, in terms of both the structure of the building and the new, more personalized support model adopted, in which new technologies are used to enhance the safety of persons deprived of their liberty and prison staff.

130. In addition, since the implementation of the new Code of Criminal Procedure, specific wings for pretrial detainees have been established in prison units throughout the country to ensure compliance with the rules for pretrial detention as a precautionary measure established in the Code. The Ministry of the Interior is working directly with the Attorney General's Office to give new impetus to the use of non-custodial alternatives to imprisonment and encourage their adoption as a means to reduce the use of deprivation of liberty as a punishment. In this connection, Uruguay is participating in the Europe-Latin

American Assistance Programme against Transnational Organized Crime, an international cooperation programme for sharing experiences and good practices in the fight against organized crime between European and Latin American countries and strengthening capacity in the use and oversight of alternatives to imprisonment. Uruguay has participated in two regional workshops: one in Brasilia, on combating organized crime in the prison system, and another in Panama, on the implementation of alternatives to imprisonment. The Assistance Programme's next regional meeting on the use of alternatives to imprisonment will be held in Uruguay in November 2018.

131. To provide work for persons deprived of their liberty in prison units, in 2015 an agricultural work group was created in Canelones, where a group of persons deprived of their liberty work in a minimum security setting. Their work focuses primarily on the production of vegetables, which are used on a daily basis to feed persons deprived of their liberty in the various prison units as well as prison staff. There is also milk production and animal husbandry in some units. The availability of work opportunities relative to the number of inmates in the various units increased from 35.5 per cent in 2016 to 46.5 per cent in December 2017. The main drivers of this increase in work opportunities were the conclusion of new agreements and the creation and development of the Citizen Action Brigades in all prison units. In addition to the two existing work groups (one male and one female), another work group has been established in Salto.

132. With regard to education, in March 2018, 47 per cent of persons deprived of their liberty were engaged in some form of study. Of these, 32 per cent were in formal education and 14 per cent were in non-formal education, while 90 per cent were men and 10 per cent were women. The Youth and Adult Education Sector Directorate attached to the National Public Education Administration is working to reduce the vulnerability of the prison population, to make it possible for persons deprived of their liberty to complete their primary education, and to generate tools to promote labour market integration and artistic expression. Its target beneficiaries are inmates who have not completed primary education and inmates who, regardless of whether they have completed primary education, are interested in participating in workshops. Requests for teachers are processed by the focal points for education in the prison units. In 2017, 1,200 inmates took part in courses and 441 obtained qualifications. The target for 2018 is 3,600.

133. The prison system has a mechanism for dealing with complaints of alleged ill-treatment received from persons deprived of their liberty and family members that is based on respect for the human rights and the dignity of persons deprived of their liberty. The complaints received are investigated at the administrative level and, if necessary, referred to the criminal justice system for follow-up.

134. As at 31 March 2018, Unit No. 5 (the women's prison in Montevideo) had 394 places divided across its minimum, medium and maximum security wings and a population of 240 women deprived of their liberty. This unit is affected by certain structural difficulties that are being tackled in different ways, depending on the type of issue, while long-term solutions are sought. There are plans to make new cells on one of the floors in order to create better living conditions. In addition, grease traps are regularly cleaned and serviced in order to reduce waste around the building. The building was designed so that large windows were divided up into smaller windows to make potential breakages less dangerous, to reduce the cost of any damage and to speed up their replacement.

135. The new Unit No. 29 in Florida will open by the end of 2018, providing places for 173 persons, 21 of which will be allocated to women and mothers with children. Unit No. 1 was opened in Punta de Rieles in January 2018, with public and private funding, and has 1,960 places. At the time of writing, a new cell block at Unit No. 27 in Artigas was still under construction.

136. The Parliamentary Commissioner for the Prison System has drawn up two reports on the state of Unit No. 4 and a letter recommending the closure of the temporary cells known as "boxes" in Unit No. 6; two letters to the National Rehabilitation Institute on the state of the buildings at Unit No. 5 (the women's prison in Montevideo); and a letter to the National Rehabilitation Institute recommending the closure of the cells in Unit No. 19. Letters and recommendations have been sent to the authorities and to parliament about the critical

conditions in Unit No. 7 in Canelones, Unit No. 3 (Libertad prison) and Unit No. 26 in Tacuarembó.

137. It is worth reiterating that in response to the requests for information made by the Parliamentary Commissioner following his visits to detention facilities, the Ministry of the Interior has made the appropriate inquiries of the National Rehabilitation Institute and the relevant divisions of the Ministry. The Parliamentary Commissioner's recommendations are being reviewed in collaboration with the National Rehabilitation Institute authorities and are being implemented to the extent possible.

