



Convention on the Rights of the Child

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Committee on the Rights of the Child

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Summary record of the 1526th (Chamber B) meeting

Held at the Palais Wilson, Geneva, on Thursday, 3 June 2010, at 10 a.m.

Chairperson: Mr. Zermatten (Vice-Chairperson)

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In the absence of Ms. Lee, Mr. Zermatten, Vice-Chairperson, took the Chair.

The meeting was called to order at 10 a.m.

Consideration of reports of States parties (continued)

Third and fourth periodic reports of Argentina on the implementation of the Convention on the Rights of the Child (CRC/C/ARG/3-4; CRC/C/ARG/Q/3-4 and Add.1) and the initial reports of Argentina under the Optional Protocol on the sale of children, child prostitution and child pornography (CRC/C/OPSC/ARG/1; CRC/C/OPSC/ARG/Q/1 and Add.1) and the Optional Protocol on the involvement of children in armed conflict (CRC/C/OPAC/ARG/1; CRC/C/OPAC/ARG/Q/1 and Add.1) (continued)

1. *At the invitation of the Chairperson, the delegation of Argentina took places at the Committee table.*

Initial report of Argentina under the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

2. **Ms. Vessevessian** (Argentina) said that Act No. 26.364 of 2008 had made trafficking in persons an offence under federal jurisdiction and had marked the beginning of a process which had since gathered speed: court action had been taken against individuals accused of trafficking and had already led to five convictions in the previous two years; services had been set up to assist in the voluntary return of victims; a system to collect data on trafficking in persons had been created, and Argentina was cooperating with other countries in the region, especially its neighbours. Article 15 of the Constitution forbade the sale of children, and article 140 of the Penal Code punished with a lengthy prison term anyone who subjected others to servitude. A law reform had also explicitly criminalized the sale of children. The Ministry of Justice, Security and Human Rights was cooperating with the National Secretariat for Children, Adolescents and the Family on a project to penalize intermediaries and, in certain specific cases, buyers, but never their victims. Significant work had been undertaken on the matter by the labour commission created by the Supreme Court of Justice and comprising representatives of the judiciary, the Public Prosecutor's Office and the National Secretariat.

3. The Criminal Code also penalized certain computer crimes, although there were, as yet, few statistics on such crimes. To improve the situation Argentina had decided to accede to the Council of Europe Convention on Cybercrime, and to include, in the mechanism for collecting data on crime trends and the functioning of the criminal justice system, statistical modules on the annual theme of the Commission on Crime Prevention and Criminal Justice, the 2011 theme being "protection of children against offences committed with recourse to new technologies". Argentina was planning to install version 2.1 of the Child Exploitation Tracking System (CETS) on a number of computer systems in order to prevent and detect child pornography.

4. **The Chairperson**, speaking in his capacity as Rapporteur for the Optional Protocol on the sale of children, child prostitution and child pornography, said that he welcomed the provision in Act No. 26.061 prohibiting the sexual exploitation of children. Child prostitution, which would exist only against a backdrop of poverty, unemployment, abandonment and domestic violence, had long been a hidden phenomenon, owing to a lack of data, the first study on child prostitution having been made by the United Nations Children's Fund (UNICEF) in 2000. Faced with those challenges, the State party had taken a series of measures, including adoption of the Act on Trafficking in Persons and Assistance to Victims, among other legislative measures, particularly regarding computer crime. It had also established guidelines and a protocol for victim assistance, two specialized units (one in the Ministry of the Interior and the other in the Office of the Public

Prosecutor) and a group responsible for eradicating child labour. That gave rise to the question of coordination – especially given Argentina’s federal structure. He would like the delegation to explain the links between Act No. 26.061 and the Act on Trafficking in Persons on the one hand, and, on the other, the work and services of the various entities, and how related action in the different provinces was coordinated, considering that border regions were undoubtedly worse affected than other regions.

5. He also wondered whether there was a separate plan for issues relating to sexual exploitation, or whether they had been incorporated in the comprehensive National Plan of Action. Regretting the lack of statistics available on the subject, he observed that the aforementioned specialized units might create a statistical database.

