



**International Convention on the
Protection of the Rights of
All Migrant Workers and
Members of Their Families**

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**Committee on the Protection of the Rights of All Migrant Workers
and Members of Their Families**

**Second periodic report of Argentina due in 2016 under
article 73 of the Convention pursuant to the simplified
reporting procedure^{*}, ^{**}**

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* The present document is being issued without formal editing.
** The annexes may be consulted in the files of the secretariat.



I. General information

Reply to paragraph 1 of the list of issues

1. Decree No. 70/2017 upholds the precepts established in the preamble to the Constitution with regard to “every man in the world who wishes to live on Argentine soil”. Argentina has been and will continue to be a host country for migrants, and will continue to ensure equal civil, social and economic rights for nationals and foreigners and the full exercise of those rights. This is clear from the 700,000 applications for residency that have been granted from 2016 to the present.
2. The restrictions on entering or remaining in the country remain the same as those regulated by the Migration Act (Act No. 25.871). The Decree focuses on procedural issues and on migrants involved in acts punishable by law – one of the principles established in the Act before it was amended (art. 3 (j)) – and on foreign nationals who violate migration law through irregular entry into the national territory.
3. Thus, Decree No. 70/2017 has not altered any aspect of the residence requirements for migrant workers.
4. It should be noted that, under the Argentine legal system, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families takes precedence over laws.
5. Moreover, when granting residency of any nature, Argentina, unlike most countries in the world, does not require a special work permit: once the right to reside temporarily or permanently has been secured, the foreigner is authorized to work without the need for any other procedure or action.
6. Argentina has been and will continue to be a host country for migrants, ensuring equal civil, social and economic rights for nationals and foreigners. In this respect, it takes a different approach from most of the other countries of America.
7. The Argentine Government continues to take steps to guarantee the economic, social and cultural rights of migrants, starting from the premise that migration policies and entry and exit mechanisms must be consistent with established human rights standards.
8. Measures to promote the protection and promotion of migrants’ rights have been strengthened, in the form of programmes and action plans resulting from the joint efforts of various government bodies and institutions.
9. The National Migration Directorate currently has an office for inter-agency coordination and the protection of human rights, as well as one for social services. Together, they form an interdisciplinary team that can respond immediately to any potential violations of migrants’ rights and provide the necessary social assistance. These offices operate under the principles of equality and non-discrimination.
10. Their work gives special attention to respect for internationally recognized fundamental rights without denying or restricting access to health services, social assistance or medical treatment, regardless of the migration status of the foreign national (Migration Act, arts. 7 and 8).

Reply to paragraph 2 of the list of issues

11. The first thing to say is that, although Argentina is a federal State, migration laws are passed by the National Congress; migration and citizenship issues are governed by national, not provincial or local, laws.
12. The national Government has implemented measures to integrate migrants into the labour market. Efforts are being made to guide migratory flows and create opportunities for the migrant population to relocate – both internally and internationally – away from large urban centres, in medium-sized cities or rural areas, in order to promote the local development of cities that need more workers and people. These measures are in line with

the 2030 Agenda for Sustainable Development, which includes migration and human mobility in four of its Goals and recognizes the positive contributions of migrants and the essential role they play in sustainable development.

13. It should be noted that the National Migration Directorate has not abandoned its main mission of regularizing the status of migrants in accordance with article 17 of Act No. 25.871.

14. The Directorate has worked to establish new migration offices and branches, thereby creating an effective institutional tool to reach a greater number of migrants.

15. Of particular note is the opening of the Quilmes branch and the Pilar Migration Office, in the Province of Buenos Aires; the migration offices in Moreno and La Matanza, two very densely populated municipalities, are due to be opened next. This means that the migration authorities will be closer to the places where they are most needed. In 2015, some 2,356 migrants were processed under the local programme, while the Pilar office alone processed around 4,000 applications in less than a year.

16. At the same time, the task of reaching out to migrants and better publicizing their rights and obligations under national migration law is seen as essential. Awareness-raising and advisory activities for migrants have been organized in the country's interior, in the suburbs and interior of the Province of Buenos Aires, and in the Autonomous City of Buenos Aires.

17. A special team has been set up to disseminate information and increase awareness and understanding of various communities with regard to the rights and obligations arising from Act No. 25.871.

18. For the same purpose, contact has been made with all consular corps in order to publicize national migration regulations. Away from the capital, office space has been made available to teams from the various consulates, so that they can set up mobile consular services that are more accessible to migrants. This experiment has been conducted in La Rioja, Tucumán, La Pampa, Mar del Plata, Villa Gesell, Salta, Córdoba, Posadas and Mendoza, with the participation of the Bolivian, Colombian, Peruvian and Uruguayan consulates, among others.

19. Similarly, new outreach strategies for the migrant population have been introduced to facilitate the regularization of migrants by coordinating with various trade unions, so that activities aimed at regularizing employment situations include the regularization of migration status if appropriate. The trade unions include the Association of Domestic Workers, the Brickworkers Union and the National Register of Rural Workers and Employers.

20. Training courses were held for staff of the Centres for Access to Justice of the Ministry of Justice and Human Rights and for teams from the Executive Office of the Cabinet of Ministers with a presence in the country's most underprivileged neighbourhoods, so that, in any comprehensive outreach action taken by the Government, staff are trained to deal with migration matters.

21. The National Migration Directorate participates in the national programme "The State in Your Neighbourhood", which brings together State services in a single location in various neighbourhoods, where it promotes and publicizes migrants' rights.

22. In this context, the Directorate has developed and implemented a series of multidimensional outreach policies.

23. Such a multidimensional approach creates a synergy that benefits migrants, bringing them closer to the community and thus helping to combat the phenomenon of irregular migration and its many negative consequences for the migrant.

24. Argentina has been and will continue to be a host country for migrants, ensuring equal civil, social and economic rights for nationals and foreigners. In this respect, it takes a different approach from most of the other countries of America.

25. This is evidenced by the aforementioned very high number of applications for residency that have been granted; the provision made for migrant groups, such as the Syria

Programme (approved by National Migration Directorate Regulation No. 3915/2014 and No. 4683/2016), the regularization of Haitians for humanitarian reasons (Regulation No. 1143/2017) and the facilitation of migration procedures for Venezuelans (Regulation No. 594/2018); and the implementation of technological advances, such as the web-enabled platform called Radex (a digital residency application system for foreign nationals), which allows foreigners to complete their application online and have their migration status regularized at a distance.

26. The Argentine Government continues to take steps to guarantee the economic, social and cultural rights of migrants, starting from the premise that migration policies and entry and exit mechanisms must be consistent with established human rights standards.

27. Measures to promote the protection and promotion of migrants' rights have been strengthened, in the form of programmes and action plans resulting from the joint efforts of various governmental bodies and institutions.

28. Various awareness-raising activities are also being carried out in order to safeguard respect for migrants' economic, social and cultural rights by developing protocols, guidelines and programmes.

General protocol on discrimination, xenophobia, racism and gender violence

29. This protocol provides practical guidelines, criteria and terms of reference that can help raise individual and social awareness of non-discrimination, which is indispensable if we are to move towards a more egalitarian, supportive and peaceful society in which international standards are respected. The emphasis in the protocol, as in other programmes, is on gender mainstreaming, in order to apply the principle of equal treatment and opportunities for migrant men and women.

Protocol on hospitality, care and proper treatment of migrants

30. Argentina has always been a country that welcomes migrants; to this end, it follows a social inclusion model in which human mobility is considered a human right of crucial importance. This model gives rise to a commitment to respect for migrants' guarantees, rights and obligations and a policy of offering them hospitality and proper treatment.

31. To this end, awareness-raising and outreach strategies are designed to establish the principles of cordiality and respect and to ensure that all relevant officials, agencies, bodies and institutions provide adequate information and support in a dignified, timely respectful fashion.

32. In this regard, work is being undertaken to:

- Secure a space for coordination among the various actors so as to achieve more effective implementation of programmes and public policies for the prevention and elimination of all slavery practices and all forms of exploitation. The aim is to ensure that good practice is followed and that humanitarian law and its regulations are applied.
- Improve relations with the various stakeholders and increase their participation and commitment by signing agreements that guarantee the human rights and protection of migrant children, adolescents and their families.
- Strengthen preventive mechanisms and protocols for the protection of migrants who are victims of human trafficking and smuggling or any type of exploitation.

33. For the aforementioned reasons, the National Migration Directorate established an inter-institutional coordinating committee, which set up a coordination unit to ensure greater effectiveness in the development of programmes and the implementation of humanitarian policies that cover the entire migrant community, with an emphasis on more vulnerable groups such as women and children. In this way, ongoing and fluid channels of communication are established among the parties in order to promote and coordinate the proposed objectives. The committee comprises representatives of the Directorate; the Ministry of Security; the National Secretariat for Children, Adolescents and the Family (Ministry of Social Development); the Office of the Prosecutor for Combating Human

Trafficking and Exploitation (PROTEX); the National Institute to Combat Discrimination, Xenophobia and Racism; the Provincial Directorate of Community Health and Healthy and Non-violent Environments (Ministry of Health, Province of Buenos Aires); and the National Rescue and Support Programme for Victims of Trafficking (Ministry of Justice and Human Rights).

34. In relation to the treatment of foreign children and adolescents, Argentina is known for its programme to support them through an intervention system that is considered a model by the United Nations and endorsed by the Inter-American Court of Human Rights. The actions taken by the Directorate are geared towards providing the necessary assistance through specialized bodies, such as the National Secretariat for Children, Adolescents and the Family and the Chief Public Defender's Office, while safeguarding the freedom of movement of children and adolescents.

35. Argentina has a protocol on protection, assistance and long-term solutions for child asylum seekers who are unaccompanied or separated from their families. The Chief Public Defender's Office has a programme for guardianship, legal representation and support for child asylum seekers.

36. Once the child has entered the country, the Chief Public Defender's Office intervenes and a bilingual interdisciplinary team from the Commission provides legal assistance, appoints a guardian and arranges suitable accommodation, in order to integrate the child at the local level with a guarantee of a place to live and access to health care and education.

37. It is worth mentioning that the United States Government classes Argentina as one of the countries with the best practices to combat, prevent and eradicate human trafficking, giving it the highest ranking for meeting the minimum standards in the fight against this global scourge.

38. According to the 2018 report of the United States Department of State's Office to Monitor and Combat Trafficking in Persons, the Argentine Government has made "key achievements" in the fight against human trafficking, for which Argentina is rated at the highest level (Tier 1), as a country that fully meets the "minimum standards for the elimination of human trafficking".

39. In order to better publicize and advise on the rights of migrants and their families, in 2017, the National Migration Directorate, together with the Human Rights Secretariat and the Buenos Aires Sur Corporation, inaugurated the first Advice Centre for Migrants and Refugees. With the support of international organizations, the Centre coordinates the actions of the various national ministries. It offers a meeting space where all migrant and refugee groups and communities in the city of Buenos Aires can seek assistance. Two more centres are being opened, in the cities of Córdoba and Rosario. Such centres help facilitate the social integration of migrants, and provide a meeting place where they can access various services offered by the State and civil society organizations and obtain useful information and necessary tools.

40. Migrants' queries on a variety of issues (documentation, access to health care, access to justice, etc.) are addressed. There are training activities and workshops, offering courses on, for example, starting work; migration and interculturality; the rights and obligations of migrants; entrepreneurial integration; microcredits for migrants provided by the Avanzar Foundation; welcome talks on integration for migrants who have recently arrived; Spanish language classes; and advice on filing applications for a residence permit using the online residency application system for foreigners (Radex).

41. Argentina has consistently welcomed migrants with open arms, upholding its historic tradition of receiving thousands of migrants every year, on the understanding that migration enriches society with its cultural contribution and promotes trade, tourism and economic development. For this reason, Argentina receives the largest number of migrants in Latin America, and there are currently a large number of migrants from the region residing in the country.

42. The labour and employment secretariats of the Federal Council and the Executive Committee to Combat Human Trafficking and Exploitation and Protect and Assist the

Victims Thereof manage and implement inclusive public policies for the entire population of the country. They work together with representatives of all the provinces and civil society organizations to find solutions applicable to all population groups, taking into account the particularities of each region. Although these actions are not aimed at the migrant population in particular, they have an impact on that population owing to the legal protection enjoyed by migrants, who have the same rights and obligations as other citizens.

