### III. Main areas of concern and recommendations

4. The Committee reminds the State party of the indivisibility and interdependence of all the rights enshrined in the Convention and emphasizes the importance of all the recommendations contained in the present concluding observations. The Committee would like to draw the State party’s attention to the recommendations concerning the following areas, in respect of which urgent measures must be taken: right to survival and development (para. 16); torture and institutional violence (para. 22); sexual exploitation and abuse (para. 25); children deprived of a family environment (para. 28); standard of living (para. 36); and juvenile justice (para. 44).

#### A. General measures of implementation (arts. 4, 42 and 44 (6))

6. The Committee reiterates its previous recommendations and encourages the State party to finalize pending legal reforms in all provinces (CRC/C/ARG/CO/3-4, para. 14). It also recommends alignment of provincial and municipal legislation with national legal frameworks related to children’s rights, particularly the National Act on the Comprehensive Protection of Children and Adolescents (Act No. 26.061), ensuring their standardized implementation.

<table>
<thead>
<tr>
<th>UN CRC</th>
<th>Ratification Date</th>
<th>Care-Related Concluding Observations</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>4 Dec 1990</td>
<td>CRC/C/ARG/CO/5-6</td>
</tr>
</tbody>
</table>

### B. General principles (arts. 2, 3, 6 and 12)

**Right to be heard**

17. The Committee reiterates its previous concluding observations (CRC/C/ARG/CO/3-4, para. 37) and, in light of its general comment No. 12 (2009) on the right of the child to be heard, encourages the State party to ensure that children’s views are given due consideration, in the family, at school, in the courts and in all relevant administrative and other processes concerning them through, inter alia, the adoption of appropriate legislation, the training of professionals, including by strengthening the role of lawyers representing children to fully guarantee their right to be heard in legal proceedings, and the establishment of specific activities at schools and general awareness-raising.

### D. Violence against children (arts. 19, 24 (3), 28 (2), 34, 37 (a) and 39)

**Torture and institutional violence**

21. While noting as positive the establishment of a National Mechanism for the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, in 2017, the Committee remains deeply concerned about:

   (a) The unacceptable living conditions and maltreatment and abuse of, and violence against, children in alternative care centres, especially affecting girls and children with disabilities;...

   (d) The high rates of impunity and low numbers of prosecutions and convictions of perpetrators of violence against children, in public care institutions and detention centres;

   (e) The insufficient information on remedies and redress for child victims of violence, abuse and neglect in State care.
22. With reference to its general comment No. 13 (2011) on the right of the child to freedom from all forms of violence, and taking note of target 16.2 of the Sustainable Development Goals on ending abuse, exploitation, trafficking and all forms of violence against children, the Committee urges the State party to:

(a) Adopt a comprehensive strategy to end all abuse of children in institutional care settings, systematically monitor the situation of children in institutions and prioritize investigations of all instances of violence, ensuring the identification and immediate removal of staff responsible for violence and abuse;

...  
(e) Establish an information management system to track the number of cases of torture and other cruel, inhuman or degrading treatment or punishment of children in all settings, as well as the number of prosecutions of perpetrators and the punishments imposed;  
(f) Establish a complaints procedure for all children in care and detention centres and provide appropriate remedies.

Abuse and neglect

23. With reference to its general comment No. 13 (2011) on the right of the child to freedom from all forms of violence, the Committee recommends that the State party:

(a) Expedite the adoption of legislation guaranteeing comprehensive protection of children against violence and ensure its application at all levels;  
(b) Undertake a broad assessment of the extent, root causes, risk factors and nature of violence against, and abuse or neglect of children, with a view to developing a comprehensive national strategy to prevent and address those phenomena;  
(c) Adopt a national framework for coordination between administrations and institutions at both national and provincial levels to adequately respond to situations of violence against, and abuse or neglect of, children, paying particular attention to their gender dimensions;  
(d) Encourage community-based programmes aimed at preventing and tackling domestic violence, child abuse and neglect.

