



# **International Covenant on Civil and Political Rights**

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## **Human Rights Committee**

### **Information received from Paraguay regarding follow-up to the concluding observations on its fourth periodic report\***

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\* The present document is being issued without formal editing.



## Introduction

1. Pursuant to paragraph 47 of the concluding observations of the Human Rights Committee on the fourth periodic report of Paraguay (CCPR/C/PRY/CO/4), and in response to note GH/fup-133 of the Special Rapporteur for follow-up on concluding observations, the present document contains relevant information on the implementation of the recommendations set out in paragraphs 13, 29 and 35.

### Follow-up information relating to paragraph 13 (a) of the concluding observations (CCPR/C/PRY/CO/4)

2. In addition to the convictions obtained in cases that were investigated by the judiciary under the inquisitorial system in force before the 1997 criminal justice reform, the Special Human Rights Unit of the Public Prosecution Service has contributed to the progress made in several cases involving indictments and charges that are expected to lead to convictions. Annex I contains a list of cases in which preliminary hearings or the resolution of appeals are currently pending.

3. One of the most representative convictions was obtained in case No. 3154/89 against Alfredo Stroessner et al. concerning torture and other offences (Martin Almada–Celestina Pérez case), in which Fortunato Laspina, Camilo Almada Morel and Nicolás Lucilo Benítez were convicted of various human rights violations by means of Decision No. 03 of 20 December 2019. Likewise, a sentence of 7 years was imposed in case No. 53/2017 against Jorge Francisco Bogarín concerning bodily injury caused in the performance of public duties.

### Follow-up information relating to paragraph 13 (b) of the concluding observations

4. Under the current legal framework,<sup>1</sup> compensation is being granted for human rights violations that occurred during the dictatorship, following a binding ruling by the Counsel General's Office on requests submitted by the Ombudsman's Office.

5. Although the resources allocated to the Ombudsman's Office for providing compensation have been affected by the budgetary adjustments made to address the impact of the coronavirus disease (COVID-19) pandemic, efforts have been made to ensure that the amount allocated is, at a minimum, equivalent to the amount allocated in 2019, when the budget for compensation was 28,680,305,013 guaraníes (G). The budget for 2020 was the same as for 2019, given that it had been approved prior to the onset of the pandemic.

6. The well-known effects of the pandemic forced the State to readjust the budget allocated to compensation for human rights violations committed during the dictatorship. The budget therefore decreased to G 9,644,185,951 in 2021 but then increased to G 15,000,000,000 in 2022, and increased again to G 25,196,209,428 in 2023.

7. Regarding statistical data on requests received by the Ombudsman's Office and rulings issued by the Counsel General's Office, a total of 207 requests were received and 177 rulings were issued in 2019; 79 requests were received and 81 rulings were issued in 2020; 106 requests were received and 102 rulings were issued in 2021; and 352 requests were received and 92 rulings were issued in 2022. For 2023, 159 requests have been received and 31 rulings have been issued as of the date of the present report.

8. To date, a total of 17,000 cases have been processed by the Ombudsman's Office. Owing to the high number of requests that did not comply with the requirements established in Act No. 838/96, as amended, the Counsel General's Office has, in many cases, been forced to refuse compensation, since it must apply general and eminently legal criteria that do not encompass certain specific forms of human rights violations that arise in individual cases. If

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<sup>1</sup> Act No. 838/96 on compensation for victims of human rights violations that occurred during the dictatorship (1954 to 1989), as amended; Act No. 3603/08 and Act No. 4381/11.

the Counsel General's Office refuses compensation, the affected parties have the right to appeal in court.

9. However, it should be noted that in order to improve the compensation mechanisms for victims and members of their families, a bill<sup>2</sup> is being reviewed in the National Congress with a view to authorizing payments by the Ministry of Finance in cases of human rights violations that occurred during the period 1954–1989 which have received a favourable decision from the Ombudsman's Office and that were initiated prior to the entry into force of Act No. 4381/2011.