43. Argentina has a National Plan for the Prevention and Eradication of Child Labour and the Protection of Adolescent Workers 2018–2022 (see annex I).

Reply to paragraph 3 of the list of issues

44. On 30 August 2016, the bicameral committee on the Ombudsman's Office was established, following the designation of its representatives by the National Congress (seven from the Senate and seven from the Chamber of Deputies).

45. Several bills to amend the election process have been drafted, but have not yet been considered.

46. In carrying out the tasks entrusted to it under the Constitution and the law, the Office of the Chief Public Defender of the Nation may initiate and pursue, either *ex officio* or at the request of an interested party, an investigation in any case arising from the action of any government agency or public service provider, even a privatized provider, in relation to different issues.

47. It also has the authority to carry out investigations, inspections and verifications; to request files, reports, documents and background information; and to order the production of any evidence or elements that it deems useful for the purposes of the investigation.

48. It also has an interdisciplinary team which analyses the proceedings brought by the Office, either *ex officio* or as a result of a complaint.

49. With regard to labour exploitation, in 2018, the Chief Public Defender's Office on Trafficking in Persons and Migrants held meetings with the International Labour Organization, the International Organization for Migration, the Ministry of Justice of the Province of Buenos Aires and the Ministry of Justice and Human Rights to come up with inter-agency strategies for the prevention of labour exploitation, trafficking in persons and forced labour.

50. It also proposed, in addition to formulating information campaigns, to establish contact with the Inter-Union Network of Vocational Training Institutes, so that victims of labour exploitation and forced labour could have access to free jobseekers' workshops and courses offered by the trade unions.

51. The Office of the Prison System Ombudsman is an independent State body responsible for promoting and protecting the rights of persons deprived of their liberty in Argentina (Act No. 25.875). Since January 2013, pursuant to articles 11, 32 and 36 of Act No. 26.827, it has been an integral part of the National Committee for the Prevention of Torture and a mechanism for the prevention of torture in all places of detention under national and federal authority.

52. The Office's functions include auditing prisons, police stations, juvenile detention centres and any other place of deprivation of liberty where people are housed, including foreign nationals who are about to be deported under the Migration Act. Its advisers confidentially interview persons who are deprived of their liberty and are being held by national or federal authorities, issue recommendations to various actors in the administrative, criminal and prison systems, and intervene in court cases as a complainant or friend of the court, and as a plaintiff in criminal proceedings or complainant in group petitions for habeas corpus.

53. The Office has a team that focuses on the problems of foreign nationals in prison and Argentine nationals deprived of their liberty abroad in order to detect, highlight and

address the situation of these population groups. This approach is of fundamental importance and adds value to the work of the monitoring bodies.

54. Separately, the National Directorate for Pluralism and Interculturalism, which reports to the National Secretariat for Human Rights and Cultural Pluralism of the Ministry of Justice and Human Rights, has taken various measures to implement and promote the rights, recognition and visibility of the migrant community:

- It has conducted academic workshops and training sessions on promoting rights and raising awareness in collaboration with the organizations of the various groups, which have reached more than 3,000 people.
- It has promoted intercultural spaces to introduce people to the history, language, art forms and festivities of the different groups.
- More than 60 activities have been organized at the federal level, reaching more than 15,000 people, to promote and raise awareness of different cultural groups (see annex II).

55. Many of the replies to the migration-related recommendations made by the Committee in 2011 are reflected in the present document. The replies that are not covered are:

- Recommendation No. 16 (a) (b): The National Migration Directorate has held joint workshops on migration policy and legislation with the judiciary since April 2017. For further details please refer to the reply to paragraph 6 of the list of issues. This refers to the reply to paragraph 3 of the list of issues.
- Recommendation No. 22 (a): The Directorate, as specified in the reply to paragraph 9 of the list of issues, has increased labour inspections and fines/penalties (see the data submitted therein).
- Recommendation No. 24 (c): National Migration Directorate Regulation No. 2/2013 approved a special regime for the regularization of foreigners of Senegalese nationality, whereby 1,700 Senegalese nationals who had illegally entered the national territory were regularized.
- Recommendation No. 32 (a) (e): Various training activities were carried out by different government offices. These are set out in annex III. Migrant workers from non-MERCOSUR countries who do not meet the requirements of article 23 (a) of the regulations, but invoke humanitarian reasons which, in the view of the Directorate, justify special treatment, are included in the provisions of article 23 (m) of Act No. 25.871.

56. As far as international trafficking cases are concerned, the Migration Act defines migration offences; some of these offences correspond to the illegal activities conducted by trafficking networks. International trafficking sometimes involves the smuggling of migrants (art. 116); the most serious cases concern the promotion or facilitation of the migrant's stay in irregular conditions for personal profit (art. 117). The Act also penalizes the submission of fake documents in order to request a benefit for a third party (art. 118). These provisions are not specifically aimed at sanctioning trafficking activities, but do also cover the smuggling of migrants. Article 120 of the Act stipulates that the penalties are increased when the acts described are committed habitually, or when they involve a public official in the exercise or abuse of his or her authority. Article 121 introduces two aggravating factors: (a) when the smuggling "endangers the life, health or security of migrants or when the victim is a minor"; (b) when "the trafficking in persons was carried out for the purpose of committing acts of terrorism, drug trafficking, money laundering or prostitution". In recent years, the State has been very active in this area and has developed a set of policies to give effect to Act No. 26.364, based on the creation of a network of institutions at different levels that interact and cooperate with each other.

Reply to paragraph 5 of the list of issues

57. In 2018, the National Migration Directorate launched an online platform for applying for a residence permit (Radex) to facilitate, simplify and expedite the granting of permits to foreign nationals.

58. This technological advance takes place in the context of an open immigration policy that has allowed more than 700,000 foreigners to obtain residence permits from 2016 to the present and that seeks to further streamline administrative processes for the granting of permits.

59. The Government subscribes to the Global Compact for Safe, Orderly and Regular Migration. Therefore, the Directorate is focused on promoting regular migration status for all foreign nationals residing in Argentine territory, so that they are integrated in society with clear rights and obligations.

60. It is well known that having an irregular immigration status or entering the country through an unauthorized crossing point can result in problems for the State and consequences for the migrants, who may, for instance, be left at the mercy of unscrupulous bosses or may be victims of trafficking networks or labour exploitation, or may have to pay excessive rents.

61. The following are 10 advantages of the new Radex system:

- The individual does not need to go to a head office, documentation centre or provincial migration office to start the procedure.
- No agent is needed, and nobody should look for one.
- The digital process automatically selects the most advantageous options to ensure that the foreign national obtains his or her residence permit, and the State guarantees data confidentiality.
- The user initiates the procedure at a time of his or her choosing, on a computer, tablet or mobile phone, using any Internet browser.
- Users can see on the screen all the information they need to proceed, and the uploading of personal data counts as a sworn statement.
- The user can scan the required documentation and even photograph it on a mobile phone.
- The user does not need to produce an Argentine criminal record certificate provided by the National Register of Repeat Offenders, as it is processed automatically in the system, thereby simplifying the process further.
- The migrant's link with the agency will initially be his or her email address.
- Documents can be uploaded for the entire family (the procedure is free of charge for children under 18 years of age).
- The residence category and grounds for the application can be selected online.

62. Once the application has been submitted via the Radex platform, and the data have been registered and the fees paid (for the application, criminal record certificate and national ID card), the user uploads all the required documentation. The operator/monitor in the migration office checks the application and, if there is any omission, doubt or error, communicates directly online with the applicant.

63. The migrant then receives a digital temporary residence permit to print and is summoned to the agency to be fingerprinted and to have the photograph taken for his or her national ID card. At this point, the migrant presents all the documentation that was scanned for the electronic submission and receives the residence permit. Finally, the national ID card is delivered to the migrant's home.

64. As the National Migration Directorate is committed to the regularization of migration status and guiding migratory flows according to the demographic distribution of

the population, Radex includes a “survey of professional skills” that allows migrants to share their employment profile, indicating their language, work experience, studies, qualifications and other details that could contribute to their integration into society.

65. The Directorate also participates in the Active Transparency Programme, which is being implemented in accordance with Act No. 27.275 on access to public information. The purpose of the Act is to ensure the effective exercise of the right of access to public information and to promote citizen participation and transparency in public administration.

Reply to paragraph 6 of the list of issues

66. The National Migration Directorate has held comprehensive workshops on migration policy since April 2017 for judicial officers from the cities of Rosario and San Carlos de Bariloche and the provinces of Jujuy, Mendoza and San Juan (including judges, defence lawyers, children’s counsel, federal court prosecutors and clerks and lawyers in general, customs officials, and staff of the National Service for Agrifood Quality and Safety, the National Gendarmerie and the Federal Police); Ushuaia; Posadas; the Association of Judges of the Autonomous City of Buenos Aires; Neuquén Province; Formosa Province; Córdoba Province; the bar associations of Lomas de Zamora; Salta Province; the Federal Prison Service; the city of La Plata; the city of Mar del Plata; the Ministry of Foreign Affairs of Argentina; the Bar Association of the Autonomous City of Buenos Aires; and the Bar Association of Quilmes. The Directorate also organized other training activities. Details of the workshops can be found in annex IV.

Reply to paragraph 7 of the list of issues

67. Decree No. 70/17 does not modify anything of substance established in Act No. 25.871 or its Regulatory Decree No. 616/10; the admission criteria and the reasons for denying entry and residence are practically the same. Neither of these laws classify irregular migration as a criminal offence, so it is not appropriate to refer to the criminalization of migrants. The Decree makes no changes to the rights of migrants as established in title I, chapter I (arts. 4–17) of Act No. 25.871, which establishes the right to migration as an essential and inalienable right.

68. Thus: the Migration Act reaffirms that migrants and nationals are to be treated equally; sets forth the rights enjoyed by migrants, ensuring their equal access to social services, public goods, health care, education, justice, labour, employment and social security; establishes their right to be informed about their rights and obligations; gives them the right to participate in, or be consulted about, decisions affecting the life and governance of the community in which they live; enshrines the right to family reunification; and guarantees their access to education and health care regardless of their migration status. The Act also expresses the determination of the State to take the necessary measures to ensure that all migrants living on Argentine soil are regularized.

Reply to paragraph 8 of the list of issues

69. Given that the standards established by the Migration Act exceed the minimum standards set out in the Migration for Employment Convention (Revised), 1949 (No. 97), and the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), of the International Labour Organization, Argentina is governed by national legislation that not only matches, but also raises the standard of protection for migrant workers set out in those Conventions.

70. The Act provides that “immigrants and their families [shall have] equal access under the same conditions with regard to protection and rights as those enjoyed by nationals, particularly with respect to ... employment and social security” (art. 6).

71. The development of labour skills is a cross-cutting issue, regardless of the foreigner’s migration status. The labour rights that arise from employment are always

protected regardless of the administrative situation of the migrant and the nature of the work (formal or informal), since, in accordance with article 40 of the Employment Contract Act (Act No. 20.744), the prohibition on hiring certain persons (migrants in an irregular situation) is always directed at the employer and does not affect the rights of the worker. Along the same lines, the Act establishes that: “The adoption by the State of all necessary and effective measures to eliminate the hiring of immigrants in an irregular situation in the national territory, including the imposition of sanctions on employers, shall not diminish the rights of immigrant workers vis-à-vis their employers arising from their employment” (art. 16); “No natural person or public or private legal entity may provide work or paid employment, with or without a contract, to foreign nationals who are not staying in the country lawfully” (art. 55); and “The application of the present act shall not exempt employers from fulfilling their obligations under labour legislation with regard to foreign nationals, regardless of their migration status; likewise, the rights acquired by foreign nationals as a result of work that has already been done, regardless of their migration status, shall in no way be affected” (art. 56).