E. Family environment and alternative care (arts. 5, 9–11, 18 (1) and (2), 20, 21, 25 and 27 (4))
Children deprived of a family environment

27. While noting as positive the enactment of the Law No. 27.364 on Supported Independent Living for Adolescents and Young People without Parental Care (2017), the Committee remains deeply concerned about:

(a) The high number of children in residential care and the fact that residential care is, in practice, used as the primary alternative care placement;
(b) Insufficient resources and inadequate facilities and overcrowding in some residential care centres;
(c) Instances of ill-treatment and degrading treatment of children in residential care centres, including allegations of solitary confinement, medical misdiagnosis and incorrect medical treatment, as well as a lack of child-centred monitoring and reporting systems and complaints mechanisms for children;
(d) Inadequate support for children in their transition from childhood to adulthood.

28. Recalling the UN Guidelines for the Alternative Care of Children and the Committee’s previous recommendations (CRC/C/ARG/CO/3-4, para. 53) the Committee recommends that the State party increase the resources allocated to efforts to prevent the separation of children from their families and ensure the sufficient provision of support and assistance, including subsidies and professional support, particularly to families in disadvantaged or marginalized situations. It also recommends that the State party:

(a) Expedite the process of deinstitutionalization, ensuring that residential care is used as a measure of last resort, and ensure that all remaining residential care centres meet at least the minimum quality standards;
(b) Establish strict criteria for taking children into alternative care and ensure that decisions on child removal are always made or reviewed by a judge and only after thorough assessment of the best interests of the child in each particular case;
(c) Enhance efforts aimed at the promotion of family foster care and improving and developing the skills of foster parents and families and professional specialized carers;
(d) Ensure humane and dignified conditions in remaining centres for children with behavioural or social difficulties and thoroughly investigate any allegations of abuse or ill-treatment committed in these centres;
(e) Constantly supervise the quality of alternative care provided to children, including by providing accessible channels for reporting, monitoring and remediying illtreatment of children and ensure accessible complaints mechanisms for children in State residential and foster care;
(f) Ensure full implementation of Law 27.364 of 2017 and its programmes to help children in care to transition to adulthood.

H. Special protection measures (arts. 22, 30, 32, 33, 35, 36, 37 (b–(d) and 38–40)

Asylum seeking and refugee children

38. With reference to its general comments No. 22 (2017) on the general principles regarding the human rights of children in the context of international migration and No. 23 (2017) on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return, issued jointly with the Committee on Migrant Workers, along with its general comment No. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin, and recalling its previous recommendations (CRC/C/ARG/CO/3–4, para. 72), the Committee recommends that the State party:

(a) Adopt all the necessary decrees and administrative procedures to facilitate the effective implementation of Refugee Law No. 26.165, in line with the right of the child to have his or her best interests taken as a primary consideration in all decisions related to the transfer of any asylum-seeking or refugee children from Argentina;
(b) Ensure effective legal protection for unaccompanied children across all its territory and ensure that the principle of non-refoulement is applied and that the best interests of the child are taken into account as a primary consideration, and provide additional training and guidance to relevant professionals on assessing the best interests of the child;
(c) Develop and implement a national policy or strategy which ensures adequate assistance for asylum-seekers, including access to social services, effective local integration and measures that facilitate access to work and income generating opportunities of parents and/or caregivers of refugee children;
(d) Establish child-friendly reception centres for children, with accessible and effective complaints mechanisms, and thoroughly investigate any cases of violations of children’s rights.

Children in situations of migration

39. The Committee is concerned about the continued application of the Decree of Necessity and Emergency No. 70/2017, despite it being deemed unconstitutional, and its potential negative impact on family unity and the best interests of migrant children. The Committee urges the State party to repeal Decree No. 70/2017 in order to ensure that in migration cases, the right of the child to have his or her best interests taken as a primary consideration is upheld, while family unity is preserved.

Children in street situations

41. The Committee is concerned about the limited information provided on children in street situations. It recommends that the State party take measures to monitor the situation of these children, particularly given the current economic context, and that it develop policies to protect and support children living in street situations, and their families, if appropriate.