### **Follow-up information relating to paragraph 13 (c) of the concluding observations**

10. Following the creation of the Genetic Databank, more than 200 people in Paraguay and around 100 in Argentina have been contacted, and samples from the family members of 158 missing persons have been collected. Furthermore, the national team tasked with investigating, searching for and identifying persons detained, disappeared and extrajudicially executed during the dictatorship in Paraguay from 1954 to 1989, in collaboration with the Argentine Forensic Anthropology Team, has presented the genetic profile of the Paraguayan population, which gives an overview of the genetic variability and frequencies of the population. For this purpose, 550 random blood samples were taken from volunteers from different parts of the country.

11. The National Campaign for the Identification of Persons Disappeared between 1954 and 1989 involves the continued search for relatives and the taking of blood samples, which are added to the Genetic Databank and compared with the 37 skeletal remains found to date. This work has so far led to the identification of four individuals<sup>3</sup> connected to cases No. 2291/2001 and No. 5236/2009 against “unnamed persons concerning enforced disappearance”. Skeletal remains from five exhumations carried out between 2010 and 2018 are also currently being analysed.

12. In spite of the budgetary challenges hindering the progress of excavations at around a dozen identified sites, initial exploratory work has been carried out in a zone in the Department of Caaguazú in connection with the case of 10 persons who went missing in the 1980s. Assistance was provided by the Argentine Forensic Anthropology Team and geophysicists from the State-owned petroleum company *Petróleos Paraguayos* (PETROPAR).

13. These operations form part of the investigations carried out by the Special Human Rights Unit of the Public Prosecution Service, including case No. 5236/09 against unnamed persons concerning enforced disappearance”; case No. 2291/2001 against Alfredo Stroessner et al. concerning enforced disappearance and torture (Movement of 14 May); case No. 13/2015 concerning the discovery of skeletal remains in Paso de Patria, Ñeembucú; case No. 80/2014 against Carlos Calcagno et al. concerning enforced disappearance (disappearances during Operation Condor); and case No. 5236/09 against unnamed defendants concerning enforced disappearance.

14. After the discovery of skeletal remains in a property previously owned by the former dictator Alfredo Stroessner in Ciudad del Este in September 2019, the Public Prosecution Service was tasked with carrying out excavations and collecting evidence. The remains found, including three skulls, two femurs and a humerus, as well as scraps of clothing, are thought to belong to victims of the dictatorship and were taken to Asunción for analysis.

15. In terms of technical capacities, the national team tasked with investigating, searching for and identifying persons detained, disappeared and extrajudicially executed is receiving assistance and training in the area of forensic anthropology from the Argentine Forensic Anthropology Team in an effort to build its capacity and strengthen it as an institution. Where required, the Argentine Forensic Anthropology Team also provides support with excavations

<sup>2</sup> See case D-1953120, available at <http://silpy.congreso.gov.py/expediente/117607>.

<sup>3</sup> José Agustín Potenza, Rafaella Filipazzi, Miguel Ángel Soler and Cástulo Vera Báez.

and the analysis of the biological profile of exhumed skeletal remains by transferring them to its offices in Argentina to extract genetic material and compare it with the information in the Genetic Databank.

### **Follow-up information relating to paragraph 29 (a) of the concluding observations**

16. Under current legislation,<sup>4</sup> pretrial detention is a measure of last resort. The criminal court judge, ex officio or on application, can order alternative measures to pretrial detention or replace pretrial detention with less restrictive precautionary measures, including granting release, pursuant to the review process for precautionary measures (articles 245 and 250 of the Code of Criminal Procedure).