Reply to paragraph 9 of the list of issues

72. Article 20 (e) of the Migration Act empowers the National Migration Directorate to check the legal status of foreign residents within the national territory; to that end, it coordinates inspections to verify compliance with the obligations of employment and accommodation providers with respect to the foreign population. Inspections are conducted ex officio, at the request of other bodies, by order of the judiciary or further to individual complaints, which reach the Directorate through various channels of communication and may be anonymous. The purpose of these inspections, which are conducted throughout the national territory and in all fields of economic activity, including industry, commerce and services, is, inter alia, to encourage the regularization of migration, and prevent and detect situations of exploitation or abuse of foreign nationals by employment and accommodation providers, especially of migrants in an irregular situation, who are particularly vulnerable. Statistics on inspection activities are provided in annex V.

Reply to paragraph 10 of the list of issues

73. On the specific matter of violence against women, Argentina has ratified the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, while both Act No. 26.485, on comprehensive protection as a means of preventing, punishing and eradicating violence against women within the scope of interpersonal relations, and Regulatory Decree 1011/2010 remain in force.

74. In July 2016, the President of Argentina presented the first National Action Plan for the Prevention and Eradication of Violence against Women and Assistance to Victims (2017–2019). The Plan includes 69 measures and 132 actions to be implemented over three years and involves more than 50 public bodies. The plan is being monitored within the framework of the Third National Action Plan on Open Government, which was drawn up in agreement with civil society organizations and the women’s movement.

75. The first National Plan for Equal Rights and Opportunities 2018–2020 was also adopted, after being presented by the President on 14 December 2018. This Plan, which was developed with the support of the regional office of UN-Women, sets out a road map with over 300 commitments undertaken by all national ministries. Priority actions were also identified and the corresponding guidelines for implementation were elaborated.

76. Under the National Migration Directorate, work is currently being carried out within the framework of the National Plan for Equal Rights and Opportunities 2018–2020 in coordination with the National Women’s Institute, the lead agency for public gender equality policies. The Institute is formulating the commitments to be undertaken by each body on the basis of the priorities identified jointly with civil society organizations, trade unions and members of the Federal Women’s Council.

77. Regarding access to justice, there are facilities in Argentina where women, including migrant women, can access various services; these are set out in annex VI.

Reply to paragraph 11 of the list of issues

78. Decree No. 70/2017 in no way altered the procedures or time limits for obtaining residence permits or regularizing migration status, as article 61 of the Migration Act remains in force. Those who are in the process of regularizing their migration status keep their provisional residence permit, which is renewable every 90 days.

79. The temporary residence permit (Decree No. 70/17, art. 20 bis) is a new concept not previously recognized in law; it regularizes the stay of foreign nationals who are in the process of appealing unfavourable decisions of the National Migration Directorate. The time limits for renewing the permit are the same as those for the provisional residence permit and likewise allow the individual to work and study in the national territory.

Reply to paragraph 11 (b) of the list of issues

80. The Migration Act, as amended by Decree No. 70/2017, retains all guarantees of due process and the right to a defence, respecting the human rights of migrants, in strict compliance with the rights and guarantees set forth in the Constitution and in international conventions, including the rights to receive notice of the expulsion decision, to appeal it (through both administrative or judicial channels), to be heard by a competent authority, to be represented by counsel, to be accompanied by an interpreter if the person concerned cannot understand or speak the national language, and to receive consular assistance.

81. The time limits established in Argentine migration procedures are comparable to those in the migratory regimes in various other countries within the purview of the Inter-American Court of Human Rights, in that procedures for the expulsion of foreign nationals are usually carried out expeditiously.

82. In fact, the special summary procedure for migrants has been declared constitutional in almost all individual applications from migrants, as demonstrated by the 2,000 and more decisions handed down by national judges in such cases, in contrast to the decision in the class action.

83. As a corollary to the foregoing, the provisions of Decree No. 70/2017 fulfil the 10 minimum guarantees to be respected in migration procedures. The guarantees are drawn from the 2015 report on human mobility issued by the Inter-American Commission on Human Rights (www.oas.org/es/cidh/informes/pdfs/movilidad_humana.pdf).

First guarantee

84. Right to receive prior and detailed information regarding the procedure to determine legal status and, in the event the person is arrested or detained, the right to be informed of the reasons for his or her detention and to be notified promptly of the charge or charges against him or her.

85. Articles 69 quinquies, 75, 78, and 84 of Act No. 25.871 establish the obligation to notify the person concerned of the administrative decisions issued by the National Migration Directorate, which marks the beginning of the period for submitting appeals. At the time of notification, the person concerned must be informed of the applicable appeals procedure and the grounds for the decision. The notification papers must also include information explaining that the person concerned has the right to free legal aid if he or she cannot afford to pay for it.

86. A foreign national who is to be placed in administrative detention must be officially notified of the court's detention decision, in accordance with article 70.

Second guarantee

87. Anyone arrested or detained has the right to be brought promptly before a judge or other officer authorized by the law to exercise judicial power and shall be entitled to trial within a reasonable time or to release, without prejudice to the continuation of the proceedings. Their release may be subject to guarantees to appear for trial.

88. Article 70 of Act No. 25.781 clearly establishes that administrative detention pending expulsion must be ordered by a judge. The law also establishes the procedural time limits and the possibility of being granted release on bail or on one's own recognizance.

Third guarantee

89. Right of all persons to be heard promptly, to have adequate time and resources for the preparation of their defence and to meet freely and in private with their counsel.

90. Under the changes, foreign nationals subject to the summary procedure established by the new law have the right to put forward evidence in relation to their migration status and the legal framework in question (art. 69 ter). They also have the right to access court documents and to meet in private with a counsel of their choice, whether the latter is a private lawyer or a public defender provided free of charge by the State. The counsel has three additional days to intervene in the case, during which time the procedural deadlines are suspended (Act No. 25.871, art. 86).

Fourth guarantee

91. Right to have migration proceedings brought by a competent, independent and impartial authority. Administrative migration proceedings are brought by officials of the National Migration Directorate, who are specialists in the matter. All administrative decisions adopted may be challenged through the federal justice system. This ensures the competence, independence and impartiality of the administrative and judicial officials in charge of the proceedings.

Fifth guarantee

92. Right to a translator and/or interpreter free of charge. Argentine legislation provides that a foreign national who does not understand the national language is to be provided with the services of an interpreter free of charge (new articles 86 and 115 of the Code of Civil and Commercial Procedure).

Sixth guarantee

93. Right of access to legal representation. Argentine law guarantees access to the services of the Public Defender's Office free of charge, and sets forth the obligation to refer to this right in the text of the instruments that record all notifications (art. 86). The Public Defence Service has a specialist legal service for migration matters.

Seventh guarantee

94. Right to a decision that is duly reasoned. All judicial and administrative decisions must be duly substantiated; otherwise they will be deemed null and void (Administrative Procedures Act, arts. 7 and 14, and Code of Civil and Commercial Procedure, arts. 163, 164 and 253). Both of these laws require expulsion decisions be to be duly reasoned.

Eighth guarantee

95. Right to be notified of the decision adopted during the proceedings. Foreign nationals shall be notified of all decisions and the date of such notification shall mark the beginning of the period during which the decision may be challenged. Any decision that has not been communicated to the foreign national is entirely without effect and cannot be executed until this requirement has been met (Administrative Procedures Act, art. 69 quinquies, septies and nonies, and art. 11).

Ninth guarantee

96. Right to appeal the decision before a judge or higher court with suspensive effect. Once their expulsion has been ordered by the administrative authorities, foreign nationals can lodge a hierarchical appeal for consideration by the Director of the National Migration Directorate. If the expulsion decision is upheld, the foreign national can appeal to the judicial authorities. The decision of the court of first instance can be appealed before the Federal Appeal Court. Lastly, a special federal appeal can be lodged. All appeals have suspensive effect.

97. Ultimately, the foreign national has the double assurance that the expulsion decision can be reviewed once at the administrative level and up to three times at the judicial level by specialized, independent and impartial officials.

98. The expulsion order can only be executed once the decision has been upheld or the special federal appeal has been denied (art. 69 quinquies, septies and nonies).

Tenth guarantee

99. Right to information and effective access to consular assistance. All foreign nationals have the right to information and consular assistance from their country of origin, without any impediment, in accordance with the Vienna Convention on Consular Relations, adopted by Act No. 17.081.

100. In summary, the special summary procedure for migrants fully and adequately guarantees due process for persons challenging migration measures under the guarantees mechanism established therein, which allows the judge, on the basis of full debate and evidence, to verify the legality, due process and reasonableness of the decision by a specialized body, in line with national and international standards on migration.

Reply to paragraph 11 (c) of the list of issues

101. Article 54 maintains the provisions regarding the establishment of domicile and the duty to report the domicile in Argentina, in line with the general legal principles of the Argentine legal system and international customary law.

102. The article provides for notification by the foreign national of several addresses:

- The one reported upon entering the national territory
- The one registered at the time of the migration inspections and
- The one reported during the application for a residence permit or to the National Registry of Persons

103. In all cases, the last recorded address notified is considered to be the valid one. Nevertheless, if it is not feasible to contact the foreign national, the latter is automatically considered to have been notified of the decisions of the National Migration Directorate two working days after they were issued; the decisions are available at the entrance desk of the National Directorate.

104. Notwithstanding this, in the face of possible unforeseen events, the assessment by the National Migration Directorate of the individual situation is applicable; it may suspend the measures set out under the terms of article 12 of Act No. 19.549 and may request regularization under the terms of article 61 of Act No. 25.871.

105. The National Migration Directorate does not have a record of the number of applications for free legal aid, as the official notification expressly informs foreign nationals of their right to apply to the Public Defence Service for such aid. To this end, each notification contains the contact details of the Public Defence Service in each jurisdiction.

106. With respect to the procedure for accessing free legal aid, please refer to the reply to paragraph 11 (e) of the list of issues.

Reply to paragraph 11 (d) of the list of issues

107. With respect to the issue raised, it should be emphasized that the task of determining the criteria for exemption on grounds of family reunification has always been the sole preserve of the National Migration Directorate, and cannot be taken on by a judge, in keeping with the principle of division of powers established in Argentina. Thus, the removal of an impediment to the entry or stay of a foreign national in the country is an administrative function of the executive branch and not a jurisdictional or legislative function.

108. Nevertheless, all decisions of the National Migration Directorate are subject to a judicial review of their legality, reasonableness and adherence to due process (under article 89 of Act No. 25.871), a point made forcefully by Decree No. 70/2017, through the addition of article 89 bis of the Migration Act.

109. The amendments introduced by Decree No. 70/2017 do not alter the principle of family unity established in article 10 of Act No. 25.871. The discretionary power of the State to prevent expulsions in the interests of family reunification was already covered by the previous legislation, while such measures are subject to a judicial review of their legality, reasonableness and adherence to due process.

Reply to paragraph 11 (e) of the list of issues

110. Information on steps taken to safeguard the right of defence and the right to due process for persons subject to deportation proceedings has been provided in relation to paragraph 11 (b) of the list of issues.

111. The existing article 86 of the Migration Act establishes a series of obligations of the State, which are strictly observed.

Obligation to provide information

112. The migration authority has a duty to inform foreigners in the national territory about their right to free legal assistance in proceedings that may lead to expulsion or denial of residence, if they cannot afford to pay for it themselves. The same applies to the corresponding administrative decisions.

113. Thus, an addition to article 86 introduced by Decree No. 70/2017 sets out, as a necessary guarantee, the obligation to provide information: “At the time of notifying the foreign national of any decision of the National Migration Directorate that might affect any of the rights enshrined in the present Act, this article shall be transcribed in the text of the notification.” This obligation was not explicitly set out in the regulations prior to the reform.

Obligation to provide defence counsel

114. If the migrant indicates that he or she lacks resources, the migration authorities must notify the public defender on duty, so that the latter can act as defence counsel.

115. Furthermore, in order to ensure due process for foreign nationals, the National Migration Directorate issued Regulation DI-2017-6044-APN-DNM#MI, which establishes that in any administrative procedure that could lead to denial of legal residency or expulsion from the national territory of foreign nationals present in the national territory, the respective notification documents must include:

- The precise wording of the current article 86 and
- The contact details of the Public Defence Service

116. The text of the following sentence, taken from the judgement referred to in the reasoning, must also be included: “The persons concerned shall be advised that they have the right to free legal assistance if they cannot afford to pay for it themselves in administrative and judicial proceedings that may lead to denial of legal residence or expulsion from Argentine territory, as well as to the assistance of an interpreter if they do

not understand or speak the national language. If the migrant clearly lacks financial resources or needs a public defender, the Public Defence Service shall intervene immediately.”