138. At present there is no overcrowding in the detention centres run by the National Institute for the Social Inclusion of Adolescents. However, in spite of partial improvements, conditions in the buildings do not meet the minimum standards for the detention of minors. With a view to resolving these building issues and closing one of the detention facilities (Colonia Berro, which contains seven wings housing a total of 197 adolescents), there are plans to build a new complex to replace it, which will allow for the development of socio-educational measures that are in line with all national and international standards for the protection of human rights. The new complex is scheduled to open in late 2018 or early 2019. Complaints have also been filed in relation to facilities opened in 2014 that failed to meet the minimum requirements for the detention of minors; the corresponding judicial proceedings are ongoing. It should be noted that the number of adolescents in the Women's Detention Centre has more than halved since 2014 and that budget allocations have been made for its refurbishment and expansion by the Ministry of Transport and Public Works.

#### **Reply to the questions raised in paragraph 20 of the list of issues**

139. The degree of peaceful coexistence is not uniform throughout the national prison system. In 2017, as at 2 October, there had been 34 deaths (33 within units and 1 during temporary release): 11 murders, 8 suicides and 15 deaths due to other causes. In 2018, as at 31 March, there had been 11 deaths: 5 murders, 2 suicides and 4 deaths due to other causes. In all cases of death, the competent judicial authority is immediately informed and an internal administrative inquiry is initiated.

140. In the period under review, measures taken have included establishing new parameters for the classification of the prison population; diversifying the various prisoner security options possible in line with new progressive and regressive profiles; modernizing and increasing the number of regular and special checks in general and in particular in places of detention; and repairing, maintaining and equipping infrastructure.

141. On 28 April 2016, the Parliamentary Commissioner for the Prison System submitted a report about levels of violence in Unit No. 4 to parliament.<sup>22</sup>

142. In November 2017, the Parliamentary Commissioner for the Prison System submitted a special report on violence in Unit No. 3 (Libertad prison), there having been seven violent deaths, six murders and one suicide between July and November of that year. The Commissioner also made certain recommendations, calling for the manner in which incidents of violence and self-harm are recorded to be improved so that levels of inter-prisoner violence could be monitored and preventive measures introduced.<sup>23</sup>

143. It is important to reiterate that in response to requests for information made by the Parliamentary Commissioner after visiting the detention facilities, the Ministry of the Interior has taken the relevant steps both at the level of the National Rehabilitation Institute and in the corresponding areas under the Ministry's remit. The Parliamentary Commissioner's recommendations are assessed in conjunction with the Institute and implemented to the extent possible.

<sup>22</sup> Available at <https://parlamento.gub.uy/cpp>.

<sup>23</sup> Ibid.

**Reply to the questions raised in paragraph 21 of the list of issues**

144. With regard to information on deaths in prisons, it should be noted that records of age have been kept since 2016, while records of nationality have been kept since 2018. As at 30 April 2018, all of the persons who had died were Uruguayan.

**Table 2**  
**Deaths among men in prison, 2016 to 30 April 2018, by age group and cause of death**

| Age group           | 2016      |           |              | 2017      |          |              | As at 30 April 2018 |          |              |            |
|---------------------|-----------|-----------|--------------|-----------|----------|--------------|---------------------|----------|--------------|------------|
|                     | Murder    | Suicide   | Other causes | Murder    | Suicide  | Other causes | Murder              | Suicide  | Other causes | Total      |
| 18–19               | 1         | 1         |              |           | 1        |              |                     |          |              | 3          |
| 20–24               | 3         | 2         | 1            | 4         |          | 2            | 3                   | 1        |              | 16         |
| 25–29               | 6         | 1         | 5            | 7         | 5        | 1            |                     |          |              | 25         |
| 30–34               | 3         | 2         | 4            | 4         | 2        | 2            | 3                   | 1        | 1            | 22         |
| 35–39               | 3         | 1         | 3            | 1         | 1        | 1            |                     | 1        |              | 11         |
| 40–44               |           | 2         |              |           | 1        |              | 1                   |          |              | 4          |
| 45–49               |           |           | 1            |           |          | 2            |                     |          |              | 3          |
| 50–54               |           |           | 3            |           |          | 3            |                     |          |              | 6          |
| 55–59               |           | 3         | 2            |           |          | 2            |                     |          | 1            | 8          |
| 60–64               |           |           |              |           |          | 1            |                     |          |              | 1          |
| 65–69               |           | 1         |              |           |          | 1            |                     |          | 2            | 4          |
| 70–74               |           |           |              |           |          |              |                     |          |              |            |
| 75–79               |           |           |              |           |          | 2            |                     |          |              | 2          |
| 80+                 |           |           | 1            |           |          | 1            |                     |          |              | 2          |
| <b>Total</b>        | <b>16</b> | <b>13</b> | <b>20</b>    | <b>17</b> | <b>9</b> | <b>19</b>    | <b>6</b>            | <b>3</b> | <b>4</b>     | <b>107</b> |
| <b>Annual total</b> |           |           |              | <b>49</b> |          |              | <b>45</b>           |          |              | <b>13</b>  |

*Source:* Ministry of the Interior.