Follow-up to the Committee’s previous concluding observations and recommendations on the Optional Protocol on the sale of children, child prostitution and child pornography

45. While noting the State party’s efforts to implement the Committee’s 2010 recommendations concerning the State party’s initial report under the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (CRC/C/OPSC/ARG/CO/1), the Committee recommends that the State party:
(c) Increase efforts to prevent and combat the sexual exploitation of children in the context of travel and tourism;
(d) Bring its penal code into full compliance with articles 2 and 3 of the Optional Protocol and establish a strong legal protection system against sale and trafficking of children and establish a secure system of adoption that respects the best interests of the child.

**Country Report**

CRC/C/ARG/5-6

31 October 2017


<table>
<thead>
<tr>
<th>OPSC to CRC</th>
<th>Ratification Date</th>
<th>Care-Related Concluding Observations</th>
</tr>
</thead>
<tbody>
<tr>
<td>CRC/C/OPSC/ARG/CO/1</td>
<td>25 Sep 2003</td>
<td>2 June 2010</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>OPAC to CRC</th>
<th>Ratification Date</th>
<th>Care-Related Concluding Observations</th>
</tr>
</thead>
<tbody>
<tr>
<td>CRC/C/OPAC/ARG/CO/1</td>
<td>10 Sep 2002</td>
<td>2 June 2010</td>
</tr>
<tr>
<td>Instrument</td>
<td>Ratification Date</td>
<td>Care-Related Concluding Observations</td>
</tr>
<tr>
<td>------------</td>
<td>------------------</td>
<td>-------------------------------------</td>
</tr>
<tr>
<td>ICCPR</td>
<td>8 Aug 1986</td>
<td>10 and 11 March, 2010</td>
</tr>
<tr>
<td>ICESCR</td>
<td>8 Aug 1986</td>
<td>14 December 2011</td>
</tr>
<tr>
<td>CEDAW</td>
<td>15 July 1985</td>
<td>13 July 2010</td>
</tr>
<tr>
<td>CRPD</td>
<td>2 Sep 2008</td>
<td>8 October 2012</td>
</tr>
</tbody>
</table>

http://www.ohchr.org/EN/HRBodies/CRPD/Pages/Session8.aspx

III. Principal areas of concern and recommendations

A. General principles and obligations (arts. 1-4)

7. The Committee is concerned at the absence of a coherent, overall strategy for the implementation of the human rights model established in the Convention that provides for affirmative action measures to achieve de facto and de jure equality for persons with disabilities and for giving full effect, at all levels, to the principles and requirements set out in the Convention.

8. The Committee urges the State party to pursue a broad and comprehensive strategy to realize all the rights set out in the Convention, taking due account of the human rights model of disability. The Committee also recommends that the State party take effective steps to ensure that persons with
disabilities — including children and women with disabilities — are actively involved in planning, implementing, monitoring and evaluating this strategy.

**B. Specific rights (arts. 5-30)**

**Children with disabilities (art. 7)**

15. The Committee notes with concern that Act No. 26.061 on the comprehensive protection of the rights of children and adolescents contains no provisions specifically on children with disabilities. It is also concerned at the lack of information on the situation of children with disabilities in the State party.

16. The Committee recommends that the State party should, as a priority, incorporate a disability perspective into Act No. 26.061 and the system for the comprehensive protection of children’s and adolescents’ rights. The Committee urges the State party to invest the greatest possible amount of available resources in ending discrimination against children with disabilities and to ensure that they are covered by health insurance schemes and receive the services and benefits, such as pensions and housing, to which they are entitled.

**Liberty and security of the person (art. 14)**

23. The Committee notes with concern that involuntary long-term committal is still common in the State party, despite the fact that deinstitutionalization strategies have been adopted and the National Mental Health Act (Act No. 26.657) is based on the human rights model of disability.

24. The Committee urges the State party to implement the deinstitutionalization strategies that it has adopted in an effective manner and to develop and implement mental health plans based on the human rights model of disability, along with effective measures to promote the deinstitutionalization of persons with disabilities.