Reply to paragraph 11 (f) of the list of issues

117. The National Migration Directorate does not have the power to take individuals into custody; it may only place a person in administrative detention in application of a court-ordered decision to that effect in the circumstances described below.

118. The Migration Act provides for two situations in which the National Migration Directorate can execute administrative expulsion orders: for the purposes of deportation, under article 64, and for manifest violations of migration law, as set forth in articles 29, 61 and 62.

119. The first situation applies to foreign nationals who are serving sentences in cases dealt with in the criminal justice system. In this situation, the foreign national is detained for the purposes of serving a sentence in connection with a criminal trial unrelated to migration matters. The competent judge of the relevant jurisdiction is responsible for authorizing the execution of the expulsion measure once the administrative authorities have confirmed the decision to withdraw the foreign national’s right to remain in the country.

120. The second situation is the only circumstance in which the National Migration Directorate has the power to place an individual in administrative detention. The Directorate first orders the expulsion and then requests authorization from the federal courts to detain the foreign national for the sole purpose of carrying out the expulsion order. The judge reviews the legality of the administrative procedure and issues a ruling ordering that the foreign national be placed in administrative detention for the purposes of expulsion. The time limits for carrying out an expulsion are set out in the Migration Act. With regard to the grounds for requesting an administrative detention order, it should be noted that in such cases the deprivation of liberty is a temporary precautionary measure provided for in article 70 of the Migration Act for the purpose of carrying out an expulsion. In these cases, foreign nationals are held separately from the prison population and remain in contact with their families, lawyers and consular representatives. It is not, therefore, a sanction imposed as a result of a violation of migration law; rather, it is requested for the sole purpose of carrying out an expulsion. The National Migration Directorate does not detain foreign nationals unless the expulsion order is final (so not at the appeal stage), thereby avoiding situations where foreign nationals are deprived of their liberty while they await the outcome of appeals procedures.

121. Unlike administrative detention, the arrest or detention of a person is a consequence of criminal proceedings launched in response to the suspected or actual commission of a crime.

122. Without prejudice to the foregoing, the administrative detention of foreign nationals for violations of the Migration Act and with the sole purpose of executing an expulsion order is at all times and in all circumstances subject to effective judicial oversight, as established in article 25 of the American Convention on Human Rights. Foreign nationals placed in administrative detention must be brought before the officiating judge. The judge is informed of the grounds on which the person has been detained and ensures that he or she is held in conditions that comply with quality standards.

123. The procedures for placing foreign nationals in administrative detention are carried out by the competent security authority, namely the Auxiliary Immigration Police. As previously stated, the migration authorities have no powers of detention.

124. Migrants have the same rights as Argentine nationals to be informed about their rights, the proceedings against them and the grounds for those proceedings. Foreign nationals are placed in administrative detention only in cases where the expulsion decision is final and where the individual concerned has previously had the opportunity to exercise his or her right to a defence and to challenge the expulsion decision.

125. Foreign nationals who commit a crime are detained in federal or provincial prisons as appropriate, under the same conditions as Argentine nationals.

126. The facilities where foreign nationals are held in administrative detention are State-run. There are no “migrant detention centres” currently in operation. Foreign nationals are held at the premises of the Auxiliary Immigration Police in accordance with article 72 of the Migration Act. As previously indicated, when migrants are detained for the sole purpose of expulsion, they are housed separately from the prison population and provided with the necessary amenities.

127. The National Migration Directorate has taken the necessary steps to ensure that foreign nationals subject to an administrative detention order are housed in a dedicated space that meets the highest international standards. On 19 August 2016, a cooperation agreement was signed with one city’s Ministry of Justice and Security to transfer a building to the National Migration Directorate for the sole purpose of housing foreign nationals who have contravened Act No. 25.871. However, the facility is not yet in operation. All foreign nationals in Argentina have the right to have unimpeded access to information and consular assistance from their country of origin, in accordance with the Vienna Convention on Consular Relations, which was adopted by Act No. 17.081.

128. Articles 69 quinquies, 75, 78 and 84 of Act No. 25.871 establish the obligation to notify the person concerned of the administrative decisions issued by the National Migration Directorate. At the time of notification, the person concerned must be informed of the applicable appeals procedure and the grounds for the decision. The notification papers must also include information explaining that the person has the right to free legal aid if he or she cannot afford to pay for it.

129. If the foreign national is to be placed in administrative detention, he or she must be provided with official written notification of the relevant judicial decision. National legislation guarantees free access to the public defence system.

130. In essence, all procedures, categories and requirements relating to migration matters are set out in the applicable regulations, leaving no room for arbitrary interpretation by migration officials.

131. All administrative and judicial decisions must be duly substantiated; otherwise they will be deemed null and void (Administrative Procedures Act, arts. 7, 8 and 14, and Code of Civil and Commercial Procedure, arts. 163, 164 and 253). Both of these laws require expulsion decisions to be duly substantiated.

132. Arrests of foreign nationals are unrelated to migration status; irregular migration status is an administrative offence, not a criminal offence for which a person can be arrested.

133. Once their expulsion has been ordered by the administrative authorities, foreign nationals can lodge a hierarchical appeal for consideration by the Director of the National Migration Directorate. If the expulsion decision is upheld, they can appeal to the judicial authorities. The decision of the court of first instance can be appealed before the Federal Appeal Court. Lastly, a special federal appeal can be lodged. All appeals have suspensive effect.

134. As already stated, foreign nationals enjoy double protection, from both the administrative and the judicial authorities. Expulsion may only be carried out once the related administrative decision is final. Foreign nationals are taken into custody only once all of these procedural stages have been completed.

Reply to paragraph 11 (g) of the list of issues

135. Decree No. 70/2017 does not provide for any form of profiling that discriminates on the basis of race, ethnicity, nationality, sex or any other ground. It preserves the objective nature of the previous migration legislation with regard to migration-related public order. In conducting expulsion procedures, the National Migration Directorate does not discriminate on the basis of nationality, skin colour, race, sex, language, religion, political opinion,

social origin or any other status. Collective expulsions are expressly prohibited under national law (Migration Act, art. 66).

136. The Directorate considers that discriminatory measures against migrants should be addressed by regularizing their status, as evidenced by the high number of residence permits issued and arrangements put in place for certain groups of migrants, such as: the Syria Programme; the regularization of the status of Haitian nationals on humanitarian grounds; the relaxing of immigration procedures for Venezuelan nationals; and the implementation of the online regularization system known as Radex (see reply to paragraph 1 of the list of issues).

137. In addition, a number of activities are being carried out to raise public awareness and to ensure that the economic, social and cultural rights of migrants are respected. These activities include the development of protocols, guidelines and programmes such as those described in the reply to paragraph 2 of the list of issues.

138. Training sessions and workshops with a human rights perspective are held regularly with the primary purpose of upholding the right to information, thereby ensuring the enjoyment of human rights as a whole.

139. The procedures for regularizing migration status do not in any way hamper equal access for migrants and their families to the protection and rights enjoyed by nationals, in particular with regard to social services, public goods, health, education, justice, employment and social security (Act No. 25.871, arts. 4, 5, 6, 7 and 8, within the framework of the Constitution and international conventions).

140. With regard to the treatment of foreign children and adolescents, Argentina is known for its support programme for them, under a child protection system that has been approved by the Inter-American Court of Human Rights and is considered a model by the United Nations.

Reply to paragraph 12 of the list of issues

141. Since Decree No. 70/2017 entered into force, the National Migration Directorate has issued humanitarian visas under the special humanitarian visa programme introduced at the end of 2014 for foreign nationals affected by the conflict in the Syrian Arab Republic, and known as the “Syria Programme”. The aim of the programme is to enable persons affected by the conflict to obtain travel and residence visas for Argentina. Under the programme, 226 visas were granted in 2017 and 50 in 2018, while in 2019 one visa had been granted as of April. None of the visa recipients were unaccompanied minors.

142. During the same period, an additional 215 residence permits were issued on humanitarian grounds, as provided for in article 23 (m) of the Migration Act.

143. The migration legislation in Argentina contains flexible and favourable provisions, including documentation waivers, with regard to the regularization of the status of Venezuelan nationals, given the situation in their country of origin. Venezuelan nationals are no longer granted residence permits on humanitarian grounds but rather on the basis of their status as nationals of a member State of the Southern Common Market (MERCOSUR), even though Venezuela has not signed the Agreement on Residency for Nationals of MERCOSUR Member States and Associate Countries and is currently suspended from MERCOSUR. Under this arrangement, more than 130,000 residence permits were granted to Venezuelan nationals between 2017 and February 2019.

144. A large number of applications that could be dealt with on humanitarian grounds are processed under the simpler and more flexible provisions applicable to nationals of MERCOSUR member States.

145. With respect to unaccompanied children, under the terms of articles 23–26 and 100–103 of the Code of Civil and Commercial Procedure, persons aged under 18 years are considered incompetent to exercise their rights, and must do so through their legal representatives.

146. Under article 100 (b), the legal representatives of unemancipated minors are their parents. In a non-judicial setting, however, the Public Legal Service will act on the minor's behalf if the minor's legal representatives are absent or take no or insufficient action in situations where the social, economic and cultural rights of the minor are at risk (art. 103).

147. All minors must therefore be provided with the necessary support and must in all cases have a legal representative. If an unaccompanied minor is identified, referrals are made to the relevant bodies for immediate action to ensure that the minor is assigned a legal representative.

148. In cases where minors being represented by the Public Legal Service are nationals of a MERCOSUR member State, they are granted a two-year residence permit on the basis of their nationality, rendering it unnecessary to invoke humanitarian grounds. As a result, it is not possible to provide the statistics requested. It would be more helpful to ask the Public Service for the Protection of Children and Vulnerable Adults how many procedures it has completed in coordination with the Residence Permit Office. This procedure is a commonplace one.

149. Pursuant to Decree No. 231/2009, minors represented by the Public Legal Service are exempted from paying fees.

Reply to paragraph 13 of the list of issues

150. The Disciplinary Proceedings Department, which is responsible for receiving and processing complaints made against officers of the National Migration Directorate acting in their official capacity, has not recorded any cases of the type described in the list of issues.

Reply to paragraph 14 of the list of issues

151. The Convention on the Rights of the Child has constitutional rank. Act No. 26.061 on the comprehensive protection of the rights of children and adolescents entered into force in September 2005. The Act established a system for the protection of the rights of all minors in the country and defined the responsibilities of families, society and the State in relation to children's rights.

152. The Act commits the State to guaranteeing full access to programmes for all children and adolescents, and priority access to free support until they reach the age of majority.

153. In situations where human rights are violated or threatened, the law provides for the application of comprehensive protection measures or specific public policies aimed at restoring the violated rights and repairing the consequences. These measures must be drawn up by the relevant administrative body, with priority being given to measures aimed at preserving and strengthening family ties.

154. One of the objectives of the National Secretariat for Children, Adolescents and the Family is to devise and implement actions to ensure that children and adolescents whose rights are threatened or violated have access to the recognition and enjoyment of their rights, with priority being given to strengthening family and community ties.

Reply to paragraph 15 of the list of issues

155. Administrative detention is the last resort in the procedure for regularizing migration status. The Directorate first orders the expulsion and then requests authorization from the Federal Administrative Court to detain a foreign national for the sole purpose of carrying out the expulsion order. Article 70 of Act 25.781 clearly establishes that administrative detention pending expulsion must be ordered by a judge.

156. As has already been explained, foreign nationals are placed in administrative detention only in cases where the expulsion decision is final and where the individual concerned has previously had the opportunity to exercise his or her right to a defence and to challenge the expulsion decision. Once the administrative body has authorized the

expulsion order and administrative remedies have been exhausted, the foreign national can appeal to the judicial authorities. The decision of the court of first instance can be appealed before the Federal Appeal Court. Lastly, a special federal appeal can be lodged. All appeals have suspensive effect.

157. The expulsion order can only be executed once the decision has been upheld or the special federal appeal has been denied. Only when all these procedures have been exhausted can administrative detention be considered.

