

# **ACCESS TO JUSTICE FOR CHILDREN: ARGENTINA**

*This report was produced by White & Case LLP in November 2013 but may have been subsequently edited by Child Rights International Network (CRIN). CRIN takes full responsibility for any errors or inaccuracies in the report.*

## **I. What is the legal status of the Convention on the Rights of the Child (CRC)?**

### **A. What is the status of the CRC and other relevant ratified international instruments in the national legal system?**

The Convention on the Rights of the Child (“CRC”) was ratified by Argentina in 1990 and subsequently incorporated into Argentina’s National Constitution in 1994.<sup>1</sup> In 2005 - approximately 15 years after Argentina ratified the CRC - the Argentine Congress enacted Law No. 26061 on the Comprehensive Protection of the Rights of Children and Adolescents (“Ley de Protección Integral”).<sup>2</sup> Law 26061 sets forth a series of public policies that consider girls, boys, and adolescents as subjects with enforceable rights. These policies address, among other things, children’s rights regarding education, health, culture, and recreation.<sup>3</sup>

Law 26061 was a big step forwards in Argentina’s efforts to recognise and adequately protect children’s rights. It represents Argentina’s first comprehensive statute defining children’s rights.<sup>4</sup> The purpose of Law 26061 is to guarantee children and adolescents the full exercise and enjoyment of the rights granted to them by the national legal system and the international treaties to which Argentina is a party.<sup>5</sup>

Law 26061 provides that the government has to guarantee both children and adolescents, in addition to all the rights provided by the national constitution, the CRC, and international treaties to which the country is a party, in any judicial or administrative proceeding, the following rights: (1) to be heard before a competent authority, (2) to have as a primary consideration the child’s opinion at the time the decision is made, (3) to have legal counsel, preferably specialised in children’s issues, from the beginning of the judicial or administrative proceedings and paid for by the government if the child has no economic resources, (4) to actively participate throughout the proceedings, and (5) to appeal before the superior courts if needed.<sup>6</sup>

A new Civil and Commercial Code was enacted in 2015, which reinforces most

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<sup>1</sup> Constitution of the Argentine Nation 1994, Art. 75, available at: <http://www.biblioteca.jus.gov.ar/Argentina-Constitution.pdf>.

<sup>2</sup> Argentine Law 26061 on the Comprehensive Protection of the Rights of Children and Adolescents of October 2005, available at: <http://infoleg.mecon.gov.ar/infolegInternet/anexos/110000-114999/110778/norma.htm>.

<sup>3</sup> Ibid., Art. 1.

<sup>4</sup> Argentine Law 26061 is regulated by Decree 415/2006, Apr. 17, 2006, B.O. Apr. 18, 2006.

<sup>5</sup> The Library of Congress, *Children’s Rights in Argentina*, available at: <http://www.loc.gov/law/help/child-rights/argentina.php#t53>.

<sup>6</sup> Ibid.

of the precepts Law 26061 introduced.<sup>7</sup>

In its efforts to protect children's rights, in addition to ratifying the CRC, Argentina has also ratified all three Optional Protocols of the CRC: (1) the Optional Protocol to the CRC on the Involvement of Children in Armed Conflict,<sup>8</sup> (2) the Optional Protocol to the CRC on the Sale of Children, Child Prostitution,<sup>9</sup> and Child Pornography and (3) the Optional Protocol to the CRC on a communications procedure.<sup>10</sup>

B. Does the CRC take precedence over national law?

The CRC is part of national law in Argentina since the Argentine Congress ratified the CRC in 1990. Pursuant to the 1994 amendment to Argentina's National Constitution, the CRC now forms part of the constitution itself and can therefore supersede other laws.<sup>11</sup>

C. Has the CRC been incorporated into national law?

As set forth above, the CRC is national law in Argentina.

D. Can the CRC be directly enforced in the courts?

Law 26061 expressly provides that an injured party may pursue a claim for violation of children's rights before the court.<sup>12</sup> The CRC, being incorporated into the Constitution, is directly enforceable and widely used in Courts all over the country.