17. However, since the entry into force of Act No. 4431/11, the possibility of granting alternative measures or offering a substitute for pretrial detention in certain cases has been limited, which has led to an exponential increase in the prison population. Consequently, an intersectoral team promoted the enactment of Act No. 6350/19,<sup>5</sup> which repealed Act No. 4431/11. In addition, the bill on establishing the special procedure for the lifting of pretrial detention in cases where the time limit established in article 19 of the Constitution has expired<sup>6</sup> (file No. S-177505)<sup>7</sup> is under consideration.

18. In December 2021, the Ministry of Justice prompted the signing of a Cooperation Agreement for the creation of a Committee on Alternative Measures to Deprivation of Liberty, involving the highest authorities of the Supreme Court of Justice, the Public Prosecution Service and the Ministry of Public Defence.

19. In 2021, the Supreme Court of Justice issued Resolution No. 1511,<sup>8</sup> which sets out guidelines on the exceptional application of pretrial detention and promotes the use of an ex officio review of precautionary measures as a tool for reducing the prison population.

20. Act No. 5863/17 on the use of electronic or monitoring devices<sup>9</sup> such as bracelets, ankle tags or other similar suitable devices was amended by Act No. 6345/19,<sup>10</sup> with a view to making the executive branch responsible for regulation and implementation in this area given the judiciary's lack of competence in such matters.

21. The regulation process has been driven by the Ministry of the Interior, which convened a working meeting in March 2023 in order to advance the implementation of the Act in coordination with the Supreme Court of Justice, the Public Prosecution Service and the Ministry of Justice, whose highest authorities participated in the meeting. The meeting was also attended by the Minister of Information and Communications Technology, the commander and other authorities of the National Police and representatives of the National Directorate of Public Procurement.

22. As evidence of the State's willingness to take decisive steps with regard to implementing the Act, an inter-institutional round table was formed to examine the various alternatives on the basis of what was realistically possible, the necessary adjustments, legal issues, the oversight mechanism and budgetary and administrative factors.

<sup>4</sup> Article 19 of the Constitution and article 242 of the Code of Criminal Procedure.

<sup>5</sup> <https://www.bacn.gov.py/leyes-paraguayas/8902/ley-n-6350-modifica-el-articulo-245-de-la-ley-n-12861998-codigo-procesal-penal-y-sus-modificatorias-las-leyes-n-44312011-y-24932004>.

<sup>6</sup> "In no case shall it be extended beyond the duration of the minimum sentence for the offence concerned ...".

<sup>7</sup> <http://silpy.congreso.gov.py/expediente/108883>.

<sup>8</sup> <https://www.pj.gov.py/images/contenido/acordadas/acordada1511.pdf>.

<sup>9</sup> <https://www.bacn.gov.py/leyes-paraguayas/9764/ley-n-5863-establece-la-implementacion-de-los-dispositivos-electronicos-de-control>.

<sup>10</sup> <https://www.bacn.gov.py/leyes-paraguayas/9525/ley-n-6345-modifica-el-articulo-7-numeral-1-y-deroga-el-articulo-11-de-la-ley-n-586317-que-establece-la-implementacion-de-los-dispositivos-electronicos-de-control>.

23. Furthermore, the implementation of the Restorative Juvenile Justice Programme, which is aimed at monitoring criminal proceedings, maximizing the use of pretrial detention only as a measure of last resort and promoting the use of socio-educational measures in line with the Code on Children and Adolescents, has led to a reduction in the number of adolescents deprived of their liberty in Paraguay.

24. The first phase of a project designed to strengthen the restorative approach in adolescent criminal responsibility processes was implemented between 2019 and 2021. The project is now in its second phase and has been implemented in eight educational institutions. According to data from the Adolescent Offenders Welfare Service of the Ministry of Justice, 1,030 adolescents received assistance in 2019. This number dropped to 626 in 2020 and then rose to 780 in 2021 before falling again to 561 in 2022.