6. The report gave the impression that the legislation defined child trafficking, but not the sale of children as such, and it came under the Civil Code rather than the Criminal Code. If so, the legislation would need to be amended to conform to the Protocol. He wished to know whether there was a limit on the number of hearings a child witness or victim attended, if sound and video recording was used to protect children from having to confront the accused, and whether steps were taken to protect children from images harmful to their development.

7. **Ms. El-Ashmawy** asked how the State party disseminated the Code of Conduct for the Protection of Children and Adolescents from Sexual Exploitation in Travel and Tourism and ensured that victims of sexual exploitation were rehabilitated.

8. **Mr. Koompraphant** requested more detailed information on current penalties and prosecutions relating to child prostitution. In particular, he wondered how many procurers of children and members of transnational organized crime groups had been convicted, and what was being done to prevent trafficking in children and to identify children at risk. It would also be useful to know if children who testified in court received special care, for example through a witness protection programme.

9. **Ms. Maurás Pérez** (Country Rapporteur) said that she was concerned that the offence of trafficking did not apply if the victim was a consenting adult, since an adult could have been recruited as a child and grown up within the system. She therefore wondered whether perpetrators escaped prosecution if the crime was discovered after the victim had reached majority. She would like to know whether the five people who had already been convicted of trafficking were direct perpetrators, intermediaries or members of criminal networks.

10. She wished to know when the legislative reform mentioned by the delegation would come into force and whether there would be consultations and a national debate on the issue beforehand.

11. **Mr. Filali**, referring to the confusion between child trafficking and the sale of children, said that the time for discussion had passed. Once the Protocol had been ratified, the State party was obligated to incorporate it in its domestic legislation and to generate awareness of the Protocol and the crimes it covered. He wished to know whether judges and the police, in particular, received training in the Protocol and what role the media played in raising the public’s awareness.

12. He would appreciate learning whether Argentina had established its jurisdiction for all the crimes covered by the Optional Protocol, particularly if they were committed abroad by, or against, Argentine nationals or if an alleged perpetrator was found to be on Argentine territory, and whether possession of child pornography led to criminal prosecution.

13. **The Chairperson**, speaking in his capacity as Rapporteur for the Optional Protocol on the sale of children, child prostitution and child pornography, asked if the State party’s extraterritorial jurisdiction for the crimes covered by the Protocol was subject to the

principle of dual criminality or to reciprocal extradition. He would also like information on the criminal responsibility of legal persons involved in the prostitution, sale and trafficking of children.

14. **Ms. Maurás Pérez** (Country Rapporteur) asked if Argentina intended to lift its reservation to article 21, paragraphs (b), (c), (d) and (e), of the Convention, since the conditions that the State party had deemed it necessary to meet in advance — establishment of a mechanism for children's legal protection to prevent the sale and traffic of children — had been fulfilled.

The meeting was suspended at 10.50 a.m. and resumed at 11 a.m.

15. **Ms. Graham** (Argentina) said that her country made a clear distinction between the sale and trafficking of children. There was no law explicitly forbidding the sale of children because article 15 of the Constitution stipulated that any procurement and sale of persons constituted a crime, and case law showed that many Argentine courts considered article 140 of the Criminal Code, which dealt with slavery, to apply to the sale of children. The potential adoption of a law on the sale of children had ignited passionate debate because cases involving the sale of children were often linked to fraudulent adoption and it was feared that such a law could penalize impoverished parents offering their children up for adoption, rather than intermediaries and unscrupulous organizations. The Ministry of Justice and the National Secretariat for Children were drafting a bill that encapsulated the positions of all parties. For three years a commission comprising experts from the Supreme Court, the Office of the Public Prosecutor and child protection agencies had been considering a reform of articles 316 to 318 of the Civil Code aimed at discouraging the sale of children. Letters from judges of the Supreme Court had been sent to all social workers, lawyers and other parties involved in the adoption process, calling on them to abstain from any transaction in which a minor was viewed as an object.

16. **The Chairperson**, speaking in his capacity as Rapporteur for the Optional Protocol on the sale of children, child prostitution and child pornography, said that it would be interesting to review the provisions of the Civil Code in order to discourage the procurement and sale of children. Argentina was nonetheless required to prohibit the sale of children and make it a criminal offence.

17. **Ms. Graham** (Argentina) said that a bill to that effect would shortly be adopted.

