



## Asamblea Permanente por los Derechos Humanos

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### **ARGENTINA EVALUATION BEFORE THE UPR (UN HUMAN RIGHTS COUNCIL) - 16 April 2008**

#### **Issues of concern regarding the situation of Human Rights in Argentina**

##### **The situation in Argentinean prisons**

The Permanent Assembly for Human Rights (APDH) is concerned about the legislation approved in Argentina regarding the length of preventive prison. This regulation does not comply with international or regional standards regarding conditions for a fair trial. The Law 24.530 approved in 2001 has derogated articles considered as positive by the Interamerican Commission of Human Rights and has further prolonged the duration of preventive prison. The situation of prisoners today is consequently worst than during the years of the military dictatorship when regulations had established a maximum of two years for any judicial procedure.

APDH is also concerned about the status of the Penitentiary Procurator, an institution that monitors the respect of human rights in federal prisons, as there is no functionary yet legally designated to preside the institution. Such functionary must be designated by the National Congress and must be given a clear and stable mandate that allows him or her to execute such a vital role without interferences.

In compliance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Argentinean government should take the necessary measures to investigate promptly and impartially when there are sufficient reasons to believe that an act of torture has been committed in Argentinean prisons. On this regard, the initiative of the Secretary of Human Rights to establish a register of violent death in prisons is not enough to comply with the country's obligations in the matter. Furthermore, the Argentinean Government must create a National Committee on the Prevention of Torture as established in the Optional Protocol to the Convention against Torture, ratified in 2006.

APDH considers that the Organic Law of the Federal Penitentiary Service has turned federal prisons into a free zone for crime and impunity. It has also militarized what used to be a specialized brunch of the public administration and turned it into a "security force". Furthermore, it is of great concerned that the Penitentiary Service assumes the

defense of their functionaries when they are accused of torturing, murdering or committing other criminal acts while on duty.

## **Security Institutions**

When analyzing the performance of security institutions, especially that of the Federal Police, the APDH observes multiple failures regarding the mechanisms to monitor and prosecute abusive and criminal behaviors of public security agents, for instance:

- 1) When a police officer is accused of a crime, the Federal Police assumes both its prosecution and its defense,
- 2) The administrative procedures established to determine the responsibility of a suspected officer violate the principles of due process, legality and right to a defense,
- 3) People who do not belong to the force do not have access to administrative procedures files,
- 4) The Internal Affairs Division, which is responsible of conducting the internal auditing, is not an independent and separated division of the Police,
- 5) The internal supervision mechanisms of the police focus on the affirmation of internal discipline rather than on the protection of the community,
- 6) The regulations, structure and discipline mechanisms of the police maintain and reproduce those of the military dictatorship (1976 - 1983),
- 7) The vertical structure and the lack of transparency in the organization of the police are an obstacle for civil audit of the institution's performance.

For these reasons, APDH considers essential to modify the Organic Law of the Federal Police and to derogate Law 21.695 965 and its successive modifications.

Regarding police behavior in public manifestations, APDH finds serious failures related to the organization and control of the security operations involved. Some of these failures are: lack of adequate intervention strategies for each manifestation, lack of training of the intervening officials, lack of control and evaluation of the operations before and after the manifestation, lack of clear indications on how to proceed and confusion regarding the roles of officials in each event, lack of instructions regarding the use of weapons. APDH strongly suggests the adoption of an action protocol to guide the behavior of security forces during public manifestations and create an independent mechanism to monitor security forces during these events.

Finally, APDH is concerned about the recent relocation of the Secretary of Security to the Ministry of Justice and Human Rights, where the Secretary of Human Rights is also placed. These governmental areas must be separated and located in different ministries in compliance with the recommendations of the UN Committee on Civil and Political Rights to the Argentinean Government.

## **Trafficking in persons for sexual exploitation**

According to the International Organization for Migrations, trafficking in persons for sexual exploitation in Argentina has increased in the last years. Parallel to this increase, it is observed that there is a lack of administrative, judicial and social services to tackle this problem, monitor the situation, prosecute the criminal and assist the victims. There is also a lack of political will to sanction those responsible.

It is of outmost concern the lack of a specific judicial instrument to address this problem in a comprehensive way. Domestic regulations applied to the situation are insufficient and inadequate to the severity of the crimes committed, and do not comply with the international standards on the issue.

The Argentinean government has ratified in 2002 the Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. It is therefore obliged to adopt the necessary measures to typify the crime of trafficking in people in its domestic law. It is also obliged to protect the privacy and identity of the victims of these crimes and implement measures to assist them in their physical, psychological and social recovery. However, five years after the ratification, there is no domestic law that typifies this crime and no National Plan of Action against Trafficking in Persons.