



**Optional Protocol to the
Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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**Subcommittee on Prevention of Torture and Other Cruel,
Inhuman or Degrading Treatment or Punishment**

**Visit to the Plurinational State of Bolivia
from 2 to 11 May 2017: observations and
recommendations addressed to the State party**

Report of the Subcommittee*

Addition

Replies of the Plurinational State of Bolivia**

* In accordance with article 16 (1) of the Optional Protocol, the present report was transmitted confidentially to the State party on 28 July 2017. On 28 May 2018, the State party communicated its decision to make the report and its responses public.

** The present document is being published without official editing.



Contents

	<i>Page</i>
Part I	
Observations and recommendations made by the Subcommittee on Prevention of Torture directly related to the functions of the Service for the Prevention of Torture (SEPRET).....	4
Observation made in paragraph 16 of section II National preventive mechanism	4
Part II	
Observations and recommendations made by the Subcommittee on Prevention of Torture directly related to the functions of the Directorate-General of Prisons/Ministry of the Interior	5
I. Observation made in paragraph 17 of section III Allegations of torture and ill-treatment and impunity	6
II. Observation made in paragraph 19 of section III Allegations of torture and ill-treatment and impunity	7
III. Observation made in paragraph 20 of section III Allegations of torture and ill-treatment and impunity	8
IV. Observations made in paragraphs 22 and 23 of section III Allegations of torture and ill-treatment and impunity	8
V. Observations made in paragraphs 33 to 40 of section III Allegations of torture and ill-treatment and impunity	10
VI. Observations made in paragraphs 43 and 44 of section IV Follow-up to the recommendations made by the Subcommittee in 2010	12
VII. Observations made in paragraph 55 of section IV Follow-up to the recommendations made by the Subcommittee in 2010	13
VIII. Observations made in paragraph 57 to 61 of section IV Follow-up to the recommendations made by the Subcommittee in 2010	13
IX. Observations made in paragraph 62	15
X. Observations made in paragraphs 68 to 72.....	17
XI. Observations made in paragraphs 75 to 78 of section V Situation of persons deprived of their liberty	17
XII. Observations made in paragraphs 79 to 83 of section V Situation of persons deprived of their liberty	18
XIII. Observations made in paragraph 113 of section VI Situation of vulnerable groups	18
XIV. Observations made in paragraph 119 of section VI Situation of vulnerable groups	18
Part III	
Observations and recommendations made by the Subcommittee on Prevention of Torture directly related to the functions of the Ministry of Health	19
Observations made in paragraphs 21, 104, 113, 121, 124, 125 and 114	19
Part IV	
Observations and recommendations made by the Subcommittee on Prevention of Torture directly related to the functions of the Ministry of Justice and Institutional Transparency	22
I. Recommendation made in paragraph 27	22
II. Recommendation made in paragraph 50	23
III. Recommendation made in paragraph 52	23

IV.	Recommendation made in paragraph 54	24
V.	Recommendation made in paragraph 110	24
VI.	Recommendation made in paragraph 114	26
VII.	Recommendation made in paragraph 118	26
VIII.	Recommendation made in paragraph 121	28
IX.	Recommendation made in paragraph 124	28
	Part V	
	Observations and recommendations made by the Subcommittee on Prevention of Torture directly related to the functions of the Public Prosecution Service	28
	Observations and recommendations made in paragraphs 24, 25, 29, 30, 31, 32, 64, 73, 97, 111, 115, 118 and 125	28

Part I

Observations and recommendations made by the Subcommittee on Prevention of Torture directly related to the functions of the Service for the Prevention of Torture (SEPRET)

The following refers to the observations and recommendations made by the Subcommittee on Prevention of Torture directly related to the functions of the Service for the Prevention of Torture (SEPRET).

Observation made in paragraph 16 of section II National preventive mechanism

1. With regard to subparagraphs (a) and (b) of the recommendation, it should be noted that, according to article 145 of the Political Constitution of the State (the Constitution), the Plurinational Legislative Assembly is the sole institution empowered to approve and adopt legislation governing the whole of the Bolivian territory. According to Article 411 of the Constitution, a partial reform of the Constitution may be launched by popular initiative, with the signatures of at least 20 per cent of the electorate, or by the Plurinational Legislative Assembly, through the adoption of a constitutional amendment act by a two-thirds majority of its members present. All partial amendments to the Constitution must be approved by referendum.

2. Under Supreme Decree No. 2082 of 20 August 2014, which regulates Service for the Prevention of Torture Act No. 474 of 30 December 2013, the Service for the Prevention of Torture (SEPRET) has the following functions:

- Conducting spontaneous visits to custodial centres, prisons, special facilities, juvenile detention facilities, military prisons, police academies, military academies, military barracks and any other institution, without discrimination of any kind, for the purpose of preventing torture and other cruel, inhuman or degrading treatment or punishment
- Making recommendations to the competent authorities with a view to the prevention of torture and other cruel, inhuman or degrading treatment or punishment
- Making legislative proposals within its area of competence
- Implementing promotional, awareness-raising and training programmes with a view to preventing violations of the right to personal integrity in the centres and facilities listed in article 2 of the above Supreme Decree
- Submitting reports and any other documents required by the competent authorities for the investigation and sanctioning of acts of torture and other cruel, inhuman or degrading treatment or punishment
- Acting ex officio as a plaintiff in complaints of torture and other cruel, inhuman and degrading treatment or punishment
- Following up on investigations and trials involving torture and other cruel, inhuman and degrading treatment or punishment
- Working in conjunction with the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment within the framework of the Optional Protocol to the Convention against Torture and related standards
- Carrying out any other functions required under the Optional Protocol and current related standards

3. The Executive Director General of the Service for the Prevention of Torture is appointed through the adoption of a supreme decision from a list of three candidates submitted by the ministry that oversees the Service's work. The organizational structure of

the Service is composed of: (a) an executive level, comprising the Executive Director General, and (b) an operational and technical level.

4. The Executive Director General, in addition to meeting the requirements set out under article 234 of the Constitution, must: (a) be a qualified lawyer and (b) have at least five years of experience working in the areas of human rights and/or criminal law.

5. The Executive Director General of the Service for the Prevention of Torture has the following functions:

- Acting as the legal representative of the institution
- Organizing joint spontaneous visits to detention centres and facilities
- Making recommendations to the competent authorities with a view to preventing torture and other cruel or degrading treatment or punishment
- Making normative proposals in his or her area of competence through the supervisory body
- Promoting compliance with relevant recommendations made by national and international human rights bodies
- Reporting to and working in conjunction with the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and other international human rights bodies
- Coordinating the implementation of promotional, awareness-raising and training programmes to prevent violations of the right to personal integrity in detention centres and facilities
- Reporting any act or omission that may prevent the Service for the Prevention of Torture from exercising its functions.
- Submitting reports supported by documentary evidence, such as image and sound recordings, to the Subcommittee on Prevention of Torture and the supervisory ministry regarding cases of torture or inhuman and degrading treatment
- Approving the Service's institutional strategic plan, its annual programme of operations and its budget
- Approving the Service's internal regulations and issuing administrative decisions, in accordance with its mandate
- Signing conventions, contracts and other documents on behalf of the institution
- Carrying out any other functions required under the Optional Protocol and current standards

6. General information on the Service for the Prevention of Torture and a record of its activities from 1 July 2016 to 31 December 2016 and from 1 January 2017 to date is attached to this report as annex I, for informational purposes and to facilitate an assessment of the Service's functioning and compliance with its obligations.