145. Regarding deaths of women in prisons, there were three deaths in 2015, none in 2016 and two in 2017 (one suicide, a woman aged between 25 and 29 years, and one death as a result of other causes, a woman aged between 55 and 59 years). As at 30 April, no deaths of women prisoners had been recorded in 2018.

146. As indicated above, in all cases of death, the competent judicial authority is notified immediately and an internal administrative inquiry is initiated.

147. In November 2016, the Parliamentary Commissioner for the Prison System submitted to parliament and subsequently published a special report on deaths in prison that year.<sup>24</sup> Two statistical bulletins were also published, for 2016 and 2017, containing data on deaths in prisons throughout the country. In addition, the Parliamentary Commissioner's annual report for 2017 includes a detailed chapter on deaths in custody prepared with input from the Probation Supervision Office.<sup>25</sup>

148. On 26 April 2018, the annual report for 2017, which described the situation in prisons nationwide and included information on deaths, was submitted to the Prison System Oversight Committee.<sup>26</sup>

<sup>24</sup> Ibid.

<sup>25</sup> Ibid.

<sup>26</sup> See <https://parlamento.gub.uy/cpp/documentos/informes>.

**Reply to the questions raised in paragraph 22 of the list of issues**

149. The new Mental Health Act (No. 19529), which marked a shift in public policy, entered into force in August 2017. The implementing regulations for this Act are currently being drawn up.

150. Since the promulgation of this new Act, efforts are being redirected towards deinstitutionalization in order to satisfy public policy goals. Procedural safeguards for involuntary commitment are set out in the Act (arts. 30, 31, 32, 33, 34 and 35) and the institutional oversight authority is the Legal Department. At present, and during this transition period, persons with psychosocial disabilities can be provided with home care, home follow-up, outpatient treatment in polyclinics and the possibility of referral to various centres for rehabilitation.

151. Involuntary hospitalization is mentioned in the provisions of article 30 of this Act, which states that: “Persons may be hospitalized involuntarily or held in a care institution to which they have already been admitted voluntarily only when: (a) Their life, or the life of others, is at imminent risk; (b) Their judgment is impaired, and failure to hospitalize them may lead to a substantial deterioration in their condition or prevent the provision of appropriate treatment that can be administered through hospitalization only”. The executive branch is responsible for establishing in which situations there is considered to be an imminent risk and the commitment may be for therapeutic purposes only.

152. The formalities for involuntary hospitalization are as follows: a declaration is signed by the next of kin, a close relative or a legal representative, if any. In the absence of these persons, or if these persons refuse to consent to hospitalization and it is established that the individual concerned poses an imminent risk to him- or herself or to others and that his or her judgment is impaired, he or she may be hospitalized provided that an advisory opinion has been obtained from a health-care professional confirming that the provisions of article 30 of the Act have been met. The doctors issuing the opinion must not be related to or have links with the person. The opinion should be signed by two doctors, one of whom must be a psychiatrist. The commitment cannot be approved if the prerequisites set out in articles 27 and 30 of the Act are not met.

153. Involuntary hospitalization includes hospitalization by court order, whereby commitment is ordered by a judge subject to a medical report explaining the reasons. The aim of the Act is to deinstitutionalize persons with mental health disorders by gradually closing psychiatric and specialized institutions and replacing them with a system of alternative facilities.

154. It is important to note that the transfer of the National Disability Programme to the Ministry of Social Development in 2007, from the Ministry of Health, enabled the introduction of new practices in the field of disability based on the social model. In the area of psychosocial disability, in 2016 assisted homes were brought under the umbrella of the National Disability Programme. They are now managed in association with the Department for Mental Health and Vulnerable Populations of the State Health Services Administration. The technical executive unit for Montevideo is the Assisted Discharge Coordination Unit, which decides on the admission and discharge of residents, while the National Disability Programme is the body responsible for supporting care cooperatives.

