



# Economic and Social Council

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## Committee on Economic, Social and Cultural Rights

### Views adopted by the Committee under the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, concerning communication No. 187/2020\* \*\*

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| <i>Communication submitted by:</i>        | 26 residents of Villa 15 (represented by Centro para una Justicia Igualitaria y Popular) |
| <i>Alleged victims:</i>                   | The authors  |
| <i>State Party:</i>                       | Argentina  |
| <i>Date of communication:</i>             | 27 May 2020 (initial submission)   |
| <i>Date of adoption of Views:</i>         | 24 September 2025  |
| <i>Subject matter:</i>                    | Eviction of six families living in an irregular settlement                               |
| <i>Procedural issues:</i>                 | Exhaustion of domestic remedies; manifestly unfounded allegations                        |
| <i>Substantive issue:</i>                 | Right to adequate housing  |
| <i>Articles of the Covenant:</i>          | 2 (1) and (2), 10 (3), 11 (1) and 28   |
| <i>Articles of the Optional Protocol:</i> | 2, 3 (1) and 5   |

1.1 The authors of the communication are the Villalba family: C.P.V., born on 21 April 1985, and her three children D.N.M., N.M.M. and A.E.M., born on 13 February 2004, 17 November 2009 and 6 January 2013, respectively; the Carreño family: H.C.C., born on 23 January 1962, J.Y.C., born on 23 February 2005, B.C., born on 6 August 1997, N.C., born on 18 April 1995, A.M.C., born on 18 September 1999, and L.A.C., born on 27 June 2001; the Torres family: I.G.T., born on 2 May 2002, L.O.T., born on 12 June 1966, and their son E.D.T., born on 26 April 2004; the Coronel family: L.C., born on 23 April 1986, T.I.E., born on 24 July 1990, and their two daughters A.M.C. and M.A.C., born on 9 November 2006 and 4 June 2008, respectively; the García family: S.G., born on 5 November 1991, and her three children E.Y.G., S.T.G. and E.G., born on 17 February 2011, 18 May 2012 and 21 March 2014, respectively, and A.V., born on 10 January 1971, all nationals of Argentina; and the Saravia family: L.C.S. and her two children B.A. and A.A., all nationals of the Plurinational

\* Adopted by the Committee at its seventy-eighth session (8–26 September 2025).

\*\* The following members of the Committee took part in the examination of the communication: Aslan Abashidze, Nadir Adilov, Lazhari Bouzid, Asraf Ally Caunhye, Peijie Chen, Laura-Maria Crăciunean-Tatu, Charafat El Yedri Afailal, Peters Sunday Omologbe Emuze, Santiago Manuel Fiorio Vaesken, Ludovic Hennebel, Joo-Young Lee, Karla Vanessa Lemus de Vásquez, Seree Nonhasoot, Giuseppe Palmisano, Laura Elisa Pérez, Preeti Saran and Michael Windfuhr. Pursuant to rule 23 of the rules of procedure under the Optional Protocol, Julieta Rossi did not take part in the examination of the communication.



State of Bolivia. The authors claim that the order to evict them from the dwellings that they occupy violates their rights under article 11 (1) of the Covenant. The Optional Protocol entered into force for the State Party on 24 October 2011. The authors are represented by counsel.

1.2 On 29 May 2020, the Committee, acting through its working group on communications, registered the communication and, in accordance with article 5 of the Optional Protocol, requested the State Party to take measures to avoid possible irreparable harm to the authors and their children by suspending their eviction from the dwellings they occupied while the communication was under consideration by the Committee. On 15 July 2020, the State Party reported that the evictions had been suspended.

1.3 On 6 July 2021, the Committee, acting through its working group on communications, decided to suspend consideration of the communication and requested the State Party to report on the progress of the friendly settlement process initiated with the authors. On 11 February 2022, the Committee decided to lift this suspension.

## **A. Summary of the information and arguments submitted by the parties**

### **Factual background<sup>1</sup>**

2.1 The communication is presented by 6 families made up of 26 people, of whom 11 are children and adolescents and 7 are persons with disabilities. Five of the families live in dwellings located in block 22 of Villa 15. It is an informal settlement also known as Ciudad Oculita, in commune No. 8 of the Autonomous City of Buenos Aires. Villa 15 was created by several families who occupied the land without formal property titles. The dwellings are not registered in official property registers, and rentals, purchases and sales are conducted in the informal market of the neighbourhood itself through informal documents that are not certified by public offices. The families have informally bought or rented dwellings in a precarious construction consisting of five dwellings and two commercial premises. These dwellings have only precarious access to electricity, water and the sewage system and do not have access to gas.

2.2 The Villalba family consists of C.P.V. and her three minor children. In 2017, C.P.V. and her former partner bought, in good faith, a dwelling on block 22 of Villa 15 for 250,000 Argentine pesos (Arg\$) (approximately US\$ 3,500), with an informal deed of sale. C.P.V. has a visual impairment (acute myopia) and her income consists of a disability benefit, the universal child allowance and what her former partner contributes as a collector of recyclable materials in the informal economy. Her monthly fixed income is Arg\$ 16,000 (US\$ 225). The family goes to the “Elefante Blanco” canteen for lunch, and the children attend schools near their home.