Part II

Observations and recommendations made by the Subcommittee on Prevention of Torture directly related to the functions of the Directorate-General of Prisons/Ministry of the Interior

7. The following refers to the observations and recommendations made by the Subcommittee on Prevention of Torture related to the functions of the Directorate-General of Prisons/Ministry of the Interior.

I. Observation made in paragraph 17 of section III Allegations of torture and ill-treatment and impunity

8. In accordance with the terms of article 15.I of the Constitution, which governs the rights of persons, as well as articles 48 and 50 of Sentence Enforcement and Supervision Act No. 2298 (Act No. 2298), the Directorate-General of Prisons (which reports to the Ministry of the Interior) and the National Directorate of Prison Security (which reports to the National Police Command) issued Instruction MGDGRP No. 025/2017 of 20 September 2017, a legal and administrative instrument that adequately ensures compliance with the recommendation set out in paragraph 21 of the report of the Subcommittee on Prevention of Torture. In categorical terms, this instruction informs departmental prison directors and the directors of individual prisons that all acts or omissions that constitute torture or maltreatment are absolutely prohibited (see annex I-A).

9. The National Directorate of Prison Security, acting under article 50 of Act No. 2298, issued General Memorandum No. 144/2017 of 22 September 2017 informing all prison directors of their obligation to instruct the security officials under their command that, in the course of prison security operations, the treatment of prison inmates must be guided by respect for human rights and that all cruel or inhuman treatment is prohibited, in accordance with article 5 of the Universal Declaration of Human Rights (see annex I-B).

10. It should be noted that Bolivian legislation contains provisions governing the prohibitions set out in paragraph 21 of the report of the Subcommittee on Prevention of Torture, specifically:

- Paragraph I of article 15 of the Constitution provides that everyone has the right to life and to physical, psychological and sexual integrity, and that no one shall be tortured or subjected to cruel, inhuman, degrading or humiliating treatment.
- Articles 73 and 74 of the Constitution provide that all persons subjected to any form of deprivation of liberty shall be treated with due respect for human dignity and that their rights, such as the right to communicate freely with their lawyer, interpreter, family members and friends, shall be protected.
- The constitutional provisions cited above also provide that it is the responsibility of the State to reintegrate persons deprived of liberty into society, to respect their rights and to ensure that their detention and custody take place in an adequate environment, in accordance with the category, nature, and seriousness of the offence as well as the age and sex of the detainee.
- Lastly, they provide that persons deprived of liberty shall have the opportunity to work and study in prisons.
- Article 5 of Act No. 2298 provides that in prisons respect for human dignity, constitutional guarantees and human rights shall prevail, and that all cruel, inhuman or degrading treatment is prohibited. It also provides that anyone who orders, engages in or tolerates such treatment shall be liable to the penalties set out in the Criminal Code, without prejudice to other applicable penalties.
- Article 14 (5) (Serious misconduct entailing discharge or dismissal) of Act No. 101 of 4 April 2011, which regulates the disciplinary regime of the Bolivian police, defines serious misconduct and provides that prison security personnel guilty of serious misconduct face discharge and dismissal: “Article 14 (Serious misconduct entailing discharge or dismissal). The forms of serious misconduct punishable by discharge or dismissal from the institution without the right to be reinstated, without prejudice to criminal prosecution, if applicable, are [...] 5. Engaging in inhuman, cruel or degrading treatment, acts of torture, or violations of human rights.” (see annex II).
- Lastly, paragraphs I and II of article 256 of the Constitution provide that any international human rights treaties and instruments signed, ratified or acceded to by the Bolivian State that confer more favourable rights than those contained in the Constitution shall take precedence over the latter, and that the rights recognized by

the Constitution shall be interpreted in accordance with the international human rights treaties, whenever the provisions of the latter are more favourable.

11. As may be gathered from the foregoing, the Constitution and the legislation (Acts Nos. 2298 and 101) proscribe all acts or omissions that could amount to torture, which means that such acts or omissions are absolutely and imperatively prohibited and their perpetration is punishable by penalties commensurate with their nature as serious offences.

12. In view of the above, it may be established that existing legislation provides for the absolute and categorical prohibition of the torture and ill-treatment of persons deprived of liberty and, therefore, that the prohibitions set out in paragraph 21 are duly enshrined in the Bolivian legal order.

II. Observation made in paragraph 19 of section III Allegations of torture and ill-treatment and impunity

13. Report No. 119/2017 of 29 September 2017, signed by the National Director for Prison Security, indicates that:

- When persons deprived of liberty enter a prison establishment for the first time, their identity is registered, following which they are kept in a settlement area for approximately 30 days and then assigned to a cell within a specific sector or block of the prison establishment.
- In San Pedro de Chonchocoro Prison, all sectors' and blocks' doors are closed and all activities outside the sectors or blocks are prohibited from 7 p.m. until 10.30 p.m., at which time members of the prison security personnel conduct a roll-call and check the register of prisoners before proceeding to lock the cells.
- Each block or sector is guarded by a warder: a security official responsible for opening, closing and supervising the doors allowing access to other sectors and blocks. Warders are on duty 24 hours a day (in two shifts). With the security checks described above and the measures taken to ensure that all cells are secure, it is impossible to remove persons deprived of liberty at night (see annex III).

14. With regard to the recommendation in paragraph 21 (b) of the report of the Subcommittee on Prevention of Torture, it should be noted that:

- The implementation of a strategic policy for prison reform is currently under way, comprising six priority objectives: (1) institutional strengthening; (2) national coordination between the different levels of the State, including public-public and public-private initiatives; (3) alternatives for reducing overcrowding; (4) the development of infrastructure and equipment; (5) reintegration into society and employment and gender-focused post-prison support; and (6) prison security (see annex IV).
- All the above objectives, including prison security, are carried out in strict compliance with article 51 of Act No. 2298, which regulates the composition of the National Advisory Council for Prisons, with the following functions: (1) planning and supervising prison administration policies, and (2) planning and supervising prison and post-prison treatment policies. The implementation of the strategic policy for prison reform is managed by the advisory councils, whose work is reflected in advisory council records for 2016 and 2017 (see annex V).
- The National Directorate of Prison Security, that plays a fundamental role in the national prison system, since 2015 has employed a Handbook on the Organization and Functions of the National Directorate of Prison Security and the Prisons Directorate, which was adopted through Administrative Decision No. 242/15 of 14 July 2015, issued by the National Police Command. The Handbook is designed to provide a legal framework fostering effective and efficient work on the part of the public officials of the Bolivian police force serving under the National Directorate of Prison Security and the Prisons Directorate (see annex VI).
- Ministry of the Interior/Directorate General of Prisons Instruction MG-DGRP No. 008/2017, issued jointly with the National Directorate of Prison Security, prohibits

violent acts carried out under the pretence of “baptizing” new prisoners (see annex VII).