25. Through this initiative to strengthen the restorative approach, protocols for custodial and non-custodial measures and a model of educational support for adolescents have been developed thanks to coordination among all the actors in the juvenile criminal justice system, namely the Supreme Court of Justice, the Public Prosecution Service, the Public Defence Service and the Ministry of Justice, which made up the Inter-Institutional Round Table on Juvenile Restorative Justice.

### **Follow-up information relating to paragraph 29 (b) of the concluding observations**

26. Articles 12, 16 and 17 of the Constitution clearly set out the rights and guarantees afforded to all persons in the context of detention, arrest and legal proceedings, including the right to be informed of the reason for their detention and of their rights, to obtain access to free legal assistance if required and to contact a family member or a trusted individual.

27. The Public Defence Service provides free legal assistance, in line with its mission, as set out in article 9 (3) of its charter, to advise, assist, represent and defend, free of charge, individuals who lack sufficient resources to obtain access to justice. The legal professionals employed in its offices throughout the country<sup>11</sup> cover a wide range of jurisdictional areas and are responsible for representing and defending in court people who cannot afford to pay for such services. Management reports with data on the range of services provided by the Public Defence Service are available online.<sup>12</sup>

28. Public defenders receive in-service training on human rights and due process at the Training and Education Centre of the Public Defence Service (known as the Technical College of the Public Defence Service since 2021), through workshops organized with the Public Prosecution Service Training Centre on topics including the restriction of rights, inter-American standards of due process and personal liberty.

29. The Human Rights Department of the National Police conducts in-service training sessions with police staff on human rights, through human rights training days and training workshops on police procedures that comply with international human rights standards and humanitarian principles applicable to the work of the police. The training is organized across a range of police jurisdictions and aimed at staff from different areas and services of the National Police.

30. Similarly, the National Police has a Department of Internal Affairs which oversees the investigation of complaints concerning police procedures, in line with the requirements of due process. The case file is submitted to the Directorate of Police Justice for investigation and potential referral to the Public Prosecution Service.

<sup>11</sup> <https://www.mdp.gov.py/contactos/nuestras-oficinas/>.

<sup>12</sup> <https://www.mdp.gov.py/informes-de-gestiones/>.

## Follow-up information relating to paragraph 35 (a)–(c) of the concluding observations

31. The National Anti-Corruption Secretariat has made significant progress in the fight against corruption and in promoting transparency and accountability, for example through the creation of an anti-corruption portal,<sup>13</sup> which includes a system for registering complaints and processing criminal cases, inquiries and investigations,<sup>14</sup> and a platform<sup>15</sup> for monitoring compliance with active transparency obligations in the public sector. The National Integrity, Transparency and Anti-Corruption Plan 2021–2025<sup>16</sup> (Decree No. 4458/20) has also been approved. It was promoted by the National Integrity and Transparency Team, which was established through Decree No. 3003/19.

32. The curriculum delivered by the Public Prosecution Service Training Centre includes specialized academic programmes aimed at improving and raising awareness of prosecutorial management as an effective tool for combating corruption. It also draws on scientific and academic research and the publications of the Law Review on efforts to combat corruption within the judiciary, including by raising awareness of the issue among judges, prosecutors and the National Police. Between 2019 and 2021, key topics were addressed with the aim of creating a space for informed debate to highlight the problem of corruption.

33. A number of anti-corruption strategies have been established, including the creation of prosecutorial management indicators for the Economic Crimes and Anti-Corruption Unit; financial investigations and asset recovery; a module on principles and ethical values for public officials in the fight against corruption; discussions surrounding the negative effects of corruption on the realization of economic, social and cultural rights; a knowledge consolidation workshop for the Code of Ethics review team; and certification courses on judicial management tools for use in the areas of, inter alia, the rule of law and organized crime.