2.3 The Carreño family, which consists of B.C., her father and four siblings (one of whom is a minor), lives in a house purchased in 2015 for Arg\$ 250,000 (approximately US\$ 3,500) through an informal deed of sale, with a housing subsidy, after their previous home in Villa 15 was demolished. All members of the family have retinitis pigmentosa, a severe visual impairment. The father, a former collector of recyclable materials, has a spinal cord injury and must remain on complete bed rest. Their income consists of disability benefits and a universal child allowance, totalling Arg\$ 25,800 (approximately US\$ 363) per month. They also attend two nearby canteens to cover their basic food needs.

2.4 The Coronel family consists of L.C., his partner T.I.E. and their two minor daughters. Since late 2016, the family has been living on the ground floor of a dwelling transferred to them by L.C.’s brother. Since then, L.C. has been responsible for the dwelling and has requested construction materials from the Ministry of Human Development and Housing. They are registered in the National Registry of Low-Income Neighbourhoods and have a family housing certificate. The family income stems from T.I.E.’s work in a cooperative, the universal allowance for their daughters and occasional construction work, although L.C. is

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<sup>1</sup> The background has been reconstructed on the basis of the individual communication and the information subsequently provided by the parties.

currently unemployed. They receive a total of Arg\$ 10,500 (US\$ 150) per month. In addition, L.C. organizes a weekly unpaid soup kitchen, providing assistance to more than 100 people. Their daughters attend a nearby public school.

2.5 The Torres family consists of L.O.T. and his two minor children. In August 2016, L.O.T. purchased the ground floor premises and the first floor for Arg\$ 160,000 (US\$ 2,253). In 2017, he sold the dwelling to C.P.V., keeping the premises, where he set up a tyre workshop that he currently runs. At night, the family sleeps in this same space, which has a bedroom and a bathroom. Their only income comes from the tyre workshop, which brings in a monthly average of Arg\$ 10,000 (US\$ 141). In times of need, they occasionally make use of neighbourhood canteens. They are registered in the National Registry of Low-Income Neighbourhoods and have a family housing certificate. The younger child attends a secondary school in the neighbourhood.

2.6 The García family consists of S.G., her mother and her three minor children. Her eldest child has a diagnosed disability that includes a specific speech and language disorder and a mild intellectual disability.<sup>2</sup> The family has been renting the dwelling since January 2019. S.G.'s income consists of the complementary social allowance (Arg\$ 8,500, or US\$ 120) and the universal child allowance (Arg\$ 8,000, or US\$ 113). Her mother works occasionally as an unregistered domestic worker. The family goes to the "Elefante Blanco" canteen every day for lunch and dinner. The children attend schools in the neighbourhood. Faced with the threat of eviction, S.G. began the process of applying for a housing subsidy under Decree No. 690/2006, but her application was denied.

2.7 The Saravia family consists of L.S.C.S., her husband and their two children, one of whom is a minor. L.S.C.S. bought her premises in 2018 for Arg\$ 120,000 (US\$ 1,690). There she runs a greengrocer's shop, which is her main source of income. The premises has a bedroom and a bathroom in the back. The family does not live in the premises but uses the income from the greengrocer's, which is around Arg\$ 15,000 per month (US\$ 211), to rent another dwelling in the neighbourhood.

#### *Legislative background*

2.8 In 2017, Decree No. 358/2017 established the National Registry of Low-Income Neighbourhoods, in connection with which a survey of these neighbourhoods was launched, housing certificates were granted and the right to obtain access to essential public services was recognized. Villa 15 was included in this registry as a "vulnerable low-income neighbourhood".<sup>3</sup> In 2018, Act No. 27.453 on the Regularization of Property Ownership for Social and Urban Integration<sup>4</sup> was enacted. Article 15 of the Act reads as follows:

All actions and procedural measures leading to the eviction of the residents of dwellings included in the National Registry of Low-Income Neighbourhoods, both dwellings subject to compulsory purchase orders and those owned by the State, shall be suspended for a period of four years from the date of entry into force of the present Act. The implementation of this article is a matter of public policy.

#### *Eviction procedure*

2.9 In 1998, A.O.S. purchased a property located on block 22 of Villa 15 through a formal deed of sale. On 17 December 2011, the property was occupied. A.O.S. filed a complaint, and a criminal case for the offence of unauthorized occupation was brought before the Court of Felonies, Misdemeanours and Petty Offences, which decided to stay the proceedings without the property being returned to him.<sup>5</sup> Between 2011 and 2018, the dwelling was the subject of successive informal sales and purchases, in accordance with the customary mode

<sup>2</sup> Disability certificate attached.

<sup>3</sup> The registry currently includes 4,416 neighbourhoods throughout the country.

<sup>4</sup> Adherence at the local level, under Act No. 6.987 of the Autonomous City of Buenos Aires, was approved on 26 September 2024.

<sup>5</sup> The families currently occupying the property are not those against whom criminal proceedings were brought in 2011.

of conducting real estate transactions in the informal settlements of the Autonomous City of Buenos Aires, including Villa 15.

2.10 In 2014, A.O.S. filed an application for eviction for trespassing, claiming to be the owner of the aforementioned property. During the proceedings, National Civil Court No. 39 convened a hearing with agencies of the government of the Autonomous City of Buenos Aires to discuss the measures that should be taken after the forced eviction. The first hearing was held on 11 December 2015 in the presence of the complainant, his lawyer and a lawyer for the defence who had been appointed by the court on an ad hoc basis without prior contact with the occupying families, who were not notified. The second hearing was held on 8 March 2016, without the participation of the families or their lawyer as they had not been notified. It concluded with the Directorate General for Immediate Comprehensive Assistance making a commitment to conduct a census. On 27 June 2017, National Civil Court No. 39 issued a judgment admitting the application for eviction on grounds of trespassing and ordering “the defendants, trespassers, occupants and others inhabiting the property” to vacate and return it.