- Ministry of the Interior/Directorate-General of Prisons Instruction MG-DGRP No. 014/2017 was issued for the attention of all departmental prison directors and the directors of individual prisons throughout the country. The Instruction provides that disciplinary sanctions may be imposed exclusively by prison directors, subject to the provisions of articles 122 and 123 of Act No. 2298 on prison directors’ compliance with their functions regarding the imposition of disciplinary sanctions (see annex VIII).

15. Articles 122 and 123 of Act No. 2298 provide that the prison director shall have the power to impose sanctions and to suspend, terminate or replace them with more lenient sanctions, depending on the circumstances of the case, but may not delegate those tasks to subordinate officials. They also provide that sanctions shall be imposed by means of a reasoned decision, following a hearing in which the accusation is presented and the alleged offender is given the opportunity to present his or her defence.

16. This makes it clear that under Bolivian legislation (arts. 122 and 123 of Act No. 2298) all sanctions must be imposed by prison directors, who are public officials. Nevertheless, with a view not only to ensuring compliance with the current legal order, but also to making prison policy clear and comprehensive, Ministry of the Interior/Directorate General of Prisons Instruction MG-DGRP No. 014/2017 was issued, leaving no room for doubt as to the authority that should apply sanctions.

III. Observation made in paragraph 20 of section III Allegations of torture and ill-treatment and impunity

17. Pursuant to article 48 (8) of Act No. 2298, the Directorate-General of Prisons, in cooperation with departmental directorates, conducts periodic inspections of all prisons throughout the country.

18. However, in response to the specific recommendation of the Subcommittee on Prevention of Torture and as a matter of urgency, the Directorate-General of Prisons and the National Directorate of Prison Security issued Ministry of the Interior/Directorate-General of Prisons Instruction MGDGRP No. 026/2017, which ordered all departmental prison directors and the directors of individual prisons to: (1) immediately close all cells known as “punishment cells, cages, holes, dungeons and others”; and (2) renovate individual or special cells used for the enforcement of disciplinary sanctions, in accordance with Act No. 2298, ensuring the appropriate minimum health conditions (see annex IX).

19. Without prejudice to the periodic inspections mentioned above, the Directorate-General of Prisons issued Ministry of the Interior/Directorate General of Prisons Instruction MG-DGRP No. 027/2017 instructing departmental prison directors to coordinate measures with a view to the strict implementation of article 54 (1) of Act No. 2298, which reads: “Periodically inspect all prisons in the department in order to verify that they are operating correctly” (see annex X).

20. The budget of the Directorate-General of Prisons will include the economic resources necessary for the required audits in the medium- and short-term, depending on the resources available in the National Treasury, on the assumption that the conduct of this activity is a matter of necessity.

IV. Observations made in paragraphs 22 and 23 of section III Allegations of torture and ill-treatment and impunity

21. Article 105 of Act No. 2298 provides that persons deprived of their liberty are able to file reports or complaints through their lawyers at any time, since visiting hours are not restricted for lawyers and the documentation and information they receive from their clients

are not screened. Therefore, detainees can submit all reports and allegations of torture or ill-treatment to their lawyers, who will then file the corresponding complaints.

22. However, persons deprived of their liberty who consider that their rights have been violated may submit their requests or complaints, either orally or in writing, to the director of the institution or to administrative staff, or may use other direct mechanisms authorized by the Directorate-General of Prisons.

23. In accordance with the provisions of article 43 of Act No. 2298, a complaints and petitions box has been set up in each prison to enable inmates to submit appropriate complaints or petitions (see Annex 11).

24. Therefore, mechanisms are made available to persons deprived of their liberty to enable them to exercise their right to petition and to submit any complaints they deem necessary. According to article 121 of Act No. 2298, officials who become aware that an offence has been committed are required to inform the Public Prosecution Service, which will launch the corresponding investigation.

25. With regard to the three deaths that occurred in Chonchocoro Prison, the facts were brought to the attention of the Crime Squad and consequently to that of the Public Prosecution Service through the corresponding complaint. The proceedings are before the criminal court of investigation in Viacha (Ingavi Province) and have been assigned the following case numbers: No. 870/2016 in respect of the death of Jhonny Chambi Quispe, No. 868/2016 in respect of the death of Rolando Eliseo Copatiti and No. 249/2017 in respect of the death of Juan Carvajal Alcón (see Annex 12).

26. Legal Report No. 406/2017 of the Directorate General of Legal Affairs, issued by the Legal Department of the Ministry of the Interior, provides details of the current status of the three cases relating to the complaints being investigated by the Public Prosecution Service, as follows:

- (1) Public Prosecution Service/Jorge Armando Chura and others, for the offence of murder
- (2) Public Prosecution Service/Javier Zambrana and others, for the offence of murder
- (3) Public Prosecution Service/Bismar Apaza Mayorga, for the offence of murder

27. It should be noted that formal charges have been laid in the first two cases, which are being prosecuted under the criminal procedure established by law. The investigation of the third case is in the preliminary stage and the charge of murder remains provisional until the formal indictment is issued (see Annex 13).

28. In this regard, upon learning of acts that threaten or infringe the physical integrity or life of persons deprived of their liberty, the Directorate-General of Prisons, through its departmental directorates, files the corresponding complaints so that such acts may be investigated, prosecuted, tried and punished in accordance with Bolivian law.

29. The National Directorate of Prison Security requested the Directorate-General of Internal Police Investigations to provide information regarding “police officers who are subject to disciplinary proceedings under art. 14 (5) of Act No. 101”, which relates to the perpetration of cruel, inhuman or degrading treatment, acts of torture or violations of human rights.

30. The documentation submitted in response to the request shows evidence of disciplinary proceedings against police officers. For information on proceedings relating to investigations of possible acts of torture and/or inhuman or degrading treatment (see annex 14-A).

31. In that regard, and in response to the Subcommittee’s recommendation, the Directorate-General of Prisons issued Instruction MG-DGRP No. 28 of 20 September 2017, in which it requests departmental prison directors to “continuously monitor criminal proceedings initiated as a result of complaints relating to alleged criminal offences committed in prison establishments” (see annex 14-B).

32. As may be seen from the accompanying documentation, the State has opened investigations into the merits of the allegations of torture and ill-treatment reportedly committed by police officers and/or prison personnel in the cases identified by the Subcommittee and has installed complaints boxes, which are the complaints mechanism deemed most suitable and most easily accessible for the prison population.