34. Through Decision No. 7916/20, the Supreme Court of Justice designated 2020 as the Year of the Fight against Corruption and Impunity. As part of the initiative, it launched a publication on regulations and rulings on corruption and human rights<sup>17</sup> and held a webinar on the issue. As part of its policy of transparency and access to information, the Supreme Court of Justice made available three web platforms to allow members of the public to observe court cases,<sup>18</sup> with the aim of enhancing the monitoring of corruption-related cases.

35. The judiciary's Complaints and Reports Office promotes transparency and combats corruption and impunity by conducting investigations that involve the Office of the Superintendent General of Justice and the Council of Superintendents. Between 2006 and 2023, the number of complaints filed has increased by 5,000 per cent, demonstrating that the transparency and anti-corruption programme is reaching a growing number of people.

36. Pursuant to Acts No. 5189/14 and No. 5282/14, which regulate the provision of information on the use of public resources and matters relating to access to public information and transparency, the judiciary has procedures for providing public information via email, by telephone, in person or through the one-stop public information portal managed by the Ministry of Justice.<sup>19</sup> The requests for public information that have been received and processed are accessible online.<sup>20</sup>

37. Through Decision No. 1309/20, the Supreme Court of Justice standardized the criteria and administrative and technical procedures concerning the management of entrance

<sup>13</sup> [www.denuncias.gov.py](http://www.denuncias.gov.py).

<sup>14</sup> <https://paneldenuncias.senac.gov.py/#/>.

<sup>15</sup> <https://bit.ly/panel-transparencia-senacpy>.

<sup>16</sup> <https://nube.senac.gov.py/s/jRWRXY6nH8iKmMx#pdfviewer>.

<sup>17</sup> <https://www.pj.gov.py/images/contenido/ddh/Normativas-y-pronunciamientos-sobre-corupcion-y-DDHH.pdf>.

<sup>18</sup> <https://www.pj.gov.py/observatorio>.

<sup>19</sup> [https://informacionpublica.paraguay.gov.py/portal/#/buscar\\_informacion#busqueda](https://informacionpublica.paraguay.gov.py/portal/#/buscar_informacion#busqueda).

<sup>20</sup> <https://www.pj.gov.py/contenido/1298-acceso-a-la-informacion-publica-y-transparencia-gubernamental/1346>.

examinations and promotion within the judiciary.<sup>21</sup> The Judicial Ethics Office promotes and monitors compliance with the Code of Judicial Ethics and provides technical support to the Judicial Ethics Court and the Judicial Ethics Advisory Council, including by issuing rulings on complaints received.<sup>22</sup> It holds dissemination and awareness-raising campaigns, such as the “Judicially Ethical” campaign aimed at judges.

38. The Ministry of the Interior has organized a number of activities in different units of the National Police regarding the fight against corruption, with the aim of providing police staff with guidance and training on the mechanisms available to tackle corruption among public officials. The activities include the creation of the Corruption Risk Map Committee and the organization of several informational talks on the subject.

39. The Anti-Corruption Unit of the Ministry of the Interior became the Directorate General for Transparency and Anti-Corruption in order to facilitate the implementation of integrity policies. The organizational and functional structure of the Ministry’s Department for Transparency and Anti-Corruption and the Office for Access to Public Information has also been established. The Department of Internal Affairs has been set up to investigate complaints against police officers. Its findings are submitted to the Directorate of Police Justice for investigation and possible referral to the Public Prosecution Service.

40. Courts specialized in economic crimes and corruption have been established pursuant to Act No. 6379/19.<sup>23</sup> These courts, which have the power to hear, rule on and enforce decisions in cases of bribery, malfeasance and other offences, have been further strengthened through Act No. 6430/19 on preventing, criminalizing and punishing national and transnational bribery.<sup>24</sup> Furthermore, since 2019, the police information system has included the data category “acts involving fraud, deceit or corruption”, which is further broken down into subcategories including allegations of usury, bribe-taking, fraud, unlawful enrichment, influence peddling, bribery and corruption.