2.11 On 18 August 2017, the authors appealed against the decision, arguing that they had not been notified of the ongoing proceedings or the eviction order. They argued that the decision amounted to a forced eviction, in violation of their right to housing. They also stated that, if the court decision was to be enforced, the families, who included persons with disabilities, children and adolescents, would be left homeless. They pointed out that no adequate measures had been taken to guarantee the minors’ right to decent housing and that their right to due process had not been respected as they were never notified of the court proceedings. They denounced the failure of the State and the government of the city to provide comprehensive protection to minors and their family group, or to guarantee housing solutions before the eviction was ordered.<sup>6</sup> The authors requested a dialogue with the State authorities in order to resolve the dispute. They also provided information on the situation of vulnerability in which the families find themselves.

2.12 On 16 August 2018, National Civil Court No. 39 convened a hearing in the presence of the authors at which the City Housing Institute stated that “there [was] no prior requirement for intervention in connection with the eviction” and that, after the eviction, the families could initiate proceedings for the assessment of their particular situation. On 6 April 2018, Chamber H of the National Civil Appeals Court upheld the eviction order issued at first instance.

2.13 On 24 April 2018, the Directorate General for Access to Justice of the Public Prosecution Service issued a sociolegal report on the case, drawing attention to the vulnerable situation of the families, the obstacles that they face in gaining access to justice and the lack of alternative housing in the event of a possible eviction. It requested National Civil Court No. 39 to guarantee a housing solution by setting up a dialogue between the city government and the State in order to avoid a violation of social rights.

2.14 On 23 August 2018, National Civil Court No. 39 issued an order for the eviction of the occupants. The authors requested the stay of the proceedings under Act No. 27.453, arguing that the property was registered as a vulnerable low-income neighbourhood (see para. 2.8).<sup>7</sup> On 8 March 2019, the Court rejected the request, arguing that the authors had filed their request after the deadline had passed and that they had not demonstrated that they fell within the scope of Act No. 27.453. On 17 October 2019, the authors filed an appeal against the decision of 8 March 2019 with Chamber H of the National Civil Appeals Court, arguing that the Act is intended to implement a policy of urban regularization and that the suspension of evictions provided for in the Act does not depend on the procedural status of the case file. On 21 February 2020, Chamber H upheld the judgment of the court of first instance, stating that the proceedings concerned eviction on grounds of trespassing and that the resultant judgment, which upheld the application, was enforceable prior to the entry into force of the Act in question and pending execution, so the complainants could not be

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<sup>6</sup> In their brief, the authors requested the involvement of the Office of the Ombudsman for the rights of Children and Adolescents.

<sup>7</sup> The authors’ dwellings were surveyed and registered in the National Registry of Low-Income Neighbourhoods and they have a housing certificate issued under Act No. 27.453.

considered to be legitimate occupants of the property.<sup>8</sup> On 13 March 2020, the coordinator of the National Registry of Low-Income Neighbourhoods requested the Court to refrain from continuing with actions and procedural measures leading to eviction, in accordance with national law.

### Complaint

3.1 The authors claim that the judicial proceedings for trespassing violated their rights under article 11 (1) of the Covenant, read in conjunction with articles 2 (1) and (2) and 28 of the Covenant. According to the authors, the judgment of 27 June 2017, upheld in February 2020, which ordered the forced eviction of the residents of Villa 15, omitted to consider the socioeconomic vulnerability of the affected persons, among whom were persons with disabilities and children, or the informal nature of tenure in low-income neighbourhoods. This omission points to a lack of diligence that runs counter to the State's obligations in the area of economic, social and cultural rights. The effective participation of the affected residents in the proceedings, their access to information and the evaluation of alternative housing were also not guaranteed. The failure to apply Act No. 27.453 and the failure to take measures to suspend the eviction exacerbate this omission, disregarding domestic and international regulations that protect vulnerable communities. The judicial proceedings contravene the principles of proportionality, necessity and non-regression that govern the right to housing.

3.2 According to the authors, the State Party violated their right to effective access to justice in connection with the right to adequate housing by failing to ensure due procedural safeguards appropriate to the situations of vulnerability of the persons concerned. They also claim that the eviction proceedings did not comply with the Committee's general comment No. 7 (1997) in relation to the protection of vulnerable persons and prior consultation (paras. 3, 8, 10, 13 and 16). Given that the case involved housing in an informal settlement where none of the parties had a registered legal title, it required procedural safeguards to be maximized, ensuring the participation of the affected families and the involvement of State authorities in the search for consensual solutions through a process that took into account the practices and customs of the informal property system in informal settlements.

3.3 The authors claim that the eviction order did not guarantee their right to housing through the provision of alternative accommodation within an appropriate and coordinated time frame prior to the eviction and that, during the last hearing held in August 2018, the City Housing Institute reported that there was no prior requirement for intervention in connection with the eviction. According to the authors, the City Housing Institute and the Ministry of Housing and Urban Development are responsible for programmes and policies relating to housing, habitat, slum integration and social credit that, to varying degrees, have failed to fully exploit their allocated resources. Therefore, local housing agencies have not made full use of their available resources to remedy the violation of the authors' rights. In no case was any effort made to ensure concrete and effective solutions before the ordering of such a burdensome measure as the eviction of six families in extremely vulnerable conditions and without the capacity to obtain alternative housing. The authors add that some groups of people, such as women, children, young persons, older persons, persons with disabilities and other vulnerable individuals and groups, are disproportionately affected by the practice of forced eviction. Women are particularly vulnerable to acts of violence and sexual abuse when they become homeless.