E. Are there examples of domestic courts using or applying the CRC or other relevant international instruments?

The CRC has been cited extensively in court decisions throughout Argentina, most prominently by the National Supreme Court.<sup>13</sup>

## II. What is the legal status of the child?

A. Can children and/or their representatives bring cases in domestic courts to

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<sup>7</sup> Civil and Commercial Code, available at:

<http://www.infoleg.gob.ar/infolegInternet/anexos/235000-239999/235975/norma.htm#18>.

<sup>8</sup> Argentine Law 25616 on the Ratification of the Optional Protocol of the CRC on the Involvement of Children in Armed Conflict, July 17, 2002, B.O. Aug. 12, 2002.

<sup>9</sup> Argentine Law 25763 on the Ratification of the Optional Protocol of the CRC on the Sale of Children, Child Prostitution and Child Pornography, July 23, 2003, B.O. Aug. 25, 2003.

<sup>10</sup> United Nations announcement of ratification, available at: <https://treaties.un.org/doc/Publication/CN/2015/CN.250.2015-Eng.pdf>.

<sup>11</sup> Constitution of the Argentine Nation, Art. 75.

<sup>12</sup> Argentine Law 26061, § 27.

<sup>13</sup> See inter alia National Supreme Court "G., P. C. c. H., S. M. s/reintegro de hijo" 22/08/2012; National Supreme Court "M., G. c. P., C. A. s/recurso de hecho deducido por la defensora oficial de M. S. M." 26/06/2012; National Supreme Court "N.N. O U., V. s/protección y guarda de personas" 12/06/2012; National Supreme Court "Q. C., S. Y. c. Gobierno de la Ciudad de Buenos Aires s/amparo" 24/04/2012; National Supreme Court "F., A. L. s/medida autosatisfactiva" 13/03/2012; National Supreme Court "B., S. M. c. P., V. A." 19/05/2010; National Supreme Court "Gladys Elizabeth Rivero" 09/06/2009; National Supreme Court "M. D. H. c. M. B. M. F." 29/04/2008; National Supreme Court "D., N. F." 18/12/2007; National Supreme Court "M., M. M. de L. y otro" 04/09/2007.

challenge violations of children's rights?

Children can do so, and should they not wish to do it through their parents or representative, they have the right to a “children’s lawyer” (*Abogado del Niño*). Law 26061 provides that every child has the right to be represented by an attorney, preferably one that specialises in child rights issues.<sup>14</sup> Law 26061 also states that it is the obligation of the state to provide the child with this representation.<sup>15</sup> Since the law makes no distinction, this lawyer can represent the child in any judicial or administrative proceeding that he or she is involved in. However, this provision is not universally implemented as a children’s lawyer has not been established in all provinces.<sup>16</sup>

After the entry into force of Law 26061, several provinces in the country followed suit and made changes in their own judicial system so as to enable the creation of the same role.<sup>17</sup>

B. If so, are children of any age permitted to bring these cases by themselves in their own names/on their own behalf, or must the cases be brought by or with the assistance of a representative?

As explained in Section II.B, children have the right to be represented by an attorney of their own choosing if they so wish, but Law 26061 does not clarify if children of any age can access legal assistance.

The new Civil and Commercial Code does establish that children can exercise their rights through their representatives, but Article 26 states that a child shall exert his/her rights in accordance with their maturity and level of capacity. This new Code also introduces the category of “adolescents”, defining them as children between the age of 13 and 18 years of age.

C. In the case of infants and young children, how would cases typically be brought?

In the case of infants and young children, the child’s parent or legal guardian has to initiate a lawsuit on behalf of the child in the manner set forth above under section II.B.<sup>18</sup> If the infant or young child does not have parents, a judge appointed child advocate from the Public Ministry, may bring a lawsuit in the front of the courts in order to challenge any children’s rights violation.<sup>19</sup> This figure is different from that of the children’s lawyer, since the child does not choose this representation by themselves.