Reply to paragraph 16 (a) of the list of issues

158. Please refer to the reply to paragraph 11 (f) of the list of issues.

159. The National Migration Directorate does not seek to detain children, nor does it have any record of ever having detained a minor. National policy dictates that minors should not be detained, and the Directorate therefore has no instructions to do so.

Reply to paragraph 16 (b) of the list of issues

160. Please refer to the reply to paragraph 11 (f) of the list of issues.

161. With regard to guarantees of the right to an effective judicial remedy, the procedure provides that once their expulsion has been ordered by the administrative authorities, foreign nationals can lodge a hierarchical appeal for consideration by the Director of the National Migration Directorate. If the expulsion decision is upheld, the foreign national can appeal to the judicial authorities and contest its decisions by filing a special federal appeal.

162. The expulsion order can only be executed once the administrative decision has been upheld and all of the procedural stages have been completed.

Reply to paragraph 16 (c) of the list of issues

163. The Migration Act contains specific provisions relating to the situation of vulnerable groups, including with respect to granting residence permits on the basis of humanitarian grounds or family reunification and waiving expulsion orders issued for violations of the Act.

164. The right to family life and the right of children not to be separated from their parents are expressly guaranteed in articles 29 and 62, in accordance with Decree No. 70/2017.

165. The National Migration Directorate currently has an office for inter-agency coordination and the protection of human rights, as well as one for social services. Together, they form an interdisciplinary team that can respond immediately to any potential rights violations. In addition, a number of activities are being carried out to raise public awareness and to ensure that the economic, social and cultural rights of migrants are respected. These activities include the development of protocols, guidelines and programmes such as the general protocol on discrimination, xenophobia, racism and gender violence referred to in the reply to paragraph 2 of the list of issues.

166. Special consideration is given to asylum seekers and refugees in accordance with Act No. 26.165, on the recognition and protection of refugees, which incorporates all the principles of international human rights law applicable in Argentina, including those contained in the 1951 Convention relating to the Status of Refugees and its 1967 Protocol.

Reply to paragraph 16 (d) of the list of issues

167. As has already been explained, the National Migration Directorate does not take anyone into custody; this is done at the request of the judiciary in connection with the commission of an offence. As noted earlier, when the National Migration Directorate

makes an application to the judiciary to place a person in administrative detention, this step is the final stage of the process prior to expulsion.

Reply to paragraph 16 (e) of the list of issues

168. Lawyers, consular staff, human rights defenders and representatives of the Office of the Ombudsman for the Prison System have access to places of detention in order to provide assistance and ensure that rights are guaranteed.

Reply to paragraph 17 of the list of issues

169. Between 1 January 2017, when Decree No. 70/2017 entered into force, and 20 May 2019, two and a half years later, the Department of Administrative Cases recorded 3,457 appeals in expulsion proceedings under article 69 septies of the Decree.

170. More than 700,000 residence permits have been issued since 2016 and only 1,650 expulsions ordered. The National Migration Directorate applies a social inclusion model in which mobility is considered a human right of crucial importance. To this end, awareness-raising and outreach strategies are designed to establish the principles of cordiality and respect and to ensure that all relevant officials, agencies, bodies and institutions provide adequate information and support in a dignified, timely and respectful fashion.

Reply to paragraph 18 of the list of issues

171. As already explained, the National Migration Directorate has an office for inter-institutional coordination and the protection of human rights and one for social services.

172. In assessing claims for exemption made by victims of violence, the officials responsible for deciding whether an exemption should be granted do not need evidence that a family relationship exists. The absence of such evidence in no way affects the claim of a person who has been a victim of violence. Provision is also made for possible exemptions on humanitarian grounds.

Reply to paragraph 19 of the list of issues

173. The protection of Argentine nationals is one of the primary missions of the Foreign Service. Consular officials must perform their duties subject to the general principle of providing aid and assistance to their compatriots and Argentine legal entities. Consular officials are the official and legitimate representatives of Argentine nationals and their interests abroad and are responsible for ensuring that they enjoy the rights accorded them by treaties, international custom and local laws.

174. Since 1997, under the internal regulations of the Ministry of Foreign Affairs, instructions have been provided to consuls general, consuls and chiefs of consular sections regarding the protection of Argentine citizens abroad, to remind them about the guidelines and rules that must be followed by Foreign Service officials in the proper performance of their duties in this respect.

175. The instructions cover the essential principles entrusted to consuls posted outside Argentina, namely the right to life, the right to physical integrity and the right to a legal defence. In the exercise of their professional duties, Foreign Service officials must therefore act with the utmost zeal and diligence to ensure that those rights are fully upheld.

176. Foreign Service officials must pay special attention to the requirements and needs of Argentine nationals by:

- Meeting with them personally whenever required
- Protecting their interests and property within the limits permitted by international law and as required by consular regulations

- Providing them with help and assistance, including by visiting them in detention facilities to assess their situation and, where necessary, ensuring that they are treated appropriately
- Assisting them in proceedings before administrative or judicial authorities and providing diplomatic or consular representation to the extent possible, while complying with local laws, in situations where they are unable to defend their own rights and interests

177. Ultimately, the protection afforded by consular officials falls within the competence of the diplomatic corps. Therefore, in cases where consular activities to assist Argentine nationals are limited in any way, the respective diplomatic missions should be contacted; this is naturally without prejudice to ensuring that missions are kept informed of any cases involving Argentine nationals.

178. With respect to potential violations of the human rights of Argentine nationals abroad, which possibly occur systematically in particular countries, two sets of norms apply:

- The human rights standards that enable individuals to appeal directly to international monitoring bodies once all domestic remedies have been exhausted
- The norms of classic international law, which permit the State of nationality to appeal to the political authorities of the other State

179. In these cases, the regulatory foundation that applies is provided by the human rights treaties in force in Argentina – the majority of which have constitutional rank – which protect the rights to life, liberty, integrity, security, access to justice, due process and non-discrimination.

180. In order to enhance the prevention activities usually carried out by consular offices, the following recommendations are made:

(a) All Argentine nationals abroad should enjoy the rights protected by the International Covenant on Civil and Political Rights, or, in the case of a State which is not a party to that treaty, the rights protected by the Universal Declaration of Human Rights and/or the American Declaration on the Rights and Duties of Man;

(b) The national legislation of the receiving State should be referred to when determining:

- (i) Which officials are authorized to order arrests and deprivation of liberty and the conditions under which such orders may be issued;
- (ii) The period within which persons deprived of their liberty must be brought before a judicial authority;
- (iii) The maximum period during which detainees can be held incommunicado;
- (iv) Whether detainees, or their lawyers, have the right to institute proceedings at any time before the judicial or other authorities to challenge the lawfulness of their detention; and
- (v) Whether detainees have the right to notify their family or their lawyer of their arrest, imprisonment or transfer.

181. In relation to detention, and under the provisions of article 36 of the 1963 Vienna Convention on Consular Relations, consular officials must first ensure that:

(a) The receiving State complies with its obligations under the Vienna Convention as regards the detention of Argentine nationals;

(b) Detainees are notified of the charges against them and of the option to retain a lawyer or to have one assigned to them ex officio; and

(c) The right of detainees to communicate with consular officials is upheld following their arrest.

182. When Argentine nationals are arrested or placed in pretrial detention, consular officials must:

- (a) Check the physical condition of the detainees, if necessary by arranging a visit by a doctor provided by the consular office;
- (b) Verify the availability of judicial remedies if detention conditions deteriorate;
- (c) Verify compliance with the standards requiring the separation of accused and convicted persons and of juveniles and adults, and the application of the 1955 United Nations Standard Minimum Rules for the Treatment of Prisoners;
- (d) Ensure that the consular office is kept informed of any transfers or changes in detention conditions;
- (e) Assert the right of consular officials to meet privately with detained nationals;
- (f) Verify the duration of pretrial detention and request justification for its prolonged use or extension, as appropriate;
- (g) Make arrangements to request the release of the detainee if appropriate, in accordance with article 110 of the consular regulations;
- (h) Provide detainees with any health-care products they require and ensure that they are held in suitable and hygienic conditions.

183. During legal proceedings, they must:

- (a) Ensure the effective exercise of the right to free and private consultations with a lawyer so that the accused has a defence at all stages of the preliminary investigation, the trial and appeal, and any post-sentencing proceedings;
- (b) Ensure that an interpreter is available at each and every stage of the proceedings in order to guarantee the right of the accused to be kept informed about his or her case;
- (c) Ensure that the defendant has the means to obtain the attendance of witnesses or experts.

184. In practice, whenever a consular office receives notification, whether from the authorities of the receiving State or from the person involved or their family members through the Directorate-General of Consular Affairs, that an Argentine national has been detained, consular officials make periodic visits to the facility where the person is being held. Visit reports are drafted and sent to the Directorate-General, which maintains and updates a database. In this way, information is continually updated, which helps ensure the application of due process.

185. With regard to legal assistance, consular officials are not authorized to become parties to judicial proceedings. They are, however, responsible for ensuring that detained persons have access to a lawyer, whether this is one of their own choosing or one provided ex officio by the receiving State.

186. If detainees choose to engage their own lawyer, they may be provided with a list of local contacts, on the understanding that it does not constitute endorsement of any of the lawyers listed.

Reply to paragraph 20 of the list of issues

187. The Ministry of Labour has taken steps to strengthen trade unions in this sector, including through the organization of workshops to analyse the sector and develop strategies and proposals to improve working conditions and identify areas to be addressed by the National Commission on Work in Private Homes.

188. This work was carried out with technical and financial support from the International Labour Organization and the participation of representatives of the following provincial trade union organizations that are members of the Commission:

- Domestic Workers' Union of Río Negro
- Domestic Workers' Union of Entre Ríos

- Association of Domestic Auxiliary Workers/Welfare Service for Domestic Auxiliary Workers, Santa Fe
- Domestic Workers' Union of Córdoba
- Auxiliary Domestic Workers' Union, Autonomous City of Buenos Aires and the remaining provinces
- Domestic Workers' Union of the Autonomous City of Buenos Aires

189. A screening of Alfonso Cuarón's film *Roma* was also organized with the aim of creating an opportunity for reflection and debate on specific issues relating to paid domestic work, 99 per cent of which is done by women and which is an important element of the employment market in Argentina. Paid domestic workers account for 16 per cent of women who are not financially independent. Regulatory advances have been made by government bodies that handle issues relating to the sector, such as the Domestic Workers' Tribunal. A proposal has been drafted for a communication campaign to increase visibility of the rights of female domestic workers, with a particular focus on workplace violence and abuse.

Reply to paragraph 21 of the list of issues

190. Argentina has a free public health system. All residents therefore have equal access to quality health care, which covers the prevention, diagnosis and treatment of diseases and the provision of guidance on sexual and reproductive health, without distinction as to race or nationality. Refugees and migrants can and should be provided with health care free of charge at their local public hospital.

191. The Ministry of Health implements policies designed to ensure that all migrants have full access to preventive measures and to quality health care when they need it, without discrimination. The aim of the policies is to provide health-care services to migrants and refugees irrespective of their legal status, as part of the universal health coverage model.

192. Argentina does not currently have a specific health plan for migrants. It does, however, support the World Health Organization draft global action plan for 2019–2023 on promoting the health of refugees and migrants.

193. It has also endorsed Agreement No. 01/18 of MERCOSUR health ministers on migration in the region. The Agreement, which was concluded on 15 June 2018, ensures that the rights of migrants are protected.

194. Under the provisions of Act No. 25.871, no distinction is made on the basis of migration status; all persons, whether they are foreign or Argentine nationals, have access to health care on an equal footing.

195. With regard to the situation in Jujuy Province, work is under way on a draft cooperation agreement on health matters between Argentina and the Plurinational State of Bolivia. A technical commission made up of representatives of the Governments of both countries is being created with the aim of shaping a final agreement that will cover the following main issues:

- Cooperation on epidemiological surveillance systems, integrated health initiatives in border areas and medical assistance in public health facilities.
- Medical assistance for citizens present in the territory of the other Party but not residing there. The Parties will undertake negotiations at the national level, and at the provincial and subnational levels where appropriate, with the aim of agreeing on mechanisms for mutual assistance in the health care provided to the nationals of one Party in the territory of the other Party.
- Reciprocity for urgent and emergency medical assistance in public health facilities. The Parties will undertake negotiations at the national and/or subnational level, within the scope of their respective competencies, with the aim of guaranteeing free

and timely urgent and emergency treatment for nationals of one Party who are present in the territory of the other Party, irrespective of their migration status.