3.4 The authors also claim that the procedural reforms necessary to prevent forced evictions and guarantee the right to housing, in accordance with the Covenant, have not been carried out, since the law does not provide for minimum procedural safeguards, does not ensure that affected persons receive adequate notice or access to a timely legal defence, and does not take into account the authors' vulnerability. In this case, taking into account the special circumstances of the case and the situation of vulnerability in which the authors find themselves, judges are required to fulfil an enhanced duty of protection. However, the regulations empower national civil courts to order evictions as a precautionary measure. The

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<sup>8</sup> National Judiciary, Chamber H of the National Civil Appeals Court, Case No. 23.256/2014, 21 February 2020.

authors claim that the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, in her report on her visit to the State Party in 2011, expressed her concern “about what appears to be – with a few exceptions – a widespread lack of awareness among Argentine judges of international standards on the right to adequate housing and evictions. Many of the procedural protections set out in general comment No. 7 are ignored and no effort is made to find solutions to the housing problems of those evicted”.<sup>9</sup> Furthermore, the Committee expressed concern about the increase in informal settlements without access to basic services in the State Party. It also expressed concern about the lack of an appropriate regulatory framework for evictions and the documented allegations of evictions enforced with violence, in the absence of relevant protocols for law enforcement.<sup>10</sup>

#### *Exhaustion of domestic remedies*

3.5 The authors maintain that the National Civil Appeals Court acts as a higher court in its jurisdiction, in accordance with domestic regulations and the case law of the Supreme Court. They point out that bringing a special federal appeal before the Supreme Court, which can be done only in connection with questions of constitutionality, does not constitute an ordinary or effective remedy in this case since it cannot provide a housing solution or prevent an eviction.

#### *After registration of the communication*

3.6 On 15 July 2020, National Civil Court No. 39 reported that, owing to the coronavirus disease (COVID-19) pandemic, the evictions were suspended.<sup>11</sup> On 21 September 2020, A.O.S. filed a writ requesting the issuance of an order for the enforcement of the eviction from the property in question. On 21 September 2019, National Civil Court No. 39 dismissed the request in view of the interim measure requested by the Committee. On 19 October, 2 November and 3 December 2020, A.O.S. filed new submissions to reiterate the request for enforcement. These submissions were again rejected in the light of the interim measure in force.

3.7 On 17 April 2021, the State Party informed the Committee about the opening of a forum for dialogue to explore the possibility of reaching a friendly settlement with the authors.<sup>12</sup>

3.8 On 25 February 2021, National Civil Court No. 39 summoned the authors to a hearing with a view to promoting dialogue between the parties involved. During the hearing, the Secretariat for Social and Urban Integration of the Ministry of Social Development and the City Housing Institute reported that a survey was being conducted to assess the possibility of offering a housing unit to A.O.S. This measure would enable the authors of the communication to remain in the property that they currently inhabit, while providing a solution to the owner’s precarious situation.

3.9 At a hearing held on 8 April 2021, the State Party presented A.O.S. with a specific housing proposal with a view to finding a solution to the conflict. On 28 April 2021, A.O.S. rejected the proposal made by the State Party and requested the enforcement of the eviction order. On 19 May 2021, National Civil Court No. 39 dismissed the request in view of the interim measure requested by the Committee.

3.10 On 1 February 2022, Chamber H of the National Civil Appeals Court issued a decision on the appeal filed by A.O.S. against the suspension of the enforcement of the eviction order<sup>13</sup>

<sup>9</sup> [A/HRC/19/53/Add.1](#), para. 46.

<sup>10</sup> [E/C.12/ARG/CO/4](#), para. 47.

<sup>11</sup> Decree No. 320/20 – extended by Decree No. 766/20 – provided for the suspension throughout the national territory, and until 31 January 2021, of evictions ordered by the courts for failure to comply with the payment obligations set out in rental agreements, including evictions that had already been ordered but not carried out.

<sup>12</sup> Joint agreement of 16 April 2021. The State Party attaches an expression of interest in a friendly settlement agreement signed by the National Secretariat for Human Rights of the Ministry of Justice, the Directorate of International Human Rights Litigation and the authors’ legal representatives.

<sup>13</sup> Suspended in compliance with the Committee’s request for interim measures.

and decided to revoke the ruling of 19 May 2021 suspending the enforcement. In its decision, the Chamber ruled that “the measure requested by the Committee [...] lacks the legal force to suspend compliance with a final and enforceable court decision and the contested decision must therefore be revoked, without prejudice to any subsequent measures that the Argentine State must adopt when the eviction order is enforced”. On 14 March 2024, the authors filed a special federal appeal against the decision upholding the eviction order previously issued by Chamber H of the National Civil Appeals Court and, on 22 October 2024, the Supreme Court dismissed the complaint without providing any substantive reasoning. The case file was returned to National Civil Court No. 39, enabling A.O.S. to request the eviction on 1 and 25 November 2024 and 27 December 2024.