D. Would children or their representatives be eligible to receive free or subsidized

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<sup>14</sup> Law 26061, art. 27 c).

<sup>15</sup> Ibid.

<sup>16</sup> Information provided by NGO Colectivo de Infancia.

<sup>17</sup> Just to cite a few examples: Law 14568 of the Province of Buenos Aires (27/11/2013) ; law 9944 of the Province of Córdoba

<http://www.gob.gba.gov.ar/legislacion/legislacion/l-14568.html>

<http://web2.cba.gov.ar/web/leyes.nsf/0/30D3D607469A7195032578A800729695?OpenDocument&Highlight=0,9944>.

<sup>18</sup> Civil and Commercial Code of Argentina, §§ 26; National Code of Civil Procedure, § 46.

<sup>19</sup> Civil and Commercial Code of Argentina, art. 103.

legal assistance in bringing these kinds of cases?

As explained above, Article 26 of Law 26061 states that it is the obligation of the state to provide for legal assistance, therefore this will be free of charge for the child.

- E. Are there any other conditions or limits on children or chosen legal representatives bringing cases (e.g., would a child's parents or guardian have to agree to a case being brought)?

There are no other such limits or conditions beyond the ones laid out above in section II.A. and II.B.

### **III. How can children's rights violations be challenged before national courts?**

- A. If there is a potential violation of the Constitution or other principles established in domestic law, or with the CRC or other relevant ratified international/regional instruments, how can a legal challenge be brought?

The Argentine Constitution allows any party to file summary proceedings regarding potential violations of constitutional guarantees, which include children's rights, provided there is no alternative legal remedy.<sup>20</sup>

Also, Article 43 specifically allows any party to act on behalf of another party under detention, presumed to be under detention, or in danger of suffering physical harm, and to file a habeas corpus petition. An NGO did so on behalf of people detained in police precincts, which included children, and the state was forced to relocate those detained.<sup>21</sup>

Individuals or groups of individuals, including children, and NGOs may also submit petitions to the Inter-American Commission on Human Rights (IACHR),<sup>22</sup> on their behalf or on behalf of third persons, regarding alleged violations of the American Convention on Human Rights.<sup>23</sup> A petition can only be lodged after domestic remedies have been exhausted, and normally must be filed within six months after the final judgment.<sup>24</sup> The petition must include, amongst other things, the name of the person filing it or, in the case of an NGO, the name of the legal representative, the name(s) of the victim(s) if possible, and whether the

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<sup>20</sup> Constitution of the Argentine Nation, Art. 43.

<sup>21</sup> Decision of the Federal Supreme Court of Justice in the case V856/02 "Verbitsky, Horacio (representative of Centro de Estudios Legales y Sociales) s/ Habeas Corpus".  
[http://www.cels.org.ar/common/documentos/english\\_summary.pdf](http://www.cels.org.ar/common/documentos/english_summary.pdf)

<sup>22</sup> The Inter-American Commission on Human Rights is one of two bodies within the Organisation of American States (OAS) for the promotion and protection of human rights. The other human rights body is the Inter-American Court of Human Rights. The Commission benefits from a "dual role" as its mandate is found in both the Charter of the Organisation of American States, and in the American Convention on Human Rights (ACHR). As an OAS Charter organ, the IACHR performs functions in relation to all OAS Member States. As an organ of the Convention, its functions are applicable only to States that have ratified the ACHR: Charter of the Organisation of American States, Chapter XV, available at: [http://www.oas.org/dil/treaties\\_A-41\\_Charter\\_of\\_the\\_Organization\\_of\\_American\\_States.htm](http://www.oas.org/dil/treaties_A-41_Charter_of_the_Organization_of_American_States.htm); American Convention on Human Rights, 'Pact of San Jose, Costa Rica', Chapter VII, available at: [http://www.oas.org/dil/treaties\\_B-32\\_American\\_Convention\\_on\\_Human\\_Rights.htm](http://www.oas.org/dil/treaties_B-32_American_Convention_on_Human_Rights.htm).