Reply to paragraph 22 of the list of issues

196. All migrants have the right to education, irrespective of their migration status. The National Education Act (Act No. 26.206) guarantees equal access to education for all migrants at all levels of the education system.

197. *International agreements:* Argentina, through the Ministry of Education, Culture, Science and Technology, has signed international agreements on the recognition of studies completed in other States. These agreements are usually bilateral and do not discriminate on the basis of the nationality of the applicant but depend on the location of the institution. They thus constitute a useful tool to enable students from migrant families to enter the education system in Argentina.

198. The Ministry, together with the Diploma and Studies Recognition Office, periodically publishes updates to the equivalence and comparability tables to reflect any new agreements signed or new national regulations adopted.

199. The tables are an indispensable tool for ensuring that students who have studied abroad, whether they are foreign nationals or citizens of Argentina, can enter the education system at the appropriate level. The tables reflect the agreements Argentina has signed with other States to recognize studies completed in other countries, and provide up-to-date information on the education systems of the countries featured. They also provide information on how students who have received degrees from institutions in countries with which Argentina does not have agreements can enter the education system.

200. The mechanism for the recognition of studies enables students to continue their studies or work in a particular profession in Argentina in cases where certified evidence or recognition of a certain level of educational attainment is required.

201. *Ministerial decisions:* Decisions of the Ministry of Education, Culture, Science and Technology are contained in annex VII.

202. *Distance Education Service:* This provides primary and secondary education to students who are temporarily residing abroad, giving them the opportunity to continue using the national language and maintain a feeling of belonging to their country of origin, and facilitating their return to the education system in Argentina.

203. At the end of the school year, the Service issues a certificate of completion for the relevant year or period. The certificates have the same value as those issued by the educational institutions in the different parts of the country. Upon their return to Argentina, students can therefore continue in the same grade, or move up to the next grade if they have just completed a grade.

204. The Distance Education Service is part of the Ministry of Education, Culture, Science and Technology but has been run jointly with the Ministry of Foreign Affairs since 1976. It is relevant to the present report because it is an effective way to enable school-age children belonging to migrant families from Argentina to enter the education system when they return to the country. It gives them the opportunity both to rejoin the national education system, taking account of the curriculum they have studied and the examinations they have taken, and to acquire a broad knowledge of Argentine society and culture and the Spanish language.

205. The Ministry has submitted a copy of the 2015 equivalence and comparability table that serves as a guide to enable its technical staff to integrate foreign students at the correct level of the Argentine educational system. The table is contained in annex VIII.

Reply to paragraph 23 of the list of issues

206. Act No. 26.844 on the special employment contract regime for persons employed in private homes,¹ adopted in 2013, expanded the rights of female domestic workers by formalizing their employment status and including them in social security and pension schemes, thereby bringing their economic and social rights into line with those of other workers.

207. Further progress was made in 2015 when it was made compulsory for employers to take out occupational risk insurance for domestic staff.² Pursuant to Decision No. 3/2015, 3 April was made a paid holiday for persons working in private homes; they receive double their daily wage if they work on that day.

208. In March 2014, Argentina ratified the International Labour Organization (ILO) Domestic Workers Convention, 2011 (No. 189), making Argentina the thirteenth ILO member State and the seventh country in Latin America to ratify this convention, which is aimed at improving the living and working conditions of tens of millions of domestic workers around the world.

209. In September 2015, the first parity agreement ever established for this sector was signed, giving rise to a collective bargaining agreement that applies to non-therapeutic and home-based carers. Domestic workers also received an indirect salary increase in the form of a significant reduction in public transport fares for persons using the SUBE card in the city and province of Buenos Aires.

210. A national commission oversees domestic work and seven trade unions around the country represent persons working in the sector. Argentina has the leading training school for domestic workers in the Americas. This school is managed by the Union of Domestic Workers and teaches domestic work, care for adults, childcare and information technology and enables students to complete their primary and secondary education.³

Reply to paragraph 24 of the list of issues

211. The Government has established a number of social income-transfer policies for different sectors of the population, including policies linked to the social security system (contributory and non-contributory) and those relating to programmes for social assistance, training and the promotion and protection of employment.

212. The broad outlines of each of these policies are set out below, along with details of which policies establish specific eligibility requirements for migrants and how such requirements are defined. The emphasis is on the programmes targeted at the largest number of people and those that have the biggest budgets.

213. Figure 1 summarizes the different legal residence requirements that must be met for each programme. As can be seen, access to the benefits of most of the programmes is available only to persons who have lived in Argentina for a minimum number of years. The main criterion is not the type of residency but the number of years of residence required for access to each programme.

214. The types of restriction that apply vary in accordance with the nature of the social benefit concerned and the period in history when the programme was developed. For example, non-contributory pensions, which have the most restrictive requirements, date from the mid-twentieth century and are currently regulated by legislation adopted in the early 1990s (Act No. 24.018 of 1991), while the universal pregnancy allowance and the Support for Argentine Students Programme were created in 2011 and 2014, respectively.

¹ <http://servicios.infoleg.gob.ar/infolegInternet/verNorma.do?id=255193>.

² See <http://www.trabajo.gob.ar/domestico/>.

³ Some 400,000 domestic workers are registered out of a total number of around 1.15 million, giving a registration rate of around 35 per cent. A total of 80 per cent of domestic workers are women. Data issued by ILO show that these registration percentages are higher than the world average of 10 per cent.

As can be seen, the rights of migrants and non-migrants to access these programmes are tending to converge. (See annex IX, figure 1, Main income-transfer programmes in accordance with legal residency requirements for migrants.)

Social security system

215. The social security system has a contributory pillar and a non-contributory pillar, which has been developed over the last few years. The former includes the Argentine Integrated Pension System (SIPA), which provides public sector and pay-as-you-go retirement and other pensions, as well as inclusion schemes linked to the “moratoriums” for missed pension contributions. The contributory system includes a subset of family allowances for registered workers that provides child benefits for children with and without disabilities, as well as allowances for schooling, adoption and maternity.

216. The non-contributory social security system provides benefits irrespective of whether prior contributions have been made. The main programmes within this group are the universal child allowance (for children with or without a disability) and the universal pregnancy allowance, which provide unregistered and unemployed workers’ families with the same benefits available to workers in formal employment.

217. Under current regulations, SIPA pensions and survivor’s pensions have no special eligibility requirements for migrants, who must meet the same requirements as non-migrants, i.e., they must have made 30 years of contributions through registered employment and must therefore have been residing in Argentina for at least that period.

218. Persons who obtain access to a pension on the basis of a moratorium are required to meet a further condition: they must hold an Argentine identity card and at least 30 years must have passed since the start of the retirement plan. The latter may correspond to: (a) the date on which the person concerned entered the country, if this occurred after he or she reached 18 years of age; or (b) the person’s eighteenth birthday, if he or she was living in the country at the time, with the later date being taken as the start date. This legal residence requirement, which is in addition to the SIPA requirements, is necessary because it cannot be assumed that persons benefiting from moratoriums have spent at least 30 years in Argentina as they have not made all their contributions to the system. (See annex IX, table 2, Conditions for access to retirement and other pensions.)

219. The restrictions on obtaining access to the contributory and non-contributory subset of family allowances are dependent on the benefit concerned. There are no additional requirements for contributory family allowances; beneficiaries are only required to be in formal employment to make their contributions.

220. This is not the case for non-contributory allowances (universal child allowance and universal pregnancy allowance). For the former, the law stipulates that the child or adolescent must be an Argentine national or the child of an Argentine national (whether by birth, choice, naturalization or length of residence) and must have been legally resident in the country for at least three years prior to the application. This requirement also applies to beneficiaries who have reached the age of majority.⁴ Beneficiaries of universal pregnancy allowance must be Argentine nationals (whether by birth, choice, naturalization or length of residence) or have been legally resident in the country for no less than three years prior to the application for the allowance. Beneficiaries of allowances under the non-contributory scheme are therefore required to have been legally resident in Argentina for at least three years. (See annex IX, table 3, Conditions for access to the family allowance system.)

Social assistance programmes

221. The various non-contributory benefits managed by the Ministry of Social Development are notable for the number of people who receive them and the amount of public funds allocated to them. The three main benefits of this kind are the old-age pension (for persons over 70 years of age), the disability benefit (no age limit) and the benefit for

⁴ This requirement means that if, for example, a child has more than three years of legal residency but, for some reason, his or her parents do not, they would not be entitled to the allowance.

mothers of seven or more children. Migrants' access to each of these benefits is subject to different restrictions. (See annex IX, table 4, Conditions for access to the main non-contributory benefits.)

Employment training, promotion and protection programmes

222. The Government implements a range of policies that address different problems in the labour market. In terms of their scope and impact on the budget, the most significant are the Social Income with Employment: "Argentina Is Working" programme, the Argentine Student Support Programme and the Production Recovery Programme.

223. Restrictions apply to migrants' access to two of these programmes. The restrictions on the "Argentina Is Working" programme are not particularly stringent; beneficiaries are required only to be Argentine nationals (by birth, choice or naturalization) or to have a permanent or temporary right to reside in the country. Beneficiaries of the Argentine Student Support Programme are required to be Argentine nationals by birth or naturalization or to have been legally resident in the country for at least five years prior to the application. There are no restrictions on access to the Production Recovery Programme because it is an employment support programme for companies that have financial problems. (See annex IX, table 5, Conditions of access to employment training, promotion and protection programmes.)

Migrants participating in major social programmes

224. Before an estimate of the national public social expenditure can be made, it is necessary to consider the proportion of participants in the different social programmes who are migrants. To this end, some of the most relevant programmes have been selected for analysis in the light of data produced by the National Taxation and Social Identification System.

225. Figure 6 shows the selected programmes, ranked from highest to lowest proportion of migrant participants. It can be seen that programmes for older persons have the highest relative proportion of migrant participants: 6.9 per cent of pensioners are migrants.

226. At the other extreme are programmes for children, adolescents and young persons. Migrants account for 3.2 per cent of the beneficiaries of the "More and Better Jobs for Young Persons" programme and only 1.1 per cent of the beneficiaries of the Argentine Student Support Programme. (See annex IX, figure 6, Proportion of migrants among total beneficiaries – selected programmes.)

227. Where children and adolescents are concerned, only 1.3 per cent of recipients of the universal child allowance are migrants. The proportion of migrants receiving family allowances, which are a contributory benefit, is 4.9 per cent. Unlike for the universal child allowance, it is not the child or adolescent who is considered to be the beneficiary of the family allowance, but the adult who receives it. For this reason, it is likely that many of the migrants listed as beneficiaries are the parent of a non-migrant child. The low proportion of migrants receiving the universal child allowance is also related to the demographics of the migrant population in Argentina.

228. An examination of the demographics and population pyramids for migrants reveals, as would be expected of a settled population group that has lived in Argentina for many years, an ageing population with higher average ages than persons born in the country. (See annex IX, figure 7, Population pyramids for migrants and non-migrants.)

229. The figure cited above shows that a significant proportion of foreigners have lived in the country for many years and have grown old there. It also shows that a very low proportion of children are foreign nationals, which suggests that migrants entering Argentina are mainly young persons without children who start families in this country and have Argentine children.

230. Administrative records provide valuable information on the numbers of migrants participating in the main social programmes. (See annex IX, figure 8, Number of migrants benefiting from the main social programmes – data from administrative records (self-classification).)

231. A total of 92,419 migrants receive contributory family allowances. A total of 46,667 children and adolescents are beneficiaries of the universal child allowance.

232. Pensions were granted to 377,892 migrants, out of a total of over 5 million beneficiaries.

233. A total of 35,962 migrants were in receipt of non-contributory pensions in 2015. According to the Secretariat for University Policy, the number of foreign undergraduate students in public universities has risen to 35,636, while 8,757 migrants received funding through the Argentine Student Support Programme, facilitating the completion of their schooling, tertiary education, university education and/or occupational training.⁵

234. Regarding employment programmes, 27,292 migrant workers out of a total of 551,224 workers registered for the simplified social tax in 2015. A total of 1,884 migrants benefited from the Unemployment Insurance Act (Act No. 24.013) while a further 9,650 followed an employment or job training programme, including the “More and Better Jobs for Young Persons” programme.