3.11 A committee for the redevelopment of the low-income neighbourhood Villa 15, made up of neighbours and social organizations, has been in operation since 2021. This community forum drafted a bill to improve the right to housing and habitat in the neighbourhood. Furthermore, the authors suggested using Act No. 21.499 as a legal solution to compensate the claimant by means of a compulsory purchase order, thus ensuring a State response that respected the rights of both parties.

3.12 The authors allege that neither the State nor the government of the Autonomous City of Buenos Aires have offered alternative housing proposals for the affected families in this case. Therefore, if the order to evict them is enforced, the violation of their rights will be aggravated and they will be rendered homeless.

#### **State Party’s observations on admissibility and the merits**

4.1 On 11 April and 7 November 2022, the State Party informed the Committee that it would not submit observations on admissibility or the merits but would provide information on the steps taken and measures adopted.

4.2 The State Party affirms that National Civil Court No. 39 complied with the Committee’s request for interim measures and dismissed A.O.S.’s requests to enforce the eviction order.

4.3 The State Party put forward a proposal for a friendly settlement with a view to resolving the conflict, formulating the offer of a housing unit for A.O.S. and his family. The purpose of this measure was to ensure that the authors could remain in the property that they live in, to improve their housing conditions and to provide an appropriate housing solution for A.O.S. However, this proposal was rejected. Despite this, the authorities continued to engage with the authors.

4.4 According to the State Party, Act No. 27.453 establishes a regime for the regularization of property ownership with a view to promoting the social and urban integration of low-income neighbourhoods. The State Party also points out that the Secretariat for Social and Urban Integration of the Ministry of Social Development takes measures to establish plots of land with access to services for low-income sectors with a view to creating single-family housing units for permanent residents. However, the government of the Autonomous City of Buenos Aires has not submitted proposals for the establishment of such plots within its administrative area. According to the State Party, the Secretariat for Social and Urban Integration finances the construction of serviced lots in the Province of Buenos Aires. In view of the existing demand and the situation of extreme vulnerability of the families involved in this case, there would be availability for the six families in the aforementioned municipalities.

#### **Authors’ comments on the State Party’s observations on admissibility and the merits**

5.1 In their comments of 17 March 2023, the authors state that the affected families were not informed or consulted about the proposal put forward by the Secretariat for Social and Urban Integration and that the proposal does not take into account the implications of relocating families away from the place around which their lives revolve. They add that the proposal does not contain any details of the progress made, deadlines or type of housing offered. Lastly, they claim that the proposal would affect their ability to gain access to, or continue receiving, any social benefits granted by the government of the Autonomous City of Buenos Aires, such as those made available under the Buenos Aires Citizenship

Programme, which provides a monthly subsidy to vulnerable households for the purchase of food, cleaning products, personal hygiene products, school supplies and cooking fuel.

5.2 The authors claim that the proposal for an amicable solution was not successful due to A.O.S.'s opposition and the conduct of the judiciary, which decided not to comply with the Committee's request for interim measures. They point out that, once the process had failed, the State Party did not put forward any effective alternative proposals to prevent their right to adequate housing from being violated.

5.3 With regard to the exhaustion of domestic remedies, the authors note that the State Party decided not to raise any objections about the admissibility of the case. They also point out that, although the National Civil Appeals Court is the highest court of ordinary jurisdiction, the decision subsequently issued by the Supreme Court demonstrates that all available domestic remedies, both ordinary and extraordinary, have been exhausted.

#### *Remedy*

5.4 The authors request the State Party to: (a) maintain the suspension of the eviction until the social and urban integration policy provided for in Act No. 27.453 is implemented; (b) alternatively, ensure stable, permanent housing with security of tenure for each family, located either in the same settlement or in its immediate vicinity; (c) ensure that the proposed solution is not limited to the offer of a housing subsidy or other type of social benefit for the purpose of renting accommodation on a temporary basis; and (d) compensate the families.

5.5 They also request that the State Party take the following general measures: (a) guarantee regulations and planning to promote redevelopment and the regularization of property ownership in the Villa 15 informal settlement; (b) take measures to comply with Act No. 27.453, including amendments to the Code of Civil and Commercial Procedure; (c) ensure that the judiciary establishes a protocol for complying with standards on the right to adequate housing in connection with eviction proceedings, respect for the principle of proportionality and compliance with the Committee's requests for interim measures, taking into account the informal nature of the settlements; (d) guarantee legal protection against forced evictions in accordance with article 11 (1) of the Covenant; and (e) adopt legislative measures to ensure that evictions affecting people without resources are carried out only after genuine and effective consultations have taken place and when the State has taken all steps to the maximum of its available resources.

## **B. Committee's consideration of admissibility**

6.1 Before considering any claim contained in a communication, the Committee must decide, in accordance with rule 10 (2) of its rules of procedure under the Optional Protocol, whether the communication is admissible.

6.2 The Committee notes that the authors belonging to the Saravia family do not live in the property subject to the eviction order. Rather, the family has a greengrocer's shop there and rents another dwelling in the neighbourhood, using the income from the greengrocer's shop. The Committee considers that individuals submitting a communication under the Optional Protocol who claim to be victims of violations of the Covenant must demonstrate that their rights have actually been violated by an act or omission of the State Party or that such a violation is imminent. In the present case, the Committee notes that the members of the Saravia family have not provided information showing how the eviction of the inhabitants of the property, who are also authors of the communication, would violate their right to adequate housing and, therefore, have not demonstrated the existence of personal, real and significant harm that would justify their status as victims for the purposes of the present communication. Accordingly, it declares the communication inadmissible for the Saravia family under article 2 of the Optional Protocol.