18. Joint action against trafficking was taking place, first and foremost, in the provinces, including the establishment of care and rehabilitation centres for victims, especially in the province of Misiones, where the Argentine State had learned of various transit points for persons. Cooperation with neighbouring countries had led to many meetings, as well as training and awareness-raising activities for security forces. Rather than several localized anti-trafficking plans, and thus fragmented efforts, Argentina had adopted a single national plan and worked directly with the provinces.

19. **Ms. Beloff** (Argentina) said that extradition issues were governed by public international law, the bilateral agreements concluded between Argentina and numerous countries, and the multilateral treaties on extradition that Argentina had ratified.

20. Under article 250 bis of the Code of Criminal Procedure, minors gave a simple statement and were not required to appear during a trial, so as not to oblige them to relive traumatic experiences. Also, their evidence and statements could be filmed. The best interests of the child were always taken into account and children had the option of being questioned in a separate room.

21. Argentina did not yet possess the tools and technical means to allow it, for example, to identify the key networks responsible for trafficking or to distinguish among the various intermediaries. Furthermore, trafficking was a federal offence, whereas the brothels in

which people were exploited and subjected to trafficking came under the jurisdiction of local authorities.

22. **Mr. Lerner** (Argentina) said that, with regard to the prostitution of minors, it was the age of an individual at the time of the alleged offence which was taken into account. There had been universal agreement on the protection which Act. No. 26.364 accorded to child victims of trafficking. The protection of adults, however, was still a subject of debate.

23. **Ms. Graham** (Argentina) said that over the previous two years Argentina had been running a huge campaign to disseminate prevention material in three languages as a part of the MERCOSUR *Niño Sur* (Southern Child) Initiative to combat child sexual exploitation and trafficking. A televised campaign, developed in partnership with United Nations Educational, Scientific and Cultural Organization (UNESCO), was under way in all MERCOSUR countries, with an emergency telephone helpline (*Línea 102*) for reporting child abuse and other forms of domestic violence.

24. **Ms. Maurás Pérez** (Country Rapporteur) asked whether the social workers who responded to the calls received on the helpline *Línea 102* were able to discern and differentiate between the problems reported and take effective measures to ensure the provision of coordinated support. She would like more information on the programme to combat sex tourism and on what had been done to involve hotel staff and others working in the tourism industry.

25. **Ms. Graham** (Argentina) said that the emergency helpline service employed social workers who had been trained in listening and counselling skills. They directed callers to various childcare services, although the level of services available differed from province to province. Since trafficking was a federal offence, all provinces were responsible for handling reported cases, and the authorities were aiming to increase the number of regional victim support units.

26. The Code of Conduct for the Protection of Children and Adolescents from Sexual Exploitation in Travel and Tourism was part of a plan that was executed in partnership with the Tourism Secretariat, the Federal Tourism Board, the Argentine Chamber of Tourism and the Association of Tourism Professionals. Consistent with the principles of the relevant international instruments and the provisions of Act No. 26.061, the plan committed stakeholders to undertake the desired measures to protect children from sexual exploitation: adopting a policy focused on ethics and the protection of youth from the risk of exploitation and training personnel from the relevant public bodies, the hotel sector and tour operators on the contents of Act No. 26.061 and the Optional Protocol. It was not easy because significant financial interests were at stake, but efforts were also being made to involve tourism and transport companies. The Argentine State was trying to involve the Argentine Union Transport in its prevention and awareness-raising activities, especially prevention activities in the road transport sector.

27. In the recent years, court cases concerning infringement of articles 128 and 125 bis of the Criminal Code that penalized offences relating to the dissemination of child pornography and the facilitation of child prostitution had most often led to conviction.

28. The current mechanism for collecting crime statistics, developed in collaboration with the United Nations, dated from 1993 and should be revised for the collection of detailed statistics on offences under the Optional Protocol, particularly trafficking. At the request of the Ministry of Foreign Affairs, a meeting of international experts had been held in Buenos Aires in February 2010 to consider ways of updating the system to include the trafficking and sexual exploitation of minors. Argentina was committed to acceding to the Council of Europe Convention on Cybercrime, and the Child Exploitation Tracking System enabling parents to install filters on their computers had been implemented.