Reply to paragraph 25 of the list of issues

235. The information channels include the National Migration Directorate, which targets the general public, and the Advice Centre for Migrants and Refugees, which was mentioned earlier. Up-to-date information on procedures and new developments can be found on the Directorate’s website.

236. Information on migrants’ rights and their options for obtaining an adequate defence can be found in the replies to paragraphs 11 (b) and 11 (e) of the list of issues.

Reply to paragraph 26 of the list of issues

237. Decree No. 70/2017 expressly provides for the possibility that an individual who is liable to expulsion for committing an offence may apply for an exemption on humanitarian grounds, for reasons related to family reunification or in order to obtain effective legal assistance.

238. Article 9 of the Convention on the Rights of the Child expressly provides for cases in which a child has been separated from one of his or her parents as a result of an action initiated by a State party, such as detention, imprisonment, exile or deportation.

239. Most unaccompanied minors are asylum seekers and so receive support from the National Secretariat for Children, Adolescents and the Family, the committees for children and adolescents in each district and the Public Service for the Protection of Children and Vulnerable Adults, which is the judicial body responsible for resolving issues involving minors who do not have proper legal representation. In all cases involving minors without such representation, the above bodies are called upon to take all appropriate measures, in accordance with the best interests of the child.

Reply to paragraph 27 of the list of issues

240. Migrants are never forced to leave the State party without due process and the issuance of an administrative order.

241. The granting of the dispensation provided for in the last part of article 29 of the Migration Act resulted in the following residence permits being issued:

<i>Year</i>	<i>Residence permits</i>
2015	1 095
2016	2 023

⁵ The data for the Argentine Student Support Programme are from 2016.

<i>Year</i>	<i>Residence permits</i>
2017	1 860
2018	1 791
Total	6 769

Reply to paragraph 28 of the list of issues

242. Argentina signed the Agreement on Residency for Nationals of MERCOSUR Member States and Associate Countries in 2002 and, in 2004, was the first country in the region to unilaterally implement it, incorporating the residence criteria established in the Agreement into its national legislation on migration, for which it was commended by the other countries in the region.

243. This is reflected by the fact that, since the Agreement entered into force, Argentina has granted more residence permits than any other country in the enlarged MERCOSUR.

244. The MERCOSUR nationality criteria set out in the Agreement on Residency, and incorporated in article 23 (l) of Act No. 25.871, establish the following:

- Migrants and their families have the right to freely enter, leave, move around and remain in the territory of the host country.
- Migrants and their families enjoy the same civil, social, cultural and economic rights and freedoms as the nationals of the host country.
- Migrants and their families have the right to work and engage in any lawful activity in accordance with the law.
- Migrants and their families have the right to petition the authorities.
- Migrants and their families have the right to family reunification. Family members who are not nationals of one of the States parties may obtain a residence permit for the same duration as that held by the person on whom they are dependent.
- Migrants and their families have the right to the same treatment as nationals. Labour law will be implemented in a manner that affords migrants in the States parties treatment that is no less favourable than that accorded to nationals, in particular as regards remuneration, working conditions and social security.
- Regarding pension provision, the States parties will examine the feasibility of signing reciprocity agreements on pensions.
- Migrants and their families have the right to transfer remittances. Immigrants in the States parties have the right to transfer freely their personal income and savings, in particular the funds necessary for their family's livelihood, to their country of origin, in accordance with the applicable rules and the domestic legislation of the individual States parties.

245. Children of migrants born in the territory of one of the States parties have the right to a name, to be registered at birth and to a nationality, in accordance with the national legislation of the State party concerned. They have the basic right to education, on the same terms as nationals of the host country, in the territory of the States parties. Children's access to preschools or State schools may not be denied or restricted because of their parents' irregular residency status.

246. As mentioned in the reply to paragraph 12 of the list of issues, given the particular situation facing them, Venezuelan citizens are granted a residence permit by Argentina on the basis of their nationality, even if they lack the documents required for it to be processed, in accordance with National Migration Directorate Regulation No. 520/2019, which provides that:

- Right of entry to the country is granted to Venezuelan citizens holding a Venezuelan identity card or passport that expired not more than two years before the date of issuance of this provision.
- Right of entry to the country is granted to children under 9 years of age who have a birth certificate and enter by land with one or both parents, provided that they are not carrying a Venezuelan identity card or passport.
- Procedures can be initiated for granting temporary residence permits to persons with travel or identity documents that expired no more than two years before the date of issuance of this provision and to children under 9 years of age with a birth certificate who have been admitted to the national territory with that certificate as their only identity document.
- Venezuelan nationals are not required to have their criminal record certificate authenticated if they are over 16 years of age and would normally need to show that they do not have a criminal record in their country of origin in order to begin the residency application procedure.

247. Thus, Argentina has adopted specific measures aimed at facilitating Venezuelan nationals' entry to the country and their access to residency, thereby guaranteeing the exercise and enjoyment of their rights in the country.

248. In line with the above, Argentina hosted the Fourth International Technical Meeting on the Human Mobility of Venezuelan Nationals – the Quito Process (July 2019), at which it presented specific plans for cooperation aimed at delivering a coordinated regional response to the problems associated with the mass movement of Venezuelan nationals. The following themes were addressed:

- Regional mobility information cards
- Regional mobility information centres
- Information, reception, guidance and support centres
- A hub offering guidance on migration and the development of human capital
- Strengthening of national systems for determining refugee status

Reply to paragraph 29 of the list of issues

249. The RAICES (“Roots”) Programme (Network of Argentine Researchers and Scientists Abroad) seeks to strengthen the country’s scientific and technological capacities by linking Argentine scientists, technology experts and researchers living abroad and promoting repatriation measures in order to bring valuable human resources into the national scientific system while making it easier for researchers to settle in the country when they return here to work.

250. Within the framework of this programme – which, pursuant to the adoption of Act No. 26.421, has become official State policy – subsidies are granted for researchers who return to Argentina either on a short-term basis (the César Milstein subsidy) or permanently. Efforts are being made to strengthen existing networks of Argentine scientists and researchers abroad and to promote the establishment of new networks.

251. Although the Ministry of Education, Culture, Science and Technology is responsible for the programme, the Ministry of Foreign Affairs plays an active role in it and sits on the programme’s advisory committee. As a facilitator of links and communication between the diplomatic missions, its tasks include supporting the information-sharing activities carried out by the networks of Argentine scientists and researchers residing abroad.

Reply to paragraph 30 of the list of issues

252. Please see the reply to paragraph 10 of the list of issues.

Reply to paragraph 31 of the list of issues

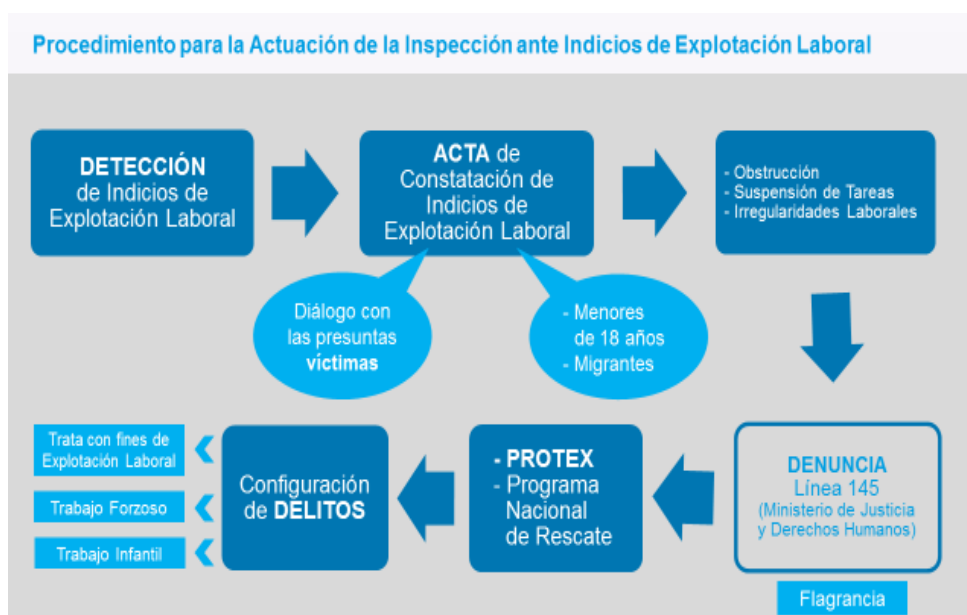
253. The National Migration Directorate provides the necessary support through specialized bodies such as the National Secretariat for Children, Adolescents and the Family and the Chief Public Defender's Office, thereby safeguarding all the rights of children and adolescents.

254. Also worth mentioning are the protocol on protection, assistance and long-term solutions for child asylum seekers who are unaccompanied or have been separated from their families and the National Ombudsman's programme on guardianship, legal representation and support for child refugees and asylum seekers (see annex X).

255. In accordance with article 4 (1) of the ILO Worst Forms of Child Labour Convention, 1999 (No. 182), Argentina has enacted Decree No. 1117/16 on the types of work considered dangerous for persons under 18 years of age (see annex XI).

256. Given the importance of having labour inspectors who are trained to detect and deal with labour exploitation and human trafficking, the Ministry of Labour issued Decision No. 230/18 to formalize the procedure and introduced a special document called a "declaration of evidence of labour exploitation". These tools are intended to strengthen this type of inspection.

257. The inspectors employ a procedure that accounts for two types of vulnerable person: workers under the age of 18 years and migrant workers. For further details, see the text of the Decision, which is contained in annex XII. The procedure is also summarized in the diagram below.



258. If inspectors come across foreign workers who do not have valid residence permits that allow them to work in Argentina, these workers are given the telephone number of the nearest branch of the National Migration Directorate so that they can find out how to regularize their migration status.

259. It is important to make foreign workers aware that the regularization of their migration status is a prerequisite for regularizing their employment and a way to strengthen the protection of their rights under the law. Inspections provide an opportunity to raise awareness of national laws and guide workers in the process of regularizing their and their family's migration status.

260. The Migration Act provides clear protection for the labour rights arising from employment relationships and article 56 of the Act provides that workers may take legal action to uphold those rights, irrespective of their migration status.

Reply to paragraph 32 of the list of issues

261. In 2012, Act No. 26.842 on the prevention and punishment of trafficking in persons and assistance to victims, amending Act No. 26.364 of 2008, was adopted. In 2008, the Rescue and Support Office for Victims of Trafficking was established within the Ministry of Justice and Human Rights. The Office subsequently produced the National Rescue and Support Programme for Victims of Trafficking, which was established pursuant to Decision No. 731/2012 of the Ministry of Justice and Human Rights.

262. The activities conducted under the Programme include:

- Rescuing victims of any form of trafficking
- Providing them with comprehensive psychological, medical and legal assistance and ensuring that their basic needs are met from the moment they are rescued until they testify before the judicial authorities
- Conducting training and awareness-raising activities on trafficking and how to combat it, for the security forces, the judiciary, State agencies and civil society
- Receiving complaints through the 145 hotline and taking legal action in response to them

263. Once legal proceedings have begun, the actions taken include:

- Locating victims in their places of origin so that public oral proceedings can be held
- Relocating victims and providing accommodation in the shelter run by the Programme
- Providing support during public oral proceedings
- Enabling professionals participating in the rescue to make statements at public oral proceedings. The Programme is run by an interdisciplinary team made up of specially trained police officers and professionals in the fields of social work, psychology, political science, law and medicine. The Programme also facilitates coordination with members of the security forces who report to the Ministry of Security and specialize in prosecuting persons responsible for human trafficking and exploitation.

264. The Programme takes action at the request of the court. The role of the interdisciplinary team is mainly to assess the risks and the victims' general situation by conducting interviews at the places where the raids triggered by the legal action took place (textile workshops, fields, brickworks, brothels, whisky bars, etc.) or in the institutions to which the victims or complainants submitted their complaints (police stations, public bodies, civil society organizations, etc.). Any of the victims identified who say they would like help are subsequently housed in the shelter managed by the Programme, which is in a confidential location. Once there, they are provided with emotional support, assistance and protection, with the aim of restoring their violated rights. During their stay in the shelter, they receive medical care, counselling, adequate food, clothing and legal advice. This period is crucial and will determine how the victim presents his or her testimony in court.