155. The National Disability Programme’s workplan placed the emphasis on the social model of disability with a view to promoting independence in residents’ everyday activities and creating autonomy in decision-making through four strategic areas: (a) planning, organization and everyday management of assisted homes; (b) support and guidance for the cooperatives and their oversight; (c) inclusion of residents in education, society, employment and recreational activities; and (d) intersectoral coordination.

156. With regard to children and adolescents, in 2016 the Uruguayan Institute for Children and Adolescents provided care to a total of 558 children and adolescents with psychosocial disabilities whose admission was by court order (involuntary admission). Of this total, 547 received 24-hour care, as follows: 134 children aged 0–3 years; 34 aged 4–5 years; 159 aged 6–12 years; 217 aged 13–17 years; and 3 aged 18 years and over.

157. Full-time care was provided to five children with disabilities: one aged 0–3 years, one aged 4–5 years and three aged 13–17 years. Highly specific educational care (in 24-hour psychiatric clinics) was provided to six children and adolescents: two aged 6–12 years and four aged 13–17 years.

158. In 2017, the Institute provided care to a total of 557 children and adolescents whose admission was by court order (involuntary admission).

159. The provision of 24-hour care was as follows: 94 children aged 0–3 years; 42 aged 4–5 years; 150 aged 6–12 years; 255 aged 13–17 years; and 2 aged 18 years or over.

160. Full-time care was provided to two children with disabilities aged 0–3 years, one aged 13–17 years and one aged 18 years or over. Highly specific educational care (in 24-hour psychiatric clinics) was provided to 10 children and adolescents: 2 aged 6–12 years and 8 aged 13–17 years.

161. Comprehensive rehabilitation is provided to a considerable percentage of the children and adolescents through the Institute's Health Division. The team includes psychomotor specialists, speech therapists, psychologists, educational psychologists, child psychiatrists, paediatricians and general practitioners, as well as ear, nose and throat specialists, dermatologists and specialists in sex education and social education. There is also a team of dentists that specialize in treating persons with disabilities. The rehabilitative approach to be taken is devised by specialized teams, according to the situation of each individual. The Institute monitors the process in each case. The scope of direct care extends to more than 2,000 consultations each month.

## Articles 12 and 13

162. Six complaints have been filed concerning ostensibly criminal acts that could be classified as torture. One of them concerned the repressive measures used at Libertad prison in 2016. The other complaints concerned specific acts of violence that occurred outside the chain of command of the establishments in question, namely, Unit No. 4 in Santiago Vázquez Prison Complex (Complejo Carcelario Santiago Vázquez, known as COMCAR); Unit No. 5 for women; and Unit No 7 in Canelones. During these acts, pain and ill-treatment were inflicted as a form of punishment or to instil fear in prisoners. The cases were referred to the criminal justice system, but there have been no developments since then.

163. Between 1 June 2016 and 24 July 2017, numerous complaints were received and filed with the Directorate of Internal Affairs and the Quality Management Service through the telephone helpline (0800 5000). In these complaints, the following were reported as ill-treatment: lack of sanitary facilities and food, conflicts between detainees, lack of family visits, transfer requests, and threats from detainees and officials. During the reporting period, 837 complaints were recorded: 106 from female detainees in 10 detention units, 3 of whom were Brazilian citizens, and 731 from male detainees in 22 detention units, including 1 Paraguayan and 1 Argentine citizen. Overall, 95 per cent of the complainants were white.

164. Between 1 October 2017 and 28 February 2018, the Quality Management Service received 497 complaints from 18 detention units. In all, 95 per cent of the complainants were white. All the cases were referred to the National Rehabilitation Institute.

165. In the 2016 annual report of the Parliamentary Commissioner for the Prison System that was submitted to parliament, an analysis of the national prison system determined that 33 per cent of persons deprived of their liberty were living in conditions that constituted "cruel, inhuman or degrading treatment". In order to ensure appropriate treatment, *amparo* proceedings were brought in respect of a group of inmates in Unit No. 4, in respect of which the courts indicated that compliance with the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) was mandatory. In April 2018, the Parliamentary Commissioner submitted a complaint to the Attorney General's Office concerning the events that had occurred during a search conducted on 19 April 2018 in Unit No. 1 in Punta de Rieles, based on the testimony and consent of 30 inmates.

166. On 26 April 2018, the annual report for 2017, which described the situation in prisons nationwide, was submitted to the Prison System Oversight Committee.<sup>27</sup> In the annual report, prison units are categorized in order to provide an overview of the state of the system, identify the most sensitive areas in terms of the protection of human rights and contribute to the formulation of specific action plans to improve hotspots. From this analysis, the Parliamentary Commissioner concluded that 30 per cent of persons deprived of their liberty were living in conditions that constituted “cruel, inhuman or degrading treatment”.