<sup>23</sup> American Convention on Human Rights, Article 44.

<sup>24</sup> Rules of Procedure of the Inter-American Commission on Human Rights, Articles 31-32, available at: <http://www.oas.org/en/iachr/mandate/Basics/rulesiachr.asp>.

petitioner wishes to remain anonymous and the respective reasons.<sup>25</sup> The victim may designate a lawyer or other person to represent him/her before the IACHR, but this is not compulsory.<sup>26</sup> When a petition is declared admissible, the IACHR attempts to reach a “Friendly Settlement” between the parties concerned. If this is not possible, the IACHR will reach a decision on the merits, which consists of non-binding recommendations to the violating State, aimed at ending the human rights violations, making reparations, and/or making changes to the law.

If the State does not comply with the recommendations of the IACHR, the IACHR may refer the case to the Inter-American Court of Human Rights (IACtHR).<sup>27</sup> Individuals do not have direct recourse to the Court, and must submit their petitions to the IACHR. The IACtHR interprets and applies the ACHR and other Inter-American human rights treaties and issues a judgment, which may include an order to pay reparations to the victim(s) of human rights violations.<sup>28</sup> The Court’s judgments are legally binding on the State against which they are made. For example, in the case of *Mendoza v. Argentina*, the IACtHR found that life imprisonment amounts to arbitrary imprisonment under the ACHR, and ordered Argentina to ensure no one is sentenced to life imprisonment or reclusion for life for an offence committed while under the age of 18.

Finally, once all domestic remedies have been exhausted, complaints against violations of children’s rights may be submitted to the UN Committee on the Rights of the Child under the third Optional Protocol to the CRC,<sup>29</sup> which Argentina has ratified. Complaints can be made directly by both an individual child or a group of children, or indirectly, on their behalf by an adult or an organisation.<sup>30</sup> The violations must concern a right granted by either the CRC, the Optional Protocol on the sale of children or the Optional Protocol on the involvement of children in armed conflict<sup>31</sup> and must have occurred after the entry into force of the Protocol in Argentina on 14 July 2015.<sup>32</sup> Anonymous complaints are inadmissible and so are complaints not made in writing.<sup>33</sup> In addition, only complaints made in one of the working languages of the UN will be accepted.<sup>34</sup> After examining the complaint, the Committee can make recommendations to the State, which are not legally binding.<sup>35</sup>

#### B. What powers would courts have to review these violations, and what remedies

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<sup>25</sup> Ibid., Article 28.

<sup>26</sup> Ibid., Article 23.

<sup>27</sup> Ibid., Article 45.

<sup>28</sup> American Convention on Human Rights, Article 63.

<sup>29</sup> Optional Protocol to the Convention on the Rights of the Child on a communications procedure, 2013, available at:

[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=A/RES/66/138&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=A/RES/66/138&Lang=en).

<sup>30</sup> Optional Protocol on a communications procedure, Article 5.

<sup>31</sup> Ibid.

<sup>32</sup> Optional Protocol on a communications procedure, Article 7(g).

<sup>33</sup> Ibid.

<sup>34</sup> Office of the United Nations High Commissioner for Human Rights, *23 FAQ about Treaty Body complaints procedures*, available at:

<http://www2.ohchr.org/english/bodies/petitions/individual.htm#contact>.

<sup>35</sup> Optional Protocol on a communications procedure, Article 10.

could they offer?

Once a party files summary proceedings seeking to enforce the rights enshrined in the Constitution, the courts must act immediately. The remedies available to the petitioner depend on the nature of the right violated.<sup>36</sup> If the petition challenges an act or omission that may damage, modify, or threaten constitutional rights, the court may declare that the act or omission is impermissibly based on an unconstitutional rule and, therefore, that it is illegal.<sup>37</sup> Where a petition challenges an act or omission that infringes a person's physical liberty, the court must immediately determine whether that person has been properly detained.<sup>38</sup>

The Argentine Constitution does not provide for an action for damages based on these violations. Actions for damages, however, are permissible pursuant to the Civil and Commercial Code and the Civil Procedure Code.