41. The Special Unit for Economic Crimes and Anti-Corruption of the Public Prosecution Service investigates the offences of public corruption, economic crimes, money-laundering and financing of terrorism. It is in charge of a Deputy Prosecutor’s Office and is made up of a team of 14 prosecutors that has obtained emblematic sentences, the highest to date being a 15-year custodial sentence and a confirmed sentence of 12 years’ imprisonment.

42. Under the Constitution, members of the Supreme Court of Justice, court and tribunal judges, the Attorney General and prosecutors must be nominated by the Council of the Judiciary and must meet the constitutional and legal requirements for holding office. These requirements concern the nominee’s academic achievements, experience, integrity, background, career history, performance and social recognition, all of which are assessed at a hearing that is broadcast publicly.

43. Act No. 6814/21<sup>25</sup> established the procedure for the prosecution and potential removal from office of members of courts of appeal, judges, deputy prosecutors, prosecutors, the Chief Public Defender, deputy public defenders and public defenders.

44. Pursuant to Act No. 6721/21,<sup>26</sup> the national commission formed to review the legislation on the administration of justice must submit its conclusions for the consideration of the legislative branch within four years.

<sup>21</sup> <https://www.pj.gov.py/contenido/1609-concursos-de-ingreso-y-promocion-de-personas/1609>.

<sup>22</sup> <https://www.pj.gov.py/etica-documentos/99-resoluciones>.

<sup>23</sup> <https://www.bacn.gov.py/leyes-paraguayas/9363/ley-n-6379-crea-la-competencia-en-delitos-economicos-y-crimen-organizado-en-la-jurisdicion-del-fuero-penal>.

<sup>24</sup> <https://www.bacn.gov.py/leyes-paraguayas/9225/ley-n-6430-previene-tipifica-y-sanciona-los-hechos-punibles-de-cohecho-transnacional-y-soborno-transnacional>.

<sup>25</sup> <https://www.bacn.gov.py/leyes-paraguayas/9752/ley-n-6814-regula-el-procedimiento-para-el-enjuiciamiento-y-remocion-de-magistrados-judiciales-agentes-fiscales-defensores-publicos-y-sindicos-de-quebra-y-deroga-la-ley-n-37592009-que-regula-el-procedimiento-para-el-enjuiciamiento-y-remocion-de-magistrados-y-deroga-las-leyes-antecedentes-y-sus-modificatorias>.

<sup>26</sup> <https://www.bacn.gov.py/leyes-paraguayas/9553/ley-n-6721-modifica-el-articulo-3-de-la-ley-n-24032004-que-crea-la-comision-nacional-para-el-estudio-de-la-reforma-del-sistema-penal-y-penitenciario-modificada-por-las-leyes-ns-51402013-61892018-y-65052020>.

45. Lastly, Paraguay reaffirms its sincere willingness to continue collaborating with the Human Rights Committee in good faith, as well as its commitment to human rights and its readiness to engage in transparent dialogue and constructive cooperation with international mechanisms for the promotion and protection of human rights.



## Annex I

<i>Case No. 28/10 against Eusebio Torres et al. concerning torture</i>	<i>Case No. 83/11 against Lucilo Benítez et al. concerning torture</i>	<i>Case No. 26/18 against Lucilo Benítez et al. concerning torture</i>	<i>Case No. 4827/2010 against Lucilo Benítez concerning torture</i>
Pending cassation appeal.	Indictment against nine former police officers. Currently before Criminal Division No. 3 of the Supreme Court of Justice, with challenges pending resolution.	Indictment against a number of former officials of the dictatorship, including Nicolás Lucilo Benítez Santacruz, Camilo Almada Morel, Juan Aniceto Martínez Amarilla, Eusebio Torres Romero, Agustín Belotto Vouga, Manuel Crescencio Alcaraz, Obdulio Argüello Britez, Felipe Nery Saldívar and Fortunato Lorenzo Laspina.	Lucilo Benítez charged in absentia.