265. A key part of the Programme is the support and legal advice the trafficking victims receive from specialized lawyers from the moment they leave the place where they were being exploited until they give their testimony, as well as the support they get from the psychologists and social workers who first made contact with them. All this support enables them to recognize that they are victims and to understand their rights and how those rights were violated when they were being exploited. The legal and technical teams support the victims during their testimony in order to ensure that they are not revictimized and that their rights are not violated. This also facilitates direct communication between Programme staff and the judge trying the case, thereby promoting coordinated, inter-institutional work in the fight against trafficking in persons.

266. Once the testimony has been given, the team links up with the focal points or local bodies that support victims and promote their social reintegration. Coordination with the

national, provincial and municipal agencies to help the victims make plans for the future is geared towards restoring their rights as citizens and creating the conditions in which they can find dignified work and gain access to education, health and housing, among other things.

267. In March 2018, the Programme took over the functions of what was then the Sex Trade Advertisements Monitoring Office. These functions include the daily monitoring of the print media throughout the country in order to monitor compliance with Decree No. 936/2011, which prohibits the publication of messages and images that encourage or promote sexual exploitation and imposes penalties for anyone who breaches this rule.

Federal Council to Combat Trafficking

268. This permanent and operationally independent body is a locus for action and institutional coordination in dealing with all issues related to the fight against trafficking.

269. In 2017, Act No. 27.372 on the rights and guarantees of crime victims was passed, establishing the Centre for Assistance to Crime Victims, whose primary task is to provide assistance to victims of federal offences throughout the country but which also assists victims of ordinary offences at the request of provincial courts. In 2018, the National Directorate for the Assistance of Victims was created within the Ministry of Justice and Human Rights, which operates the Victims against Violence programme, the National Rescue and Support Programme for Victims of Trafficking and the National Programme to Combat Impunity.

270. The functions of the Centre for Assistance to Crime Victims are described in annex XIII, which also includes statistical information.

Reply to paragraph 33 of the list of issues

271. In Argentina, unlike in most other countries in the world, foreign nationals who have been granted a residence permit of any kind do not require special authorization in order to be able to work. Foreign nationals who have acquired a temporary or permanent residence permit are authorized to work without having to take any other action.

272. Thus, foreign nationals admitted as permanent residents may carry out remunerated activities, either as self-employed workers or employees, enjoying the protection of the relevant laws, and those admitted as temporary residents may carry out such activities during their authorized stay.

Reply to paragraph 34 of the list of issues

273. Decree No. 70/2017 does not represent a step backwards. It sets out the 10 minimum guarantees to be respected in migration procedures. The guarantees are drawn from the 2015 report on human mobility issued by the Inter-American Commission on Human Rights (www.oas.org/es/cidh/informes/pdfs/movilidad_humana.pdf), and are explained in detail in the reply to paragraph 35 of the list of issues.

274. Foreign nationals in informal employment are protected by the Migration Act, article 16 of which provides that the adoption by the State of all necessary and effective measures to prevent the employment in the national territory of migrants in an irregular situation, including the sanctioning of employers, does not affect migrant workers' labour rights in relation to their employers.

275. With regard to migrant status regularization programmes implemented since 2011, the National Migration Directorate has issued the following regulations: No. 1/2013, adopting a special regime for the regularization of Dominican nationals; No. 2/2013, adopting a special regime for the regularization of Senegalese nationals; No. 979/2014, adopting a special regime for the regularization of Korean nationals; No. 1143/2017, on the regularization of Haitian nationals for humanitarian reasons; and No. 3915/2014, No.

4499/2015, No. 4683/2016 and No. 2015/2019, issued within the framework of the Syria Programme.

276. In line with the reply to paragraph 28 of the list of issues, the National Migration Directorate has adopted facilitation measures for Venezuelan nationals, including Regulation No. 594/2018 and Regulation No. 520/2019, establishing a special programme of assistance for Venezuelan migrants to facilitate their entry into the national territory. International agencies such as the Office of the United Nations High Commissioner for Refugees and the International Organization for Migration have recognized that the measures to assist Venezuelan migrants under this programme are unprecedented in the region.

277. The cost to foreign nationals from the enlarged MERCOSUR of applying for residency is among the lowest in the region (US\$ 71). Nationals of countries outside the block must pay a fee of US\$ 142 for a residency application. In certain circumstances, applicants are exempted from paying this fee and only the adults are required to pay the initial fee in procedures involving a family group.

Reply to paragraph 35 of the list of issues

278. The Syria Programme, which provides for the issuance of humanitarian visas to persons fleeing the conflict in the Syrian Arab Republic, thereby facilitating their entry into Argentina, has been implemented since 2014. Since 2011, when the conflict broke out in Syria, Argentina has been receiving Syrian nationals through different mechanisms, and has given them the opportunity to rebuild their lives in Argentina or reside there temporarily until the conflict ends.

279. The Programme is run by the Government, with technical and financial support from the international community. It incorporates an innovative scheme for Latin America that is based on community sponsorship of persons affected by the conflict in the Syrian Arab Republic who arrive in Argentina.

280. The Programme is run by the Government, with technical and financial support from the international community. It incorporates an innovative scheme for Latin America that is based on community sponsorship of persons affected by the conflict in the Syrian Arab Republic who arrive in Argentina.

281. The beneficiaries of the scheme obtain an entry permit and a temporary two-year visa, renewable for one year, after which they can apply for permanent residence. In order to obtain this permit, the beneficiaries are supported by a sponsor or a requesting organization that undertakes to provide them with accommodation and food and to help them integrate during their first 12 months in the country. As soon as they enter Argentina, they must begin the process of obtaining a national identity card, which grants them full access to their rights and facilitates the integration process.

282. Beneficiaries are defined as: (a) persons of Syrian nationality and their family members, irrespective of the latter's nationality; and (b) persons of Palestinian nationality who habitually reside in the Syrian Arab Republic or have lived in that country and received assistance from the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA). Persons entering the country under the Syria Programme receive the support of a sponsor or requesting organization and have the same rights and obligations as migrants under the terms of Act No. 25.871, including the right to work. The fundamental principle enshrined in current migration legislation is equal treatment for migrants and their families, who enjoy the same protection and rights as Argentine citizens and have equal access to social services and public goods, without this equality being restricted by the person's migration status.

283. Under the Syria Programme, different government offices are required to work together to ensure that Syrian migrants integrate successfully into Argentine society.

284. To this end, a working group was established in 2015 and a national cabinet for the Syria Programme was set up in 2016, pursuant to Decree No. 1034/2016. The cabinet

operates under the Executive Office of the Cabinet of Ministers. It is composed of seven national ministries involved in the pre-departure, reception and integration of migrant families and asylum seekers and is coordinated by the National Migration Directorate in compliance with guidelines established by the Secretariat for Strategic Affairs of the Executive Office of the Cabinet of Ministers.

285. Its purpose is to establish general guidelines for the humanitarian reception of persons forcibly displaced by the conflict in Syria and to propose interministerial actions to promote the social integration of those who arrive in Argentina under the various humanitarian admission mechanisms available.

286. The cabinet is assisted by the National Technical Working Group of the Syria Programme, which is coordinated by the National Migration Directorate, and its supporting groups at the provincial level. It also requests the participation of experts and representatives of public and private sector bodies that work in, and have knowledge of, the area.

287. Along with Brazil and Paraguay, Argentina is one of the few South American nations to have implemented a mechanism that facilitates entry into the country (the Syria Programme) and is the only State to have established an institution specifically dedicated to implementing a public policy to enable Syrian nationals to integrate into society.

Reply to paragraph 36 of the list of issues

288. Decree No. 70/2017 does not alter the precepts established in the preamble to the Constitution, in that nationals and non-nationals continue to enjoy the full exercise of their civil, social and economic rights on an equal footing.

289. To reiterate the replies to paragraph 11 (b) and (e) of the list of issues, the Migration Act, as amended by Decree No. 70/2017, retains all the guarantees of due process and the right to a defence.

Reply to paragraph 37 of the list of issues

290. The National Institute to Combat Discrimination, Xenophobia and Racism, acting through the Victim Assistance Directorate, provides advice on queries relating to possible situations of discrimination on xenophobic grounds. It has also received, and continues to receive, reasoned complaints on matters relating to the foreign nationality of potential victims. The Directorate carries out the necessary formalities and mediation, examines the files and drafts the corresponding opinions.

291. The Directorate works to raise public awareness of xenophobia and racism by implementing inclusive public policies and conducting rights awareness campaigns and training courses.

292. The Legal Advice Unit, which is part of the Victim Assistance Directorate, is available at all times to take action in cases involving discrimination based on the foreign nationality of persons who submit complaints to this body. Queries and complaints about instances of discrimination are received, advice is provided and action is taken to resolve the problem. Legal advice is free and available from Monday to Friday. Complaints of discrimination can be made in person from anywhere in the country, by post, through the website or via the toll-free hotline 0-800.

293. The National Institute to Combat Discrimination, Xenophobia and Racism also has a section specifically dedicated to migrants that aims to raise awareness and increase understanding by sharing knowledge and giving specialized technical advice.

Reply to paragraph 38 of the list of issues

294. Argentine law guarantees simple and easy access to a residence permit, particularly for citizens born in MERCOSUR member States and associate countries. The

administrative process leading to the issuance of a national identity card is also swift and efficient. All persons are entitled to free education and health care, irrespective of the documentation they have.

Reply to paragraph 38 (c) of the list of issues

295. Initiatives for the relocation of migrant flows: in Argentina, migrants are mostly concentrated in large urban centres, prompting initiatives that promote a more harmonious distribution of the migrant population around the country. So, steps have been taken to promote a policy of redirecting migrants to the provinces and medium-sized cities (see annex XIV).

Reply to paragraph 38 (d) of the list of issues

296. Argentina has ratified and given the highest constitutional ranking to most of the human rights treaties concluded under the auspices of the United Nations and the Organization of American States.

Reply to paragraph 39 of the list of issues

297. In the last three years, most migrants arriving in Argentina have been nationals of Paraguay, Bolivia, Peru, Colombia, Brazil, Chile, Ecuador, Uruguay and Venezuela, with the largest number of applications for residency between the end of 2017 and 2018 coming from Venezuelan nationals.

298. Annexes XV and XVI contain details, broken down by year (2016–2018), of initiated and completed applications for residence.

Reply to paragraph 39 (d) of the list of issues

299. According to the National Refugee Commission, 215 Venezuelan nationals under 9 years of age have applied for refugee status, using a birth certificate to initiate the process but with no evidence of their relationship with the persons claiming to be their parents. They are therefore considered to be unaccompanied minors.

Reply to paragraph 39 (e) of the list of issues

300. Remittances received from nationals of the State party who are working abroad: the impact of remittances on the Argentine economy is very low. The latest report issued by the Continuous Reporting System on International Migration in the Americas (2017), prepared by the Organization of American States in conjunction with the Organization for Economic Cooperation and Development, states that remittances accounted for only 0.1 per cent of gross domestic product (US\$ 349 million) in 2016.⁶

Reply to paragraph 39 (f) of the list of issues

301. Annex XVII contains charts based on statistical information prepared by the Office of the Prosecutor for Combating Human Trafficking and Exploitation (PROTEX), which reports to the Public Prosecution Service, for the period from 1 January 2012 to the present.

⁶ Organization of American States–Organization for Economic Cooperation and Development (2017). *International Migration in the Americas: Fourth Report of the Continuous Reporting System on International Migration in the Americas (SICREMI)*.

Reply to paragraph 39 (g) of the list of issues

302. Please see the replies to paragraph 11 (b) and (e) of the list of issues for information on the legal aid services available to migrants in the State party.

Reply to paragraph 40 of the list of issues

303. The competent authorities are weighing up the possibility of making the declaration provided for in articles 76 and 77 of the Convention, which would recognize the competence of the Committee to receive communications from States parties and individuals.

Reply to paragraph 41 of the list of issues

304. The competent authorities are preparing an updated core document, which will be sent to the Office of the United Nations High Commissioner for Human Rights as soon as possible.