6.3 The Committee notes that the State Party has not put forward any arguments relating to admissibility and, in particular, has not claimed that the authors have failed to exhaust the available domestic remedies. The Committee recalls that it is for the State Party to challenge the admissibility of the communication on any of the grounds specified in article 3 of the

Optional Protocol and considers that the State Party has waived its objection to the admissibility of the communication if it does not communicate to the Committee, within a reasonable time frame, the grounds for its objection to admissibility and if it does not specify the available domestic remedies that have not been exhausted by the authors.<sup>14</sup> Accordingly, the Committee considers that article 3 (1) of the Optional Protocol does not constitute an obstacle to the admissibility of the communication.

6.4 The Committee notes the authors' allegations of a violation of article 11 of the Covenant, read in conjunction with articles 2 (2) and 28. The Committee also notes that the authors did not submit sufficient information to enable the Committee to determine to what extent they had been discriminated against by the State Party's authorities, nor to what extent the State had violated the provisions of article 28 of the Covenant. The Committee therefore considers that the authors have failed to sufficiently substantiate their claims under article 11, read in conjunction with articles 2 (2) and 28 of the Covenant, and that these claims are inadmissible under article 3 (2) (e) of the Optional Protocol.

6.5 However, the Committee considers that the authors have sufficiently substantiated, for the purposes of admissibility, their complaints under article 11 (1) of the Covenant, read in conjunction with articles 2 (1) and 10 (3), in relation to the lack of procedural safeguards in the eviction proceedings against them, as well as the failure to provide them with alternative housing as persons in a situation of vulnerability, or to allocate the maximum available resources. Therefore, the Committee declares the communication admissible and proceeds to its consideration on the merits.

## C. Committee's consideration of the merits

### Facts and legal issues

7.1 The Committee has considered the present communication taking into account all the information provided to it in accordance with the provisions of article 8 of the Optional Protocol.

7.2 The Committee will proceed to consider which facts it deems established and relevant to the complaint.

7.3 In 1998, A.O.S. acquired a property located in Villa 15 in the Autonomous City of Buenos Aires. In 2011, he filed a complaint concerning its unauthorized occupation by unidentified persons, which led to criminal proceedings, the outcome of which is unknown. Between 2015 and 2018, the authors moved into dwellings within the property through informal sales and purchases, in accordance with customary practices in informal settlements, or through the transfer of dwellings by persons who had acquired them informally. In 2014, A.O.S. filed an application for the eviction of the occupants of the property on the grounds that they were trespassing. In 2017, Civil Court No. 39 issued an order for the eviction of the occupants of the property. The authors appealed against this decision, referring to the failure to notify them, the risk of homelessness and the lack of alternative housing. The Directorate General for Access to Justice issued a report in which it drew attention to the vulnerability of the families and requested a housing solution. The authors requested the suspension of the eviction under Act No. 27.453, on the grounds that the property is part of a registered low-income neighbourhood. However, the decision was upheld in 2020, with the court noting that the eviction ruling had been final prior to the entry into force of the Act.

7.4 Between July 2020 and February 2022, A.O.S. requested the enforcement of the eviction order on several occasions. These requests were rejected by Civil Court No. 39 in view of the interim measure requested by the Committee and, subsequently, the general suspension of evictions implemented in connection with the COVID-19 pandemic. In April 2021, the State Party took steps to establish forums for dialogue and proposed an alternative

<sup>14</sup> *Ziablitshev v. France* (E/C.12/71/D/176/2020), para. 6.6.

housing solution to A.O.S., which he rejected. On 1 February 2022, Chamber H of the National Civil Appeals Court revoked the suspension of the eviction order.<sup>15</sup>

7.5 In light of the Committee's determination of the relevant facts and the parties' submissions, the issue raised by the communication is whether or not the decision to evict the authors without making provision for consultation or a review of housing alternatives and without offering alternative housing or taking all reasonable steps to the maximum of the available resources constituted a violation of the right to adequate housing enshrined in article 11 (1) of the Covenant. The Committee must also determine whether, bearing in mind the principle of the best interests of the child, the failure to ensure that the children could exercise their right to be heard or to take into account the disproportionate impact of eviction on persons with disabilities, including a child, in the eviction process constitutes a violation of the right to adequate housing under article 11 (1) of the Covenant, read separately and in conjunction with articles 2 (1) and 10 (3) of the Covenant.<sup>16</sup>

*Proportionality test, weighing of rights and consultation with the authors, best interests of the children, right to be heard and disproportionate impact*

7.6 In order to answer this question, the Committee will first refer to the standards relating to protection against forced evictions in the context of the right to adequate housing, as consolidated in its Views in the case of *El Korrichi et al. v. Spain*,<sup>17</sup> including the requirement for an eviction to respect the principles of legality, necessity and proportionality, and the duty of the judge to weigh up the relevant rights in reviewing any eviction decision. In these Views, the Committee also sets out a number of procedural safeguards that should be afforded in eviction procedures, including the provision of an opportunity for genuine consultation on alternative accommodation with affected persons and, if a lack of resources means that there are no viable alternatives, requiring the administrative authorities to present the available options with a view to ensuring that the eviction will not leave anyone homeless.<sup>18</sup>

7.7 The Committee will proceed to determine whether the authorities considered the proportionality of the objective of the eviction to its consequences for the persons evicted, including weighing the benefits of the measure – in this case, protecting the right to property of the owner of the dwelling – against its possible consequences for the rights of the evicted persons<sup>19</sup> in the specific circumstances of the case.