167. This report was also analysed jointly by the Prison System Oversight Committee and the national prison authorities at the end of May 2018. The Ministry of the Interior categorizes incidents of cruel, inhuman and degrading treatment as well as those of torture. It takes the view that, although there are deficiencies in some prison units in the country, conditions are far from constituting cases of torture or cruel, inhuman or degrading treatment. Policies for the treatment of persons deprived of their liberty meet international standards and every effort is made to comply fully with all the international agreements on human rights to which Uruguay is party. This does not imply a failure to recognize that inadequate conditions do exist in some areas of some detention units, which is why new prison facilities have been built and equipped and socio-educational care has been expanded, to the extent that resources have allowed. The situations that arise vary, as do the needs of persons deprived of their liberty. Each case is analysed in order to assess how educational, labour and living conditions can be improved within the resources available.

168. Under Act No. 19355 of December 2015, the Specialized Team for Serious Human Rights Violations was created in the Internal Affairs Department of the Ministry of the Interior. It works directly with the judiciary and the Attorney General’s Office.

169. Under Act No. 19550 of October 2017, the Attorney General’s Office was authorized to transform one of the national prosecution offices into a special prosecutor’s office for crimes against humanity.<sup>28</sup> Through Resolution No. 075/2018 of February 2018, the Twenty-Fifth Rota Criminal Prosecutor’s Office in Montevideo thus became the Office of the Special Prosecutor for Crimes against Humanity and a special prosecution team was established to staff the new office, which has nationwide competence for human rights violations committed during the period covered by Act No. 18596 (1 June 1968 to 28 February 1985).<sup>29</sup> Its work is to conduct a thorough, reliable and specialized investigation in order to successfully punish those responsible and provides redress to their victims, with a view to achieving justice and truth, thereby contributing to the reconstruction of society, and creating institutional mechanisms that ensure that acts of a similar nature do not recur. In order to resolve these cases effectively and within a reasonable time frame, the highly trained personnel staffing the Office of the Special Prosecutor will consider pending and new cases from all over the country, and thus centralize and standardize the criteria for jurisdictional action.

170. Between April and May 2018, the investigating prosecutor requested the trial of the following: four retired soldiers, for a combination of principal and secondary offences of deprivation of liberty and abuse of detainees in November 1978;<sup>30</sup> four soldiers for a murder committed in 1972, two as perpetrators of an especially aggravated murder and another as perpetrator of an especially aggravated homicide in combination with abuse of authority;<sup>31</sup> six men for human rights violations in the 1970s, in particular for subjecting their victims to torture, in Engineers Battalion No. 4 in Laguna del Sauce;<sup>32</sup> and three soldiers for the so-called Morgan Operation, under way since October 1975.

171. As a troop-contributing country, Uruguay attaches the greatest importance to combating cases of sexual exploitation and abuse perpetrated in peacekeeping operations

<sup>27</sup> See <https://parlamento.gub.uy/cpp/documentos/informes>.

<sup>28</sup> For more information, see <https://goo.gl/8JMtBc>.

<sup>29</sup> Available at [www.fiscalia.gub.uy/innovaportal/file/5488/1/res.-075\\_2018-transformacion.pdf](http://www.fiscalia.gub.uy/innovaportal/file/5488/1/res.-075_2018-transformacion.pdf).

<sup>30</sup> For more information, see [www.fiscalia.gub.uy/innovaportal/file/5990/1/perciballe.pdf](http://www.fiscalia.gub.uy/innovaportal/file/5990/1/perciballe.pdf).

<sup>31</sup> For more information, see [www.fiscalia.gub.uy/innovaportal/file/5794/1/pedido-de-procesamiento.pdf](http://www.fiscalia.gub.uy/innovaportal/file/5794/1/pedido-de-procesamiento.pdf).

<sup>32</sup> For more information, see [www.fiscalia.gub.uy/innovaportal/file/5977/1/causa2-perciballe.pdf](http://www.fiscalia.gub.uy/innovaportal/file/5977/1/causa2-perciballe.pdf).

and is fully committed to the United Nations zero-tolerance policy. This reflects both the country's commitment to international peace and security and its traditional defence of strict respect for human rights and human dignity.

172. With regard to the prevention of sexual abuse in peacekeeping operations, predeployment courses are provided to personnel on the subject and, in particular, on the United Nations zero-tolerance policy. The Ministry of Defence, by Ordinance No. 102/15 dated 16 June 2015, established a protocol for action on allegations of abuse, sexual exploitation and paternity.<sup>33</sup> In 2017, the eighth session of a course entitled "Child sexual abuse: issues relevant to its treatment in the justice system" was launched, in coordination with the training centre of the Attorney General's Office, the Centre for Judicial Studies of Uruguay and UNICEF. The Attorney General's Office selected 20 prosecutors from both Montevideo and the country's interior to participate.