33. The State has also taken the necessary steps to establish the responsibility any superior officials who have consented to or acquiesced in such acts.

34. Lastly, as has already been outlined, domestic legislation, specifically Act No. 101, punishes misconduct or omissions by public servants working in prisons.

V. Observations made in paragraphs 33 to 40 of section III Allegations of torture and ill-treatment and impunity

35. In this respect, the Government has reviewed the Subcommittee's observations and has made arrangements to implement measures intended to establish the real nature, scope and responsibilities of inmate "representatives", in line with the provisions of Act No. 2298.

36. Article 111 of Act No. 2298 states that inmates have the right to elect representatives as provided for in the Act, through annual elections with universal, direct, equal, individual and secret voting. The selection process is to be conducted by an elections committee appointed by inmates under the supervision of the social assistance services. The elections committee may invite representatives of outside institutions to act as electoral observers.

37. Article 112 of the Act establishes that in order to be eligible as candidates, inmates must have served at least 6 months of their sentence and must not have committed any serious or very serious offences in the past year.

38. Article 113 establishes that representatives selected by the committee may be removed if they commit a serious or very serious offence and that in such cases, the social welfare services shall call new elections within five days.

39. Article 114 of the Act provides that inmate leaders shall be appointed by the Prison Director from a shortlist of three candidates submitted by inmates, within five days of submission of the list. Inmate leaders shall serve for a period of one year.

40. Article 115 (1) of Act No. 2298 provides that, in order to qualify, inmate leaders must have served two-fifths of their sentence, must not have committed any other offence during their time in the institution, must not have committed serious or very serious offences in the past year and must not be serving a sentence for a non-pardonable offence. The article also makes provision for inmate leaders to exit the prison during working days and hours, on condition that they return at the end of the day.

41. Report No. 119/2017, issued by the National Director of Prison Security, Colonel Miguel Ángel Irusta Vera, states in this respect that "articles 67 and 71 of Act No. 2298, on Sentence Enforcement and Supervision, provide that the Bolivian police force shall be responsible for internal and external security in prison establishments".

42. With regard to the reports of so-called "absence of institutional control" in prisons, the above-mentioned report states that "*despite the overcrowding and infrastructure problems, police officers are responsible for security in prisons at a national level and for conducting roll calls, carrying out inspections and applying disciplinary sanctions, among other duties. For that reason, every prison director is instructed to carry out random, unannounced internal checks (annex 15) to ensure that prisons run normally, coordinating with the departmental police commands and confiscating any banned objects*" (annex 16).

43. With regard to the alleged existence of a system of self-government, which is said to leave representatives in control of the situation inside prisons, Report No. 119/2017, issued by the National Director of Prison Security, Miguel Ángel Irusta Vera, states that "*in prisons, the prison population is represented by its representatives; that is, the police do not delegate functions associated with internal control. The role of representatives of the prison population is provided for in Act No. 2298; the delegates are elected by the prison*

population in order to inform the prison and judicial authorities of the needs of persons deprived of their liberty in prisons or, where appropriate, to request opportunities for prisoners to engage in employment and educational and/or sporting activities that help them to reintegrate into society. These activities are carried out during the period of confinement, whether the inmates concerned are in pretrial detention or serving a sentence, so that the persons involved may subsequently enjoy a prison privilege such as day release, extended leave or probation. Disciplinary offences committed by persons deprived of their liberty in prisons are reported to the police officers responsible for internal or external security by the representatives or, where appropriate, by persons deprived of their liberty, whereupon the police officers on duty take appropriate action in accordance with the law. When the offender has been identified, the prison director imposes a disciplinary sanction in accordance with a procedure set out in Act No. 2298, guaranteeing the right to be heard under the principle of due process. In the event that an inmate considers the penalty imposed by a prison director to be unfair, he or she has the right to submit an appeal to the enforcement judge, who is the authority responsible for upholding or revoking the penalty imposed by the director in accordance with articles 29 to 32 and article 122 of Act No. 2298.” In the same context, when an act carried out by persons deprived of their liberty can be classed as an ordinary offence, that fact is immediately brought to the attention of the Public Prosecution Service, which is responsible for ascertaining the historical truth of the facts and identifying the persons who may have committed or planned the offence in question (annex 17-A).

44. With regard to the alleged existence of a parallel system of internal governance in all prison establishments, it should be stressed that the concept of self-government does not exist because prison directors are responsible for the internal disciplinary system and for internal security.

45. In any case, by the end of the first half of 2018, the State will draw up regulations governing and delimiting representatives' duties, which are limited to representing persons deprived of their liberty with the aim of enabling them to file complaints and petitions in accordance with the legal system, which affords a high degree of protection to persons deprived of their liberty.

46. With regard to the adoption of a prison policy setting out a comprehensive plan containing goals, objectives and stages for the establishment of an autonomous structure that would be independent of the police and capable of carrying out the required duties and tasks, since 2015, the Directorate-General of Prisons has been implementing a strategic prison reform policy aimed at consolidating reform of the prison system, with a view to enhancing social and labour reintegration and improving the living conditions of persons deprived of their liberty, within a framework of respect for human rights and in accordance with the legislation in force.

47. Currently, the prison system does not depend on the Bolivian police force, but it coordinates actions aimed at safeguarding the external and internal security of prison establishments. Under Act No. 2298, it is also the authority empowered to impose disciplinary sanctions on persons deprived of their liberty, subject to the judicial oversight of the enforcement judge.

48. With regard to the replacement of police officers by civilian prison staff, supervisory officers and administrative officers who are identifiable to prisoners and prison staff, the Directorate-General of Prisons is working on various pieces of draft legislation and on the necessary financial adjustments as part of its efforts to implement and assess the results of the strategic policy towards prison reform (2016–2020).

49. With regard to the training of prison officers, supervisory staff and prison managers, and the payment of adequate wages to prison staff, the Directorate-General of Prisons has conducted various training courses and workshops for the benefit of its administrative staff. The staff of the National Directorate of Prison Security have also taken part in training programmes given in national and international courses (annex 17-B).

50. The Government, through the Directorate-General of Prisons, has made the necessary budgetary allocations in 2018 to ensure that persons deprived of their liberty are confined in decent conditions. The sum of Bs 63,335 (bolivianos) has been allocated for

supplies of different kinds (including blankets, sheets, mattresses, toothbrushes, toothpaste, bunks and kitchen supplies), in accordance with the requirements of international human rights jurisprudence and the recommendations of the Subcommittee (annex 17-C).

51. In order to improve the condition of infrastructure and recreational areas, including occupational therapy areas, for persons deprived of their liberty, plans are being drawn up, in coordination with the Ministry of the Interior, for the establishment of the Chonchocoro prison complex, for a cost of Bs 1,920,955.00, the new Palmasola prison complex, for a cost of Bs 2,317,834.00, and the Arani model prison complex, for a cost of Bs 1,700,000.00 (annex 17-D).