7.8 The Committee refers again to its Views in the case of *El Korrichi et al. v. Spain*, in which it set out a series of circumstances that must be assessed when analysing the proportionality of an eviction, including: (a) the availability of adequate alternative housing; (b) the personal circumstances of the occupants and their dependants and how these circumstances may lead to one or several situations of vulnerability; (c) the cooperation of the occupants with the authorities in seeking suitable solutions; and (d) the distinction between properties belonging to individuals who need them as a home or source of income and properties belonging to banks, financial institutions or other entities.<sup>20</sup>

7.9 The Committee notes that, as stated in the judgment of 21 February 2020 of Chamber H of the National Civil Appeals Court, the eviction order was issued without an analysis of the impact of the eviction on the authors in the light of the families' extremely vulnerable circumstances, including the presence of 10 children, 7 persons with disabilities and 3 women heads of household, or the impact of the lack of alternative housing, as reflected in the sociolegal report of the Directorate General for Access to Justice of the Public Prosecution Service made available to the competent judicial authorities, and without considering Act No. 27.453 or the fact that the neighbourhood is registered in the National Registry of Low-Income Neighbourhoods. The Committee notes that this state of affairs prevailed despite repeated requests for the intervention of the Office of the Ombudsman for

<sup>15</sup> According to the information provided to the Committee, as at 5 June 2025, the authors had not been evicted.

<sup>16</sup> *Vázquez Guerreiro et al. v. Spain* (E/C.12/74/D/70/2018), para. 7.13.

<sup>17</sup> *El Korrichi et al. v. Spain* (E/C.12/76/D/188/2020), paras. 8.1–8.10.

<sup>18</sup> *Ibid.*, para. 8.6.

<sup>19</sup> *López Albán et al. v. Spain* (E/C.12/66/D/37/2018), para. 11.5.

<sup>20</sup> *El Korrichi et al. v. Spain*, para. 10.2.

the rights of Children and Adolescents and requests to ensure the best interests of the children. In the light of the specific circumstances of the present case, the Committee considers that proper consideration of the proportionality of the eviction would have taken into account the socioeconomic vulnerability of the authors; the best interests of the children; and the particular effects of the eviction on the authors, particularly persons with disabilities and women heads of households responsible for older persons, adults and children with disabilities and minor children, who lacked access to adequate housing or other viable alternatives (see the Committee's general comment No. 7 (1997)). The lack of individualized assessment and consideration of housing alternatives constitutes an omission that is contrary to the principles of reasonableness, proportionality and non-discrimination that should govern any measure that may result in the eviction of people living in poverty or working in the informal sector.

7.10 The Committee notes that, with the establishment of the National Registry of Low-Income Neighbourhoods, the State Party has taken a number of measures to regularize the situation of persons living in irregular settlements, many of whom acquired such dwellings informally, in accordance with practices and customs, and that Act No. 27.453 provides for the suspension of evictions in low-income neighbourhoods included in the Registry. The Committee notes, however, that despite the existence of regulations and public policies aimed at regularizing informal settlements and despite the fact that the Villa 15 dwellings were included in the Registry, this circumstance was not taken into account by the judicial authorities in the present case. Furthermore, the Committee notes that the Directorate General for Access to Justice of the Public Prosecution Service prepared a sociolegal report that it submitted to the courts in April 2018 and that, even though National Civil Court No. 39 issued repeated notifications to different agencies of the city government and the State, and these agencies were summoned to three hearings, no steps were taken to establish forums at which the judiciary might have called for alternative housing solutions. On the contrary, meetings were convened after the eviction had already been ordered. The Committee also notes that, during the third hearing of 16 August 2018, the City Housing Institute stated that there was no prior requirement for intervention in connection with the eviction and that, after the eviction, the families could initiate proceedings for the assessment of their particular situation.

7.11 The Committee is interested to note the friendly settlement process proposed by the State Party. However, it notes that this process did not reach a satisfactory conclusion because the owner did not accept the proposal made to him. The Committee also notes that the State Party did not offer the authors a housing solution as part of the settlement process.

7.12 In the light of the foregoing, the Committee considers the information provided by the State Party to be insufficient to demonstrate that it has made all possible efforts, using all available resources, to realize, as a matter of urgency, the right to housing of the authors, who were in a situation of dire need.

7.13 With regard to consultation with the authors, the Committee notes that the authors filed several requests for suspension of the eviction order before the competent judicial authorities, claiming that they were in a particularly vulnerable situation and drawing attention to the presence of children in the household. However, the Committee notes that the authors' situation was not considered either in the judgment of 27 June 2017 or during the three hearings. The courts should have made arrangements for genuine and effective consultations with them and should have requested the administrative authorities to provide information on any social housing available and on the authors' socioeconomic situation. The courts should also have respected the children's right to be heard.<sup>21</sup> In this regard, despite the various requests for a stay of eviction and the appeals filed by the authors, as well as the authors' repeated requests to establish forums for dialogue, the Committee considers that there has been no evidence of a genuine and effective judicial consultation mechanism to study alternatives to eviction.

7.14 The Committee also notes that, at the time when the eviction order was issued, children between the ages of 11 and 17 years were living in the dwellings. In this respect, the

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<sup>21</sup> *B.J. and P.J. v. Czechia* (CRC/C/93/D/139/2021), paras. 8.13 and 8.14.