173. The criminal proceedings referred to by the Committee were concluded in August 2013 with the conviction of the four defendants for assault, in accordance with the legal characterization given by the public prosecution service, thus ending the investigation by the courts that had been duly initiated with the complaint filed by the executive branch itself, through the Ministry of Defence.

174. The most significant disciplinary proceedings conducted for alleged ill-treatment took place at the SER Residential Home, now known as the MD1 (home for young persons aged over 18 years old). These proceedings warranted criminal charges and prosecution, with or without imprisonment of the officials, depending on the case. As a result of the administrative proceedings, which were generally preceded by precautionary measures in the form of removal from office, three officials were dismissed and more than a dozen were sanctioned. The adolescents affected were all male and ranged in age from 17 to 19 years old.

175. A total of 26 judicial inquiries have been initiated in respect of complaints of alleged acts of torture as a result of the proceedings instigated by the criminal court competent for acts that occurred on 24 July 2015. The judicial proceedings are pending in respect of 12 officials, and the disciplinary cases are therefore also still pending. The judicial proceedings against the remaining officials were dismissed and the administrative proceedings have been closed and archived.

176. No measures of redress have been approved and the claims of adolescents and family members are being heard in the civil justice system, with no res judicata pronouncements as yet. The protection of victims and potential witnesses is ensured by hearing complaints confidentially, conducting the appropriate disciplinary procedures and adopting the most appropriate precautionary measures, which generally consist of transferring the victim and, where appropriate, the alleged aggressors.

177. With regard to the administration of drugs to minors being held in the centres of the National Institute for the Social Inclusion of Adolescents, in 2013 a verified case was confirmed in the Desafío Centre and was closed in February that year. Verified cases were also reported in 2014 in the Desafío Centre and in 2016 in the Admissions Centre for Female Adolescents. Both cases are currently pending with the Disciplinary Proceedings Department.

## Article 14

178. In Uruguay, as a general rule, any person who has suffered harm as a result of the unlawful conduct of any subject of private or public law has a legal right to redress and may claim reparation for that harm before the Uruguayan courts. However, information on compensation is not systematically recorded, so it is not possible to indicate the total number of cases in which compensation and redress have been granted in the country.

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<sup>33</sup> Available at [www.mdn.gub.uy/wp-content/uploads/ordenanza-102.pdf](http://www.mdn.gub.uy/wp-content/uploads/ordenanza-102.pdf).

179. In Act No. 18596 of 18 September 2009, the State recognized that the breakdown of the rule of law between 27 June 1973 and 28 February 1985 was unlawful.<sup>34</sup>

180. Acknowledging its responsibility, by act or omission, for the systematic practice of torture, enforced disappearance and imprisonment without the intervention of the judiciary between 13 June 1968 and 26 June 1973, the State has granted victims (as defined in articles 4 and 5) the right to full redress. Under the Act, this redress is provided through appropriate measures of restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.

181. Since no cases of torture and ill-treatment as such have come to light, there have been no specific rehabilitation processes, although general programmes for redress are potentially available in these cases.

## Article 15

182. There is no record of any cases having been dismissed by the courts owing to the use of evidence or testimony obtained through torture or ill-treatment. It should be noted that under Act No. 18315 on Police Procedure, this practice is discouraged since evidence or testimony are not considered as such if it is proved that acts of torture or ill-treatment have been committed. Under the new Code of Criminal Procedure, questioning by police officers is prohibited if it has not been authorized by the prosecutor and the person being questioned must be accompanied by a lawyer.

## Article 16

183. In September 2016, as part of the diversity month initiative, the Ministry of the Interior, with the support of the United Nations Development Programme (UNDP), launched a practical guide for police training entitled “Why the gender and sexual diversity approach in security policies?”, with the aim of establishing basic guidelines and methodological tools for effective intervention. A training-of-trainers course in diversity was run with support from UNDP, with 45 police officers graduating.