- C. Would such a challenge have to directly involve one or more individual child victims, or is it possible to challenge a law or action without naming a specific victim?

According to the laws of Argentina, legal action may not be pursued without identifying at least one victim (unless the action is a group litigation as set forth in section III.D. below). However, in accordance with article 8.1 of the CRC, the courts must protect the identity of any child victims in court proceedings.

- D. Is any form of collective action or group litigation possible, with or without naming individual victims?

Collective action may be initiated according to Article 43 of the Argentine Constitution without naming individual victims.<sup>39</sup>

- E. Are non-governmental organizations permitted to file challenges to potential children's rights violations or to intervene in cases that have already been filed?

Non-governmental entities may file challenges to potential children's right violations as part of a collective action filed in accordance with Article 43 of the Argentine Constitution,<sup>40</sup> and can offer representation in the form of a "children's lawyer" as well.

**IV. Practical considerations.** Please detail some of the practical issues, risks and uncertainties that might be involved in bringing a case to challenge a violation of children's rights, such as:

- A. Venue. In what courts could a case be filed (e.g., civil, criminal, administrative, etc.)? What would be the initial filing process entail?

Cases involving children's rights may be filed in either civil or criminal courts,

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<sup>36</sup> Ibid.

<sup>37</sup> Ibid.

<sup>38</sup> Ibid.

<sup>39</sup> Ibid.

<sup>40</sup> Ibid.

depending on the subject matter of the individual complaint.

Civil cases are initiated by filing a complaint in the civil courts.<sup>41</sup> Various remedies are available in civil cases, including monetary damages or orders enjoining activities that restrict the exercise or full enjoyment of a children's rights as defined by Argentine law.<sup>42</sup> Once a claim has been filed, a copy of the complaint is served on the defendant with a response pack, requesting that the defendant either admit the claim or prepare to defend themselves against it.

Argentina has a single Criminal Code, but each Province has its own Criminal Procedure Code. Nevertheless, criminal proceedings generally start in one of the following ways: a crime can be reported to the police or the prosecutor, or the case can be filed before the criminal courts, which will later appoint the judge on call to investigate. Once the judge receives the case, they may either investigate the claim or request that the prosecutor investigate the criminal charges. After an investigation has taken place, the defendant may be indicted if there is sufficient evidence to substantiate the alleged crime. If indicted, the defendant must then stand trial.

- B. Legal aid / Court cost. Under what conditions would free or subsidized legal aid be available to child complainants or their representatives through the court system (i.e., would the case have to present an important legal question or demonstrate a likelihood of success)? Would child complainants or their representatives be expected to pay court costs or cover other expenses?

As stated in section II.D, Law 26061 expressly provides for free or subsidised legal assistance in children's rights cases. Also, in civil matters, the law provides the benefit of litigating without incurring costs, which the complainant can request before the courts with the aid of an attorney.<sup>43</sup>

- C. Pro bono / Financing. If legal aid is not available, would it be possible for child complainants or their representatives to obtain legal assistance from practicing lawyers on a pro bono basis, through a children's rights organization, or under an agreement that does not require the payment of legal fees up front?

Litigants in Argentina who cannot pay an attorney themselves can usually find lawyers to work on their case on a pro bono basis. Bar associations and universities throughout Argentina provide free legal representation to litigants that otherwise would not be able to pursue their claims. For example, the Pro Bono and Public Interest Commission of the City of Buenos Aires Bar Association has established a network of law firms that provide pro bono legal assistance.<sup>44</sup> The University of Buenos Aires Law School Clinic<sup>45</sup> provides legal assistance on different matters, including refugee legal assistance, and has two specialised teams on child rights - one that focuses on criminal matters, and

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<sup>41</sup> Civil and Commercial Procedure Code, § 330.