Initial report of Argentina under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

29. **Ms. Vessevessian** (Argentina) said that Argentina had ratified the Optional Protocol by way of Act No. 25.616 of 17 July 2002 and had therefore undertaken not to recruit anyone under 18 years of age into the armed forces. It had recently been decided to go ahead with a comprehensive reform of military secondary schools under the “Secondary schools 2010” plan that had been launched following the adoption of resolutions 228 and 516 by the Ministry of Defence aimed at modernizing lesson content and making access to military high schools more democratic. In 2009 an advisory panel of experts, legislators and members of the executive were entrusted with developing guidelines to reorganize teaching in military high schools. The reform had brought the programmes and study plans of military high schools into line with the law on national education, banned certain disciplinary methods and raised the age for firearms training to 17 years. The Ministry judged it desirable to raise the age for training on all types of firearms to 18 years.

30. **The Chairperson**, speaking in his capacity as Rapporteur for the Optional Protocol on the involvement of children in armed conflict, welcomed Argentina’s abolition of compulsory military service and its replacement with voluntary service in 1995, and asked whether article 19 of Act No. 24.429 regulating voluntary military service, which provided for an exception to the age criterion in the event that lack of manpower and quotas were not filled by volunteers and allowed citizens to be conscripted at the age of 17, had been applied so far.

31. He would also like to know whether, as provided by article 4 of the Optional Protocol, the law penalized the recruitment of persons under 18 years of age into the armed forces, whether it recognized and took into account the risk posed by the potential recruitment of young Argentines to foreign armed groups, wondered why there was no law criminalizing the enlistment of children under 15 in armed conflict, despite the fact that Argentina was a party to the Rome Statute of the International Criminal Court, which defined such a situation as a war crime. He wondered whether it was possible to extradite persons implicated in the recruitment of children for use in armed conflict and whether there was a dual criminality requirement.

32. The delegation might wish to give details on whether the export of light arms to countries likely to use children in armed conflict was prohibited, how child asylum-seekers who had taken part in armed conflict were identified and whether such children received appropriate support.

33. Detailed information on the programme to reform military high schools, particularly with regard to firearms training, would be useful.

34. **Mr. Koompraphant** asked whether psychological and social support programmes were in place for child asylum-seekers who had taken part in armed conflicts.

35. **Mr. Filali** requested details of lesson content in military high schools and wished to know whether the staff was composed of military or civilian teachers, whether there was training in handling light arms and whether a peace education module was taught.

36. He would be interested to learn whether passive extradition was subject to the conclusion of bilateral agreements between Argentina and the requesting State and whether any extradition based on the Optional Protocol had already been considered.

37. **Ms. Graham** (Argentina) said that it had not yet been necessary to conscript 17-year-olds for military service because the exceptional circumstances outlined in article 19 of Act No. 24.429 had never arisen.

38. The issue of children of less than 18 years of age being recruited to foreign armed forces had not yet arisen in Argentina; however, legislation and prevention in that area should be addressed.

39. The arms export was regulated by law, although there was no provision that specifically prohibited the export of arms to a country where children were likely to be used in armed conflict. The programme offering comprehensive psychological and social support to asylum-seekers, put in place by a new law, had not yet benefited any minor identified as having taken part in armed conflict.

40. Ministry of Defence resolution 228 envisaged a complete reworking of the programmes and operation of military high schools, and the introduction of courses in human rights and citizenship. It was also envisaged that responsibility for those schools would be transferred from the Ministry of Defence to the Ministry of Education. In the meantime, an advisory board of representatives from the Ministry of Education and the Ministry of Social Development, in collaboration with other experts, was supporting the Ministry of Defence in the reform of teaching and teacher training for military high schools.

41. There were seven military high schools in Argentina and the most prestigious, the San Martin District High School, provided free, high-quality education and was therefore accessible to the middle and working classes. Less than 1 percent of those completing military high school went on to have a career in the military; the majority continued their studies at university and took civilian jobs.

42. The Ministry of Defence had intended to introduce a law prohibiting all firearms training before the age of 18, but had met with strong opposition from members of Parliament, who were sensitive to pressure from powerful lobbyists. Training continued in military high schools in the final year only, for students above 17.