184. In 2017, various training courses were held for candidates for promotion at the National Police Education Directorate, including a face-to-face course on police procedure from a human rights perspective and courses organized by agreement between the Ministry of Social Development and the Faculty of Social Sciences (University of the Republic). Workshops were held with criminal investigation specialists to analyse unresolved cases of femicide and other hate crimes, with the participation of the Ministry of the Interior (the Montevideo and Canelones police headquarters, the National Forensic Police Directorate, the Directorate General for Cooperation with Interpol and the Fight against Organized Crime, and the Gender Policies Division) and the Attorney General’s Office. In cooperation with experts and police detectives, unresolved murders of transgender women committed in 2012 in Uruguay were reviewed. In addition, an international seminar on criminal education related to femicides and other hate crimes was held at the National Police Education Directorate with a view to providing professional and specialized training for justice system officials in the investigation of crimes related to gender-based violence and strengthening preventive, investigative, protective and punitive procedures. Input was also gathered for the purposes of drafting a national protocol on the criminal investigation of femicide and attempted femicide.

185. As part of efforts to implement the new Code of Criminal Procedure, the Attorney General’s Office issued Resolutions Nos. 637/2017<sup>35</sup> and 645/2017<sup>36</sup> creating the First and Second Rota Montevideo Offices of the Criminal Prosecutor for Sexual Offences, Domestic Violence and Gender-Based Violence and defining their competencies. In this way, the

<sup>34</sup> <https://legislativo.parlamento.gub.uy/temporales/leytemp5404662.htm>.

<sup>35</sup> Of 12 October 2017 (goo.gl/uqxfyp).

<sup>36</sup> Of 13 October 2017 (goo.gl/cnSoxG).

investigation and criminal prosecution of offences of this kind is becoming ever more professional.

186. Meanwhile, the curriculum of the Ministry of Education and Culture's continuous learning programme is being developed from a human rights and gender perspective, including these aspects among programme components at both the cross-cutting and the individual levels. Some units of the National Rehabilitation Institute, at their request, have educational spaces specific to the theme of gender, for both men and women.

187. Through Act No. 18214 of 9 December 2007, the Code on Children and Adolescents was amended to prohibit parents, guardians and any person responsible for the care, treatment, education or supervision of children and adolescents from using physical punishment or any kind of humiliating treatment as a form of correction or discipline. The Act provides that the use of physical punishment or any kind of humiliating treatment is excluded from the legal authority of parents and guardians to discipline their children or any children under their care. The Act repealed article 261 and the second and third paragraphs of article 384 of the Civil Code, under which parents and guardians had been permitted to moderately discipline minors and to appeal to a judge to order the minor's admission to an appropriate facility (Uruguayan Institute for Children and Adolescents).

188. The local reception committees of the Integrated System for the Protection of Children and Adolescents from Violence are inter-agency spaces for receiving cases of sexual abuse and ill-treatment of children, with the involvement of experts from the system's agencies. There are 27 local reception committees operating in the national territory.

189. The Gender Policies Division of the Ministry of the Interior has conducted courses and workshops on police operations that incorporate a human rights and gender perspective, including a module on the Ministry's mandatory communication protocol for the police in situations of violence involving children and adolescents. The inter-agency protocol for action on the care of children and adolescents whose parents or guardians are deprived of their liberty, spearheaded by the Ministry of the Interior but applicable across all agencies, establishes the action to be taken by relevant parties in the prison system when arrests – whether in *fragrante delicto* or planned – are carried out in the presence of children. In April 2017, training on this protocol was conducted for all the institutions that had approved it.<sup>37</sup> In June of the same year, the Attorney General's Office was added as part of the implementation of the new Code of Criminal Procedure. In addition, under Act No. 19580 of December 2017 on gender-based violence against women, the eradication of violence against women, children and adolescents is established as a priority, and the State is required to act with due diligence to that end.

## Other issues

190. Uruguay has been working to define a national counter-terrorism strategy, in line with the country's commitment to effectively and comprehensively address the scourge. This strategy reflects the country's commitment to regional and international peace and security, which it fulfils with the strictest respect for the rule of law, international law and human rights.

191. The frame of reference for the development of this national strategy has been Security Council resolutions 1373 (2001), 1624 (2005) and subsequent resolutions, which define the fundamental principles of and guidelines for multilateral action in the fight against terrorism.

192. In terms of legislation, a draft comprehensive act on counter-terrorism, which was submitted to parliament in December 2016, is currently being considered by the Senate

<sup>37</sup> The Ministry of the Interior, the Ministry of Social Development, the judiciary, the Uruguayan Institute for Children and Adolescents, the National Institute for the Social Inclusion of Adolescents and the Committee on the Rights of the Child Uruguay.

International Affairs Committee.<sup>38</sup> This draft contains very specific regulations on the subject, setting out clear definitions and penalties for terrorist acts. With its approval, Uruguay would meet the obligations established under the many international conventions against terrorism, which require signatory States to define a series of offences in their domestic legislation, including the International Convention for the Suppression of Acts of Nuclear Terrorism, the International Convention for the Suppression of Terrorist Bombings, the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, and the Convention for the Suppression of Unlawful Seizure of Aircraft.