**Freedom from exploitation, violence and abuse (art. 16)**
29. The Committee notes with concern that neither Act No. 26.485 on comprehensive protection and the prevention, punishment and elimination of violence against women nor Act No. 26.061 on the comprehensive protection of the rights of children and adolescents takes account of the specific situation of women with disabilities and children with disabilities, respectively. The Committee is also concerned about the lack of protection against violence and abuse for institutionalized persons with disabilities.

30. The Committee urges the State party to guarantee protection for women with disabilities and children with disabilities in, respectively, the revised versions of Act No. 26.485 and Act No. 26.061 and their implementing regulations. It also urges the State party to incorporate a disability perspective into policies and programmes developed on the basis of these acts. In addition, it recommends that the State party draw up appropriate guidelines for the prevention of violence against persons with disabilities who are institutionalized. The Committee also recommends that the State party collect data and information on violence and abuse against persons with disabilities, paying particular attention to women, children and persons who are institutionalized. To that end, the State party should, inter alia, establish institutional mechanisms for the early detection of situations in which violence may occur, diligently investigate allegations of violent acts and make any adjustments in procedures that may be needed so that victims can testify and those responsible can be prosecuted.

Respect for home and the family (art. 23)

35. The Committee notes with concern that the right to form a family is denied to some persons with disabilities, especially those declared “insane” or “lacking legal capacity”, in accordance with article 309 of the State party’s Civil Code.

36. The Committee urges the State party to amend the Civil Code to bring it into line with article 12 and article 23, paragraph 1 (b), of the Convention and to make support services to assist with the demands of parenthood available to persons with disabilities who require them.
**Education (art. 24)**

37. The Committee notes that the legal framework regulating education in the State party expressly recognizes the principle of inclusive education (Act No. 26.206, art. 11). However, it is concerned that the implementation of this principle is limited, in practice, by a failure to tailor programmes and curricula to the needs of pupils with disabilities and by the prevalence of all sorts of barriers that prevent persons with disabilities from accessing the educational system without discrimination and on an equal footing with other students. The Committee is deeply concerned about the high number of children with disabilities who attend special schools and about the lack of educational resource centres that support the effective inclusion of students with disabilities.

38. The Committee recommends that the State party develop a comprehensive State education policy that guarantees the right to inclusive education and allocates sufficient budgetary resources to ensure progress towards the establishment of an education system that includes students with disabilities. The Committee also urges the State party to intensify its efforts to ensure that all children with disabilities receive a full compulsory education as established by the State party, while devoting particular attention to indigenous peoples and other rural communities. It likewise urges the State party to take the necessary steps to ensure that pupils with disabilities who attend special schools are enrolled in inclusive schools and to offer reasonable adjustments for students with disabilities within the general education system.

**Adequate standard of living and social protection (art. 28)**

45. The Committee notes with concern that provisions in the State party’s laws on non-contributory pensions (including the requirement set out in Regulatory Decree No. 432/97 and the eligibility requirement for a welfare pension based on the presence of a disability established in Act No. 18.910) discriminate, either directly or indirectly, against persons with disabilities. The Committee is also concerned about the unequal treatment of migrant workers with disabilities and disabled children of migrant workers in terms of access to social protection measures, such as disability pensions, health care, rehabilitation services and housing.
46. The Committee urges the State party to review its social security legislation and to reformulate the provisions that prevent persons with disabilities, including migrant workers and disabled children of migrant workers, from having equal access to social protection in accordance with article 28 of the Convention.

<table>
<thead>
<tr>
<th>UPR</th>
<th>Date of Consideration</th>
<th>Link to Page</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Hague Intercountry Adoption</th>
<th>Ratification Date</th>
<th>Link to Country Profile</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

**Acronyms and Abbreviations:**

- **CEDAW**: Convention on the Elimination of All Forms of Discrimination against Women
- **CRC**: Convention on the Rights of the Child/Committee on the Rights of the Child
- **CRPD**: Convention on the Rights of Persons with Disabilities
- **ICCRP**: International Covenant on Civil and Political Rights
- **ICESCR**: International Covenant on Economic, Social and Cultural Rights
- **OPAC to CRC**: Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict
- **UN**: United Nations
- **UPR**: Universal Periodic Review