<sup>42</sup> Ibid.

<sup>43</sup> Civil and Commercial Procedure Code, Chapter VI, arts. 78 to 86.

<sup>44</sup> Pro Bono and Public Interest Commission of the City of Buenos Aires Bar Association, available at: <http://www.probono.org.ar/en/index.php>.

<sup>45</sup> University of Buenos Aires, Law School, Law Clinic [http://www.uba.ar/extension/trabajos/derecho\\_patro.htm](http://www.uba.ar/extension/trabajos/derecho_patro.htm)



another on civil matters. The Children's Right Council,<sup>46</sup> which has offices in every zone of the city of Buenos Aires, liaises with the Public Defender of the City.<sup>47</sup>

- D. Timing. How soon after a violation would a case have to be brought? Are there any special provisions that allow young adults to bring cases about violations of their rights that occurred when they were children?

A litigant may bring a lawsuit to enforce children's rights at any time. For constitutional proceedings, there is no statute of limitations. In the criminal context, however, actions may be time-barred. The statute of limitations for criminal proceedings is fifty years for crimes punishable by life imprisonment. For all other crimes, the statute of limitations equals the maximum jail sentence which the defendant could potentially receive for the alleged crime. Where victims initiate criminal proceedings for violations against them as minors, the statute of limitations will be suspended until they turn 18.<sup>48</sup>

- E. Evidence. What sort of evidence is admissible/required to prove a violation? Are there particular rules, procedures or practices for dealing with evidence that is produced or presented by children?

The rules of civil procedure set forth the types of evidence that are admissible in civil proceedings. They include physical evidence, testimony from fact and expert witnesses and documentary evidence.<sup>49</sup> In criminal cases, the same types of evidence are admissible.<sup>50</sup> Where children are involved as witnesses, it is practice in Argentine courts to make use of the Gesell Dome, which allows testifying children to be observed without being disturbed.<sup>51</sup> ADC, an Argentinian NGO, is working with the provincial authorities to implement protocols on best practice for hearing testimony from child victims where no Gesell Dome is available.<sup>52</sup>

- F. Resolution. How long might it take to get a decision from the court as to whether there has been a violation?

The amount of time it takes to get a decision from an Argentine court depends on the type of case and the amount of evidence presented. Constitutional proceedings can take up to three years. On the other hand, an interim action for equitable relief may take as little as two months. Criminal proceedings typically take between five and ten years.

- G. Appeal. What are the possibilities for appealing a decision to a higher court?

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<sup>46</sup> <http://www.buenosaires.gob.ar/cdnnya>

<sup>47</sup> <http://www.defensoria.jusbaires.gov.ar/index.php>.

<sup>48</sup> Argentine Penal Code, title X, § 59-70.

<sup>49</sup> National Code of Civil Procedure, §§ 360-480.

<sup>50</sup> Argentine Code of Criminal Procedure, see inter alia §§ 262, 358.

<sup>51</sup> Argentine Code of Criminal Procedure, art. 250 quater. Law N° 2.523 of the Province of Neuquén <https://www.jusneuquen.gov.ar/index.php/normativas-provinciales/leyes-provinciales/974>, Law N° 4.134 of the Province of Río Negro [http://www.legism.gov.ar/LEGISCON/detallado\\_leywp.php](http://www.legism.gov.ar/LEGISCON/detallado_leywp.php).

<sup>52</sup> ADC (Asociación por los derechos civiles) website: <http://www.proteccioninfancia.org.ar>. Guide to best practices, available at: [http://files.unicef.org/argentina/spanish/proteccion\\_Guia\\_buenas\\_practicas\\_web.pdf](http://files.unicef.org/argentina/spanish/proteccion_Guia_buenas_practicas_web.pdf).



In civil cases, a litigant may appeal an adverse trial court decision to a higher court, the civil court of appeals. Once the court of appeals has issued its judgment, the parties can, in some specific cases, appeal the decision to the Supreme Court of Argentina.