193. Furthermore, a draft comprehensive act against money-laundering has been approved by the Senate and is currently being considered by the Special Legislative Committee. Comprehensive Act No. 19574 of December 2017 provides for the creation of the Coordinating Committee against Money-Laundering and the Financing of Terrorism, the protection of the rights of bona fide third parties (art. 55), and authorization by the criminal courts if the acts of undercover agents may affect fundamental rights (such as the right to privacy and home and the inviolability of communications between private individuals). It also includes as previous criminal activities any unlawful conduct under the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, or related to the trafficking, smuggling or sexual exploitation of persons (art. 34); provides for the protection of victims, witnesses and informers (art. 65); and defines as an offence the betrayal of protected persons by agents.

## **General information on other measures and achievements relating to the implementation of the Convention in the State party**

### **Reply to the questions raised in paragraph 34 of the list of issues**

194. Under Decree No. 358/016 of 14 November 2016 creating the inter-agency network for the preparation of reports and follow-up on the implementation of human rights recommendations and observations and establishing the Recommendations Monitoring System (SIMORE) – a public-sector online tool for recording State action relating to compliance with and implementation of the recommendations and observations formulated by the universal system for human rights protection – a phase of inter-agency coordination was initiated with a view to streamlining the methodology by which Uruguay reports to the international community and implementing human rights commitments at the national level.

195. The consolidation of the inter-agency network and the launch of SIMORE established the basis for forming the national mechanism for reporting and follow-up.<sup>39</sup>

196. The national mechanism in Uruguay is coordinated by the Directorate of Human Rights and Humanitarian Law of the Ministry of Foreign Affairs and consists of an inter-agency network of the three branches of Government, departmental governments, decentralized services and autonomous entities.<sup>40</sup> The National Human Rights Institution

<sup>38</sup> See <https://parlamento.gub.uy/documentosleyes/ficha-asunto/132893>.

<sup>39</sup> See <http://simore.mrree.gub.uy>.

<sup>40</sup> As at the date of this report, the mechanism was made up of 32 State institutions. From the executive branch: Ministry of Social Development; Ministry of Education and Culture; Ministry of the Interior; Ministry of Industry, Energy and Mining; Ministry of Housing, Land Management and Environment; Ministry of Foreign Affairs; Ministry of Economic Affairs and Finance; Ministry of Livestock, Agriculture and Fisheries; Ministry of Defence; Ministry of Tourism; Ministry of Health; Ministry of Labour and Social Security; Ministry of Transport and Public Works; Planning and Budget Office; National Institute of Statistics; Human Rights Secretariat of the Office of the President of the Republic; Agency for the Development of eGovernment and the Information and Knowledge Society; Uruguayan International Cooperation Agency; and National Civil Service Office. Decentralized services: National Institute for Youth Inclusion; State Sanitary Works Administration; Uruguayan Institute for Children and Adolescents; State Health Services Administration; Attorney General's Office; and National Mail Administration. Autonomous entities: Social Security Bank; National Public Education Administration; the judiciary; the legislature (both houses); and Parliamentary

and Ombudsman's Office is a permanent observer of the national mechanism and participates in its work at all levels.

197. The inter-agency work is channelled through participation in seven committees on the following themes: women; children and adolescents; discrimination; the rights of persons with disabilities; memory, truth and justice; persons who are deprived of their liberty or institutionalized; and institutional strengthening.

198. The committee on persons deprived of their liberty monitors implementation of the recommendations that the Committee against Torture issues to the country as a State party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. It also monitors implementation of recommendations related to torture, ill-treatment and cruel, inhuman and degrading treatment that are issued by other United Nations human rights protection mechanisms, such as the special procedures of the Human Rights Council and the universal periodic review.

199. One of the tasks of the inter-agency network is to input into SIMORE information on progress in implementing the recommendations made to Uruguay through the universal system for the promotion and protection of human rights (treaty bodies, special procedures and universal periodic review).

200. The national mechanism uses the dialogue and consultation system of the Ministry of Foreign Affairs as a formal channel of communication with civil society. Pursuant to Decree No. 85/018 of 9 April 2018, within the framework of this mechanism, the Ministry of Foreign Affairs, on its own initiative or at the request of the inter-agency committees, undertakes to publicly convene civil society organizations concerned with the subjects covered by the reports to be submitted to the treaty bodies and under the universal periodic review, prior to their submission, thus providing a forum for dialogue between the State and civil society with regard to the report in question.

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