52. In this regard, the State protects and respects the rights of persons deprived of their liberty and respects the established legal order.

53. In addition, in line with the 2016-2020 Prison Reform Strategy, the Ministry of the Interior has issued legal report DGAJ-UAJ No. 413/2017, which concludes that “...*in view of the fact that tackling social problems in prisons is a priority, the regulations of each prison must be adapted to its current circumstances, so that the request to apply specific internal regulations to each prison is admissible and does not breach domestic law*” (annex 18).

54. The staff member of the Directorate-General of Prisons in charge of prisoners’ daily food allowance, Franz Pozo Vásquez, stated that: “...*at present, the dynamics have changed in the light of Supreme Decree No. 1854, and starting in 2016 local governments have made the payment directly without transferring funds to the Ministry of the Interior to pay for daily food allowances, which is why it is necessary to amend the procedures set out in Ministerial Resolution No. 4237. Therefore, it is recommended that the proposed handbook of procedures for requests for daily food allowances should be submitted to the corresponding unit of this government body to be reviewed, analyzed and subsequently approved by ministerial decision*” (annex 19).

55. The amount allocated for daily food allowances provides inmates with decent, necessary nutrition.

56. With regard to the recommendation made by the Subcommittee in paragraph 42 (a), the Directorate-General of Prisons issued Instruction MG-DGRP No. 014-A of 16 June 2017 directed at the departmental directors of the prison system and the prison directors of the country, drawing their attention to the fact that the appointment of representatives responsible for discipline in prisons is prohibited, because only prison directors have the authority to impose disciplinary sanctions, in accordance with article 122 of Act No. 2298 (annex 20).

57. Instruction MG-DGRP No. 014/2017 of 5 June 2017 was issued with the aim of informing the departmental directors of prisons and prison directors around the country that only prison directors have the authority to impose disciplinary sanctions, in accordance with articles 122 and 123 of Act No. 2298, and that solitary confinement as a disciplinary sanction may become effective only when the decision to impose it has become executory (that is, under the supervision of the enforcement judge), in accordance with the provisions of article 125 of Act No. 2298.

58. Nevertheless, regulations will also be drawn up and brought into effect governing the disciplinary regime in prisons, alongside a modified handbook of duties regulating the duties and obligations of prison staff and establishing a system of sanctions for non-compliance. Training in the implementation of these documents will be provided as soon as they are issued.

VI. Observations made in paragraphs 43 and 44 of section IV Follow-up to the recommendations made by the Subcommittee in 2010

59. According to the documentation (proceedings and reports) sent by the Administrative Unit of the Directorate-General of Prisons in response to requests from the

National Directorate of Prison Security, steps were duly taken to issue equipment to prison security staff in 2016 and the first half of 2017. Furniture and equipment were supplied to police officers responsible for internal and external prison security in every department in the country, in individual prisons and directly to the National Directorate of Prison Security (see annex 22).

60. Moreover, the budget allocated to the Directorate-General of Prisons will be progressively increased, on condition that the revenue collected by the National Treasury also increases as expected.

61. In line with the recommendation made by the Subcommittee, the National Directorate of Prison Security has asked the National Police Command to allocate more staff to meet prison needs. The National Police Command has arranged for the number of police officers to be increased in order to ensure the security of prisons (see annex 23-A).

62. Therefore, the working conditions of the police officers responsible for prison security and prison record-keeping have improved and there are plans to further increase investment in this area.

63. It should be noted that salaries are not low in relation to the country's standard of living, as was demonstrated to the members of the Subcommittee. For information, the explanation put forward at the meeting with the Subcommittee in Bolivia is attached (see annex 23-B).

VII. Observations made in paragraph 55 of part IV Follow-up to the recommendations made by the Subcommittee in 2010

64. With regard to the observations made in paragraphs 55 and 56, the Subcommittee urges the State party there to implement its previous recommendations.

65. The persons responsible for medical and psychological assistance, under the Directorate-General of Prisons and the Ministry of Health, constantly carry out checks, reviews, campaigns and workshops on health issues in all prisons at the national level (see annex 24-A).

66. With regard to access to a lawyer, the Directorate-General of Prisons, in coordination with the legal departments of the departmental directorates, attends to the needs of persons deprived of their liberty, by coordinating access to lawyers employed by the Plurinational Public Defender Service (annex 24-B).

67. With regard to notifying a trusted person, when the units that provide professional assistance register the details of inmates, they inform the persons deprived of their liberty of all their rights, including the unrestricted right to obtain access to a private lawyer or to the legal department of the Departmental Directorate of Prisons to request assistance to undertake the necessary and/or urgent procedural acts and to coordinate with the Plurinational Public Defender Service. Notices giving specific information on the rights of persons deprived of their liberty and the obligations of their visitors are displayed visibly both inside and outside the prisons (see annex 25).

68. In order to ensure effective compliance with the above obligations, a revised and detailed handbook of procedures regulating compliance with the obligations in detail will be drawn up and training will be offered in the effective application of the procedures. Regulations governing the reception and resolution of complaints and grievances will also be issued.

VIII. Observations made in paragraphs 57 to 61 of section IV Follow-up to the recommendations made by the Subcommittee in 2010

69. With regard to the need for an adequate record-keeping system, including up-to-date records of inmates, information on judges and prosecutors, exact dates of arrest, full

identification details of prisoners, fingerprints, amounts of time remaining to be served, and the dissemination of information, the Directorate-General of Prisons has entered into an inter-institutional cooperation agreement to implement the prison information system, with the aim of developing a computerized prison information system that will store up-to-date data within a framework of respect for human rights (annex 26).

70. Such a computerized system is the most suitable for prison operations because, in addition to storing information concerning prisoners and the legal status of criminal proceedings, it contains folders holding social, family-related, psychological and work-related information on prisoners, which will ensure that they are dealt with comprehensively.

71. The establishment of the computerized system of records will take place in three stages: 1. Pilot trial at the Women's Orientation Centre in Obrajes and the Qalauma Rehabilitation Centre for Young Offenders, with the development of legal filiation and permanent release modules. 2. Development of the remaining modules in accordance with the model in Qalauma and the launch of the computerized system of records in three departments (La Paz, Cochabamba and Santa Cruz). 3. Extension of the computerized system nationwide.

72. The implementation of this Bolivian prison information system (SIPENBOL) has currently reached stage 1, which involves registration, testing and validation, implementing the network and server infrastructure in operation and taking the appropriate steps to safeguard access to, and the security of, the system following the configuration of the servers in the Obrajes and San Pedro prisons. Connection tests carried out at the Obrajes facility were satisfactory and demonstrate that the virtual private network is working. Following the introduction of modifications to the system by the TUTATOR foundation, a modified version of the computerized Bolivian prison information system (SIPENBOL) has been installed on the server of the Directorate-General of Prisons.