In criminal cases, the final decision of the trial court can be appealed to the criminal court of cassation. Like appellate decisions from the civil court of appeals, certain decisions of the criminal court of cassation can be appealed to the Supreme Court.<sup>53</sup>

- H. **Impact.** What are the potential short-term and long-term impacts of a negative decision? Is there a possibility for political backlash or repercussions from a positive decision?

In Argentina, whether a legal decision results in political backlash or other repercussions usually depends on the specific facts of the case. Cases regarding child abuse, for instance, usually attract particular public interest.

Court decisions are not binding on subsequent unrelated cases. In other words, a decision in one case does not have any precedent value and, therefore, does not affect the outcome of later cases. However, Supreme Court decisions are usually respected by lower courts. While a milestone decision with regard to children's rights would not technically have precedential value, it may still have an impact on the outcome of a related case, and one can always mention the decision when filing a related case.

- I. **Follow up.** What other concerns or challenges might be anticipated in enforcing a positive decision?

In Argentina, the enforcement of awards in civil proceedings is governed by the Code of Civil Procedure, which sets forth the mechanism for seeking enforcement.<sup>54</sup>

- V. **Additional factors.** Please list any other national laws, policies or practices you believe would be relevant to consider when contemplating legal action to challenge a violation of children's rights.

In addition to the laws identified above, Argentina has also enacted a number of other laws aimed at protecting children's rights. For instance, Argentina has introduced child labour laws which govern the employment of children between the ages of 16 and 18, and prohibit children under the age of 16 from working.<sup>55</sup>

Argentina has also established a national program for comprehensive sexual education in public and private schools<sup>56</sup> and regulations related to child development centers.<sup>57</sup> Moreover, Argentina has specific laws regarding

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<sup>53</sup> Detailed information on the institutional structure of the Argentine legal system is available at: <http://www.pjn.gov.ar/>.

<sup>54</sup> National Code of Civil Procedure, see inter alia § 35 (3).

<sup>55</sup> Argentine Law 20744.

<sup>56</sup> Argentine Law 26150, regulated by Decree 10/11/2010.

<sup>57</sup> Argentine Law 26233, regulated by Decree 12/02/2008.

domestic violence, which often affects children.<sup>58</sup> These laws were enacted to prevent and punish domestic violence against adults as well as children.

The UN Committee on the Rights of the Child, in its concluding observations to its state party review of Argentina in June 2010,<sup>59</sup> noted that there still does not exist an ombudsperson for children's rights. The monitoring of children's rights is included in the mandate of the National Ombudsman for the People (Defensoría del Pueblo de la Nación Argentina).<sup>60</sup> Even though Law No. 26061 of 2005 introduced the role of an Ombudsperson for Boys, Girls and Adolescents, as of March 2014, no mandate holder had been appointed by parliament to fill the post.<sup>61</sup> A group of NGOs filed an amparo action to ask for the appointment of the Ombudsman in June 2015.<sup>62</sup>

*This report is provided for educational and informational purposes only and should not be construed as legal advice.*

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<sup>58</sup> Argentine Law 26485.

<sup>59</sup> UN Committee on the Rights of the Child, *Concluding observations on the combined third and fourth periodic reports of Argentina*, available at: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fARG%2fCO%2f3-4&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fARG%2fCO%2f3-4&Lang=en).

<sup>60</sup> See website of "El Defensor del Pueblo de la Nación" for details on the mandate, available at: <http://www.dpn.gob.ar/temas.php?cl=25#dh11>.

<sup>61</sup> CRIN Publication, *Argentina: Persistent Violations*, available at: <http://www.crin.org/en/library/publications/argentina-persistent-violations>.

<sup>62</sup> ADC, Colectivo de Infancia and Fundación SUR, among other organisations filed an amparo before the Justice of the City of Buenos Aires. <http://www.adc.org.ar/amparo-de-ong-para-que-se-designe-defensor-de-ninos-ninas-y-adolescentes/>