43. **Mr. Perczyk** (Argentina) said that the education programme and school certificates offered by military high schools were recognized by the Ministry of Education. The educational goals and subjects taught were the same as in traditional educational establishments: civic education, human rights and the rights contained in the Optional Protocol were taught to students in military schools.

44. Military high schools were popular because they offered free public education and were often attended by generations of the same family. Their students were not members of the armed forces.

45. **Ms. Beloff** (Argentina) said that the extradition of a person was subject to the existence of a bilateral treaty between Argentina and the requesting State. No individual could be extradited solely on the basis of the two Optional Protocols.

46. **The Chairperson**, speaking in his capacity as Rapporteur for the two Optional Protocols, asked what steps the State party had taken to translate and disseminate the two Optional Protocols, which appeared to be less well known than the Convention, and to inform the public, and children in particular, of the principles of the Optional Protocols.

47. **Ms. Graham** (Argentina) said that the Optional Protocol on the involvement of children in armed conflict had not been widely disseminated because Argentina was not a party to any conflict, and the rights of Argentine minors were not at risk of violation in that area.

48. **Ms. Varmah**, observing that students who had received military training at an establishment administered by the armed forces were called upon to join the military reserve and that following such a course and joining the military reserve was a consequence of a decision made by their parents, asked whether the mechanism that the Ministry of Defence had planned to introduce allowing students to confirm or revoke their decision at

18 years of age was in place. If so, had the mechanism already been used, and were young people subject to pressure from parents or teachers when making their choice.

49. **Ms. Graham** (Argentina) said that Ministry of Defence resolution 228 on the creation of the mechanism had entered into force only on 5 March 2010. It was difficult to determine whether young people were influenced by their parents or teachers when choosing whether or not to join the military reserve, but, more authority had been given to the high school teachers councils, who ensured that young people chose freely.

50. **Ms. Maurás Pérez** (Country Rapporteur) asked what the private sector's social and environmental responsibilities were vis-à-vis the rights of the child.

51. **Mr. Bustelo** (Argentina) said that the media, in particular television, had a significant influence on young people since they were exposed to an average of four hours per day of programming. Academic studies showed that children watched 27,000 violent episodes a year, such as war scenes or other scenes involving weapons, and were exposed to similar material and sexual material in magazines and on their mobile phones. At local level, some provincial governments had suggested that television channels should sign a code of conduct in which they undertook to broadcast films and cartoons that reflected a message of peace and promoted human rights, but had not received the response they had hoped for.

52. The Act of October 2009 on audio-visual communication services provided for the creation of a council to monitor advertisements that targeted children, and programme content. The national media were not receptive to the measure and feared that the State, through the Latin American media networks, was attempting to restrict the freedom of the press and of expression, and that the international community would go even further and draw up a new optional protocol to the Convention encompassing media activities in all areas relating to children.

53. **Ms. Maurás Pérez** (Country Rapporteur), thanking the delegation for a constructive dialogue, said that the adoption of Act No. 26.061 on integral protection of the rights of children and adolescents was a major step forward and that the other laws and programmes that the State had developed and implemented in recent years had helped to expand protection of the rights of the child. Federalism might indeed slow down the process of implementing that expanded protection, but it could not stop it. Investment in the social sector had remained stable or even increased, demonstrating the political will of the Argentine Government and the provinces to overcome inequalities despite the financial and economic crises. Great progress had been made in health and education, but the State party was well aware of the problems that still remained to be solved.

54. It was regrettable that three questions had not been sufficiently examined: cross-sector coordination for the full protection of the rights of children and adolescents, special education, and cultural resistance to the use of mediation and other alternatives to the deprivation of liberty. It was essential to establish a database on minors who had been deprived of their liberty by the criminal justice system and of children without parental protection, and the ombudsperson for children's rights should be appointed.

55. **Ms. Vessevessian** (Argentina) said that, through institutional and legislative changes, the Republic of Argentina was endeavouring to build links with all social actors in the relevant sectors and to put a national system for the full protection of rights into place across all municipalities and provinces. The Argentine State had taken social, economic, educational and other measures to combat poverty and to place firm emphasis on the vital importance of strengthening the family unit. It was hoped that full employment could be achieved, better methods of reducing inequality found, and the well-being of the population improved, in particular that of children and adolescents.

The meeting rose at 1 p.m.