Committee recalls that, pursuant to the principle of the best interests of the child, whenever a decision is to be taken that affects a child or adolescent, the decision-making process must include an evaluation of the possible impact (positive or negative) of the decision on the child or adolescent concerned.<sup>22</sup> Accordingly, the justification of a decision must show that this right has been explicitly taken into account.<sup>23</sup> States must ensure that, in all decisions affecting the interests of children and adolescents, their best interests are adequately and systematically assessed.<sup>24</sup> This obligation is especially important in the face of enforcement measures, such as forced evictions, that cause children disproportionate suffering.<sup>25</sup>

7.15 In the light of the above, the Committee notes that, even though the eviction was suspended in view of the interim measures requested by the Committee, the arguments set out in these decisions do not show that the courts carried out a specific analysis of how the measure that had been ordered could affect the authors' children or what the best decision would be, considering that children should receive special measures of protection and assistance under article 10 (3) of the Covenant. In fact, the initial suspension was mainly due to measures taken in connection with the COVID-19 pandemic and was not based on an analysis of the situation.<sup>26</sup>

7.16 The Committee also notes that, in view of the principle of progressive autonomy, the children should have been heard, directly or indirectly, but were not. The courts also failed to take into account the situation of the authors, particularly the mothers and women heads of household responsible for older persons and children, who were on a precarious economic footing, and the disproportionate impact that the eviction would have on them as a result of the discrimination faced by women, the lack of equal opportunities for access to adequate housing and to employment and the fact that women bear a larger share of the caregiving burden than men.<sup>27</sup>

## D. Conclusion and recommendations

8.1 On the basis of all the information provided and in the particular circumstances of the case, the Committee finds that the eviction of the authors without a proper assessment of proportionality by the judicial authorities, including consideration of the disproportionate impact that the eviction could have on the authors and the principle of the best interests of the child, and without the provision of procedural safeguards ensuring genuine and adequate consultation and protecting the right of children to be heard, together with the lack of alternative housing and the State Party's failure to provide evidence that it has taken all appropriate measures to the maximum of its resources, would constitute a violation of their right to adequate housing.

8.2 The Committee, acting under article 9 (1) of the Optional Protocol, is of the view that, if the State Party were to evict the authors, it would violate their right under article 11 (1) of the Covenant, read separately and in conjunction with articles 2 (1) and 10 (3) of the Covenant. In the light of the Views contained in the present communication, the Committee makes the following recommendations to the State Party.

### Recommendations in respect of the authors

9. The State Party is under an obligation to provide the authors with an effective remedy, in particular: (a) to maintain the suspension of the eviction from the Villa 15 low-income neighbourhood until the social and urban integration policies provided for in the national and local laws in force (Act No. 27.453 and Act No. 6.987) have been implemented effectively; (b) alternatively, to ensure the provision of adequate, safe and stable housing for each

<sup>22</sup> Committee on the Rights of the Child, general comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration, para. 6 (c).

<sup>23</sup> *Ibid.*

<sup>24</sup> *Ibid.*, para. 6 (a).

<sup>25</sup> Committee on the Rights of the Child, general comment No. 21 (2017) on children in street situations, para. 50.

<sup>26</sup> *El Korrichi et al. v. Spain*, para. 11.3.

<sup>27</sup> *Vázquez Guerreiro et al. v. Spain*, para. 12.3.

petitioning family, and to reassess their state of necessity with a view to providing them with public housing or taking another measure that would enable them to live in adequate housing, bearing in mind the criteria set out in the present Views; and (c) to reimburse the authors for the legal costs reasonably incurred in submitting this communication, at both the domestic and international levels.

### **General recommendations**

10. The Committee considers that the remedies recommended in the context of individual communications may include guarantees of non-repetition and recalls that the State Party has an obligation to prevent similar violations in the future. The State Party should ensure that its legislation and the enforcement thereof are consistent with the obligations established under the Covenant. In particular, the State Party has an obligation to:

(a) Formulate and implement a comprehensive plan, with a budget, deadlines and community participation, for the redevelopment of the neighbourhood and the regularization of property ownership within it;

(b) Guarantee regulations and planning to promote redevelopment and the regularization of property ownership in the Villa 15 informal settlement;

(c) Take measures to ensure compliance with Act No. 27.453, including amendments to the Code of Civil and Commercial Procedure;

(d) Take the necessary measures to ensure that evictions affecting persons who lack the wherewithal to obtain alternative housing take place only within the framework of proceedings involving genuine and effective consultation with the persons concerned in which all available alternative housing (whether belonging to such persons or made available by the relevant State agencies) is assessed and only after the State has taken all essential steps, to the maximum of its available resources, to ensure that evicted persons have alternative housing, especially in cases involving families, single-parent households, particularly those headed by women, older persons, children or other persons in vulnerable situations. If the group to be evicted includes children, the proceedings must guarantee their right to be heard;

(e) Establish a protocol for ensuring compliance with standards on the right to adequate housing in connection with eviction proceedings, respect for the principle of proportionality and compliance with interim measures requested by the Committee, and take into account the informal nature of settlements.

11. In accordance with article 9 (2) of the Optional Protocol and rule 21 (1) of the rules of procedure under the Optional Protocol, the State Party is requested to submit to the Committee, within a period of six months, a written response, including information on measures taken in follow-up to the Views and recommendations of the Committee. The State Party is also requested to publish the Views of the Committee and to distribute them widely, in an accessible format, so that they reach all sectors of the population.