73. Police officers responsible for registering persons deprived of liberty when they enter prison have been allocated new computer equipment (a PC equipped with screen and keyboard, biometric access and webcam). Subsequently, prisoner registration will be initiated at Miraflores prison and the computerized SIPENBOL system will continue to be implemented until the third and final stage has been reached. In accordance with the various stages of implementation of the computerized system, staff will be given the equipment required to achieve the desired goals.

74. In this regard, the Ministry of the Interior, within the framework of measures taken to enhance cooperation and coordination between public bodies, entered into an agreement with the Supreme Court of Justice on 10 February 2017 to combine the computerized systems of the Bolivian prison information system (SIPENBOL) and the Supreme Court of Justice (TULLIANUS). This is useful as the latter system registers legal proceedings relating to general trials as well as criminal trials involving detainees (records are documented as the computerized system shows all the various proceedings, including warrants issued by the judiciary), allowing information to be consulted and compared online and in real time. The transfer of electronic data will be completed on 31 December 2017. Currently, the Supreme Court of Justice has instructed judges and junior staff to maintain up-to-date records of all proceedings involving detainees (see annex 27).

75. A joint or inter-institutional unit will be set up with the aim of establishing a database that can be continually updated and that contains prisoners' personal details and the status of their proceedings. In addition, a specialized commission is to be created made up of representatives of the judiciary, the Public Prosecution Service and the Ombudsman to analyze each and every case involving persons deprived of liberty, in order to identify those that need to be given priority for reasons of age or gender, or where it might be possible to apply alternative measures to pretrial detention or one of the progressive measures established in accordance with Act No. 2298 (see annex 28).

76. Manual registration has been introduced (in accordance with one of the recommendations made by the Subcommittee in its first report) and a computerized prison system of records is being developed (which is expected to be completed by the end of 2018). By 31 December 2017, all details on proceedings concerning persons deprived of

liberty will be accessible through the computerized system of the Supreme Court of Justice. Furthermore, the Integrated Criminal Investigation System (SIIC), which stores all the information on the identification details and particulars of persons deprived of their liberty, is in its final stage of development.

IX. Observations made in paragraph 62

77. Where the recommendations contained in paragraph 64 are concerned, the data held by the Bolivian prison record-keeping system can provide alerts or reports regarding prisoners who have been held in pretrial detention for longer than the maximum legal time period (see annex 29-B).

78. It should be borne in mind that all information concerning the criminal proceedings of prisoners will be accessible, with the Supreme Court of Justice responsible for fine-tuning and setting up the necessary alerts.

79. In response to the institutional need to identify prisoners reliably, Supreme Decree No. 2359 was promulgated on 13 May 2015 with the aim of issuing birth certificates and identity cards free of charge to all persons deprived of their liberty in the Plurinational State of Bolivia.

80. According to report SEGIP/DNO/426/2017, signed by Dr. Rubén H. Cruz Hurtado, the head of identity cards of the National Operations Department of the Personal Identity Service, a total of 850 prisoners have been issued with identity cards (see annex 30).

81. The departmental directorates of prisons, in coordination with the Personal Identity Service, are continuing to ensure the issue of identity cards (see annex 31).

82. The Health, Rehabilitation and Social Reintegration Unit of the Directorate-General of Prisons has held thematic workshops for treatment staff working for the psychological and social support services. The workshops, which were held on 18 and 19 April 2017, were intended for professionals around the country with the aim of harmonizing record-keeping in the areas of medicine, social work and psychology (see annex 32-A).

83. Since then, new institutional documents have been drafted, including the protocol on the provision of psychological assistance in prisons (2017) and the protocol on the provision of social assistance in prisons (2017), which will make it possible to standardize the technical processing and recording of data concerning persons deprived of their liberty (see annex 32-B).

84. At a later stage of the implementation of the Bolivian prison record-keeping system, information on the medical, psychological and social situation of prisoners, and any other information considered necessary, will be recorded in addition to information concerning their legal status (see annex 33).

85. In response to the Subcommittee's recommendation, Instruction MG-DGRP No. 13/2016 of 5 June 2017 was issued by the Ministry of the Interior/Directorate-General of Prisons to directors of prisons around the country instructing them to register all persons deprived of their liberty in prisons and extract all the data for which the directors are responsible. Arrangements have also been made for lists to be sent every month to the Directorate-General of Prisons. The lists in question will form the basis of monthly statistics reports (see annex 34).

86. Under an inter-institutional agreement drawn up by the Ministry of the Interior and the Supreme Court of Justice on 10 February 2017, measures are being taken to ensure the sharing of all the information contained in two systems: the Bolivian prison information system of the Directorate-General of Prisons (SIPENBOL) and the computerized system of the Supreme Court of Justice (TULLIANUS), with the aim of verifying and identifying persons allegedly deprived of their liberty for longer than the legally established time period (see annex 35-A).

87. Report MG-VMRIP-AD No. 21/2017, issued by the Office of the Deputy Minister of the Interior and the Police, which reports to the Ministry of the Interior, provides that:

- In accordance with the legal provisions in force, the Ministry of the Interior and the Police have jointly set up the Integrated Criminal Investigation System (SIIC).
- This system consists of a series of integrated and computerized processes, services and solutions that have been designed to strengthen criminal investigations on the basis of a service-oriented architecture. It includes the following solutions or systems:
 - (a) A computerized system for the live registration and identification of persons in connection with their criminal record, in operation at a national level;
 - (b) A computerized evidence management system (fingerprints, palm prints and facial recognition data) for the laboratory of the Institute of Forensic Investigation (IITCUP) of the Police University and at national level;
 - (c) A computerized system for the resolution of disputes surrounding the identification of individuals on the basis of their biometric data (fingerprints, palm prints and facial recognition data) and biographical data.
- In this regard, the Integrated Criminal Investigation System (SIIC) has the following objectives:
 - Facilitating expert procedures for direct comparisons in the course of rejection (comparisons with impressions of victims or witnesses) or crossmatching operations (comparisons with impressions obtained from suspects or using controlled models in the system); and efficiently storing, recovering and analyzing recorded biometric data together with the biographical data of persons of interest to the police
 - Carrying out the four types of searches established in the world for fingerprint identification: traces against traces and prints against prints
 - Carrying out thematic searches associated with the data in controlled cases and biographical searches using the general data of persons whose models are in the system
 - Efficiently storing, recovering and analyzing registered biometric data together with the biographical details of persons of interest to the police
 - Facilitating the editing of databases with expert assistance by means of quality analysis and the assessment of defects that may be found in controlled impressions and defects in fingerprints caused by the methods used to obtain them and the surfaces from which they are taken
 - Allowing access to other biometric repositories of interest owned by the institution (see annex 35-B)

88. To ensure that they operate in an integrated manner, the systems in question are designed around a shared infrastructure, security system and facilitators of service-oriented architecture and are compatible with the multi-biometric criminal platform.

89. The Ministry of the Interior has taken steps to establish a biometric system for prisoners at national level, and the time schedule established for the registration of persons deprived of their liberty in prisons at national level has been respected.

90. In accordance with the work schedule, the registration of persons deprived of their liberty was completed on 20 October 2017, resulting in the registration of a total of 15,433 persons deprived of their liberty, as shown in the table below.

	<i>Persons deprived of their liberty</i>		<i>Total</i>
	<i>Male</i>	<i>Female</i>	
Overview	14 432	1 001	15 433

X. Observations made in paragraphs 68 to 72

91. The Computer Unit of the Directorate General of Prisons is responsible for implementing the agreements signed by the Fundación Construir and the Supreme Court of Justice, to ensure that the prison information system of Bolivia fully integrates all information and data on persons deprived of their liberty, and makes effective use of information technology. The implementation of the computerized system is given in detail in the report on the functioning of the Bolivian Prison Information System (SIPENBOL), prepared by the Directorate Computer Unit (see annex 36-A).

92. It should nevertheless be noted that the Integrated Criminal Investigation System (SIIC) (AFIS Criminal) is fully operational in the country's prisons.

93. The Infrastructure Unit of the Directorate General of Prisons has started to undertake the separation of pretrial detainees from convicted prisoners, and the construction of new blocks within prisons is under way. At the Morros Blancos prison a maximum security block has been built for the sole occupation of convicted prisoners. Construction of blocks for prisoners at the end of their sentences is nearing completion at the Villazón and Uyuni prisons in Potosí Department. The new blocks in the El Abra prison in Cochabamba Department and in the Villa Busch prison in Cobija Department are likewise nearing completion (see annex 36-B).

XI. Observations made in paragraphs 75 to 78 of section V Situation of persons deprived of their liberty

94. The Ministry of the Interior, through the Directorate General of Prisons, is starting to launch construction of a prison complex in the Department of La Paz, to house persons deprived of their liberty currently held in the other La Paz prisons. (see annex 37-A).

95. The Subcommittee on Prevention of Torture is asked to note that steps have been taken to close the San Pedro prison in La Paz, while construction of the La Paz Department prison complex has been declared of national interest and a priority under Act No. 494 (see annex 37-B).

96. A pre-investment technical study has also been completed for the construction of the new Palmasola prison complex. Under the administrative agreement of 22 October 2015, the Santa Cruz autonomous departmental government transferred, free of charge, the 17-hectare parcel of land currently occupied by the Palmasola rehabilitation centre to the Ministry of the Interior, together with an adjacent 18-hectare parcel, to form a single 35-hectare plot, for the construction of the new Palmasola prison complex (see annex 38: Technical report on preconditions).

97. The pre-investment technical study for the construction of the Cochabamba Department model prison complex, located in Arani Province, has been finalized. Following completion of the inter-institutional administrative measures, the legal framework is currently being drafted (see annex 39: draft Act No. 163/2017-2018) for the free transfer of land held by the Arani Municipality to the Ministry of the Interior, specifically for the construction of the Cochabamba Department model prison complex (see annex 40: Framework administrative agreement between the Ministry of the Interior, the autonomous departmental government of Cochabamba and the autonomous municipal government of Arani and the site layout plan provided by the Arani municipal technical office).

98. With the three major projects described, the Ministry of the Interior, through the Directorate-General of Prisons, has fulfilled its responsibility to protect the rights of persons deprived of their liberty, and taken all the official steps required for the construction of three prison complexes located along the central axis of the country (La Paz: Chonchocoro prison complex, for a total investment of Bs. 1,920,955,00; Santa Cruz: the new Palmasola prison complex, for a total investment of Bs. 2,317,834,00, and Cochabamba: the Arani model prison complex, for a total investment of Bs. 1,700,00.00). It has also taken steps to close those prisons which, while having the capacity in principle to

house persons deprived of their liberty, are at present in too dilapidated a state, in terms of infrastructure and equipment, to cope with the increase in the prison population, and have consequently become unfit for their intended purpose (see annex 41).

XII. Observations made in paragraphs 79 to 83 of section V Situation of persons deprived of their liberty

99. The Ministry of the Interior, through the Directorate-General of Prisons, has allocated funds to equip the San Roque prison in Sucre with educational areas and occupational therapy workshops to promote social reintegration; the facilities have been adapted to provide for a recreational area and a shared dormitory. The Cantumarca rehabilitation centre in Potosí has also now been provided with areas for sport and leisure activities, as well as an occupational therapy area (see annex 42).

100. Three levels of woodworking are taught in the carpentry workshop at the San Sebastián prison for men in Cochabamba. There is high demand for the furniture produced, and the products are put on display and commercialised in the square adjacent to the prison by detainees benefiting from extramural privileges.

101. The Cochabamba Departmental Prison Directorate takes part in the “Reincorporar” (Reintegrate) Feria, placing products made by the detainees on display (see annex 43).

102. The “Villa Busch” model prison in Cobija-Pando benefits from a spacious and well-equipped woodworking shop, allowing steady production. A new block has recently been completed in this prison, to reduce overcrowding (see annex 44).

103. A handcrafts workshop has been completed at the Santa Cruz Palmasola rehabilitation centre, to improve the working conditions of detainees taking carpentry as occupational therapy. To widen sales possibilities for detainees’ occupational therapy products, the Santa Cruz centre products are displayed at the “EXPOCRUZ” international fair. On 13 October this year, new assistance offices will be brought into operation to provide better coordination for detainees’ needs. (see annex 45).

104. The “Qalauma” juvenile rehabilitation centre located in Viacha, La Paz Department, which has adequate infrastructure, areas for training and education, could be considered as a model type of prison. The centre also promotes effective social reintegration of young offenders (see annex 46).

105. Given the key place of education in social reintegration, the Centres for Alternative Education and for Alternative Primary Education (EPA), for Alternative Secondary Education (ESA) and for Alternative Technical Education (ETA) are all operating within the prison establishments (see annex 47).

106. The Ministry of the Interior, through the Directorate General of Prisons, as part of its policy for the social reintegration of prisoners, has published catalogues of the products made by prisoners in order to widen their market (see annex 48).

107. A new strategic prison policy, centred on the reintegration of prisoners in the labour market, will moreover be approved in the first six months of 2018. The policy will adopt a holistic approach to the related problems.

XIII. Observations made in paragraph 113 of section VI Situation of vulnerable groups

108. The Directorate General of Prisons’ Strategic Policy for Prison Reform 2016–2020 is based on six main pillars, which include pillar 5: “Social and labour market reintegration and post-prison support with a gender focus”. Following its implementation, substantial changes have been made in the management of women prisoners, introducing new areas of work, including in social, mental and general health care, as set out in the annexed health-care protocols referenced above (see annex 49-A).

109. The new Strategic Prison Policy will however promote work for prisoners, with a gender focus.

110. In respect of improving records containing information on vulnerable groups, at present the Ministry of the Interior, through the Directorate-General of Prisons, in coordination with the Departmental Directorates, centralizes related information and enters it into the Bolivian Prison Information System (see annex 49-B).

111. Multi-programme health fairs are organized in prisons by health-care professionals, to train persons deprived of their liberty to act as health promoters in the Tuberculosis (TB) and HIV programmes (see annex 50).

112. The new Strategic Prison Policy will however promote work for prisoners, giving priority to vulnerable groups. Details regarding work to date on information records for this group have been given above. Further work is programmed and a schedule has been established.

XIV. Observations made in paragraph 119 of section VI Situation of vulnerable groups

113. The Directorate-General of Prisons, through the Health, Rehabilitation and Social Reintegration Unit, organizes socialization events on standards in force that recognize the rights of disabled persons (see annex 51).

114. The Ministry of Justice, through the Directorate-General for Persons with Disabilities, attached to the Department for Equal Opportunities, and coordinated by the Directorate-General of Prisons, runs socialization and training workshops for prison security personnel and for prison departmental directors (see annex 52).

115. At the same time, training workshops for prison managers and security staff are being developed on the Istanbul Protocol and on the Handbook for prison leaders (see annex 53).

116. The new Strategic Prison Policy will however promote work for prisoners, giving priority to vulnerable groups.

117. In accordance with the review of ordinary law Case No. FIS-BENI 1701041, concerning Mr. Eduardo Franco and others, on the basis of accusations made by Ms. Karina Isela Sequero de Mendia, the State of Bolivia is ensuring impartial and effective investigations into the reprisals and acts of intimidation alleged to have taken place in the MOCOVI rehabilitation centre for men. Arrangements have been made to conduct a full investigation with a view to closing the case definitively.

Part III Observations and recommendations made by the Subcommittee on Prevention of Torture directly related to the functions of the Ministry of Health

118. The Ministry of Health provided information on the following recommendations related to the health sector.

Observations made in paragraphs 21, 104, 113, 121, 124, 125 and 114

119. The Government promulgated Supreme Decree No. 29601 on 11 June 2008 with a view to establishing the models for health-care services and management under the Family and Intercultural Health Programme. The Supreme Decree designates the Health Promotion Policy as the implementation strategy for the Programme, whose aim is to address health-

related issues and their causes in order to improve social, economic and environmental conditions and achieve the Good Life.

120. Regarding paragraphs 21 (c), 119, 120 and 123, the Ministry of Health has developed the 2017–2021 National Mental Health Plan and intends to strengthen the mental health system by taking account of human rights in keeping with the principles, agreements, statements and recommendations of international bodies to which Bolivia subscribed in the planning of its public policy.

121. The strategy on comprehensive mental health care covers mental and intellectual disabilities among, inter alia, street children, persons deprived of their liberty and pregnant women and provides for measures to promote health, prevent mental disorders and deliver care and rehabilitation under the Intercultural Community Family Health policy. A ministerial decision on the strategy is currently under preparation to allow for its publication in the Official Gazette and its launch nationwide from the 2018 fiscal year onwards, as part of the mental health policy

122. In reference to paragraphs 104 (a), (b), and (c), the 2017–2021 National Mental Health Plan provides for the drafting of a bill on mental health to define the legal framework for implementation in keeping with human rights conventions, declarations and recommendations, thus focusing on the Good Life philosophy in the national health system.

123. The 2017–2021 National Mental Health Plan sets the orientation for the design and implementation of specific programmes, laws, strategies, guides and protocols at the national and subnational levels in the area of mental health.

124. With regard to paragraph 124, the Ministry of Health, pursuant to Act No. 475 on the provision of comprehensive health-care services by the Plurinational State of Bolivia, provides free care to persons with disabilities at all three levels of the national health system. There are general practitioners in prisons at the national level who meet the correctional system's basic accreditation requirements. In the prison establishments of La Paz, the Ministry of Health has opened positions for doctors. There are agreements with the Ministry of the Interior regarding the referral of prisoners to tertiary specialist services, where warranted by the person's health condition. The database of the Programme on the Central National Register of Persons with Disabilities has 30 persons with disabilities listed as being deprived of their liberty nationwide. They enjoy the same benefits, tailored to their type of disability, as the rest of the population. Persons deprived of their liberty who have a disability or acquire one while in prison can request the legal status of persons with disability, without discrimination.

125. With regard to paragraphs 124, 113 (b), 125 and 114, the right to health is inherent in the State's recognition of the need to regulate the social relationships that arise in the health-care process and the measures taken to promote health, prevent and cure illness, and ensure rehabilitation and recovery.

126. From the State's point of view, health is a fundamental human and social right, both at the individual and collective levels, enshrined in article 18 of the Constitution, which should be considered as the epitome of legal and other provisions on human health and its protection.

127. In accordance with the principle of comprehensiveness, the right to health is taken into consideration in health sector regulations and in measures to realize the right to living, social, economic, cultural and environmental conditions that are conducive to good health.

128. Act No. 475 of 30 December 2013 on the provision of comprehensive health-care services by the Plurinational State of Bolivia and its implementing regulations contained in Supreme Decree No. 1984 establish and regulate the entitlement to comprehensive care and financial protection for users defined in the Act who are not covered under the short-term compulsory social security scheme and provide the foundation for the universalization of comprehensive health care.

129. Act No. 475 benefits the following groups:

- Pregnant women, from the beginning of pregnancy to six months after delivery

- Children under age 5
- Women and men age 60 and above
- Women of child-bearing age with regard to sexual and reproductive health
- Persons with disabilities who have legal status as such, in accordance with the database of the Programme on the Central National Register of Persons with Disabilities
- Others who are found eligible by decision of the Health Sector Coordination Board

130. Article 12 of Act No. 475 establishes that the Ministry of Health and the autonomous territorial entities, through the Health Sector Coordination Board, can increase the funding allocated to the Municipal Health Accounts and the National Health Compensation Fund or to other additional measures designed to broaden the range of services for beneficiaries, subject to sector priorities and the availability of funds.

131. With regard to women's rights, the Ministry of Health is part of the sectoral and intersectoral coordination board for a violence-free life. The board was set up to ensure the enforcement of Comprehensive Act No. 348 on guaranteeing a violence-free life for women, Supreme Decree No. 2145, and Act No. 243 on political violence and harassment of women and its regulations (Decree No. 2935), which are part of national policies on the human rights of women and the eradication of all forms of gender-based and generational violence.

132. With regard to sexual and reproductive health, the Ministry of Health has adopted rights-based, inclusive policies, which it has strengthened by broadening them beyond biological considerations, linking the issue to other rights, cultural concerns, universal values and individual fulfilment and incorporating a gender perspective.

133. With regard to mental health, the current comprehensive approach to health care has been enhanced through recognition of the fact that mental health is both a determinant and an outcome and that mental illnesses can be acute or chronic and present in combination with other disorders, thereby creating a vicious circle that upsets the well-being and physical, mental and social balance that everyone deserves. Since mental disorders have multiple causes, the health sector facilitates cooperation with other sectors with a view to preventing health conditions that can lead to physiological and social problems, which harm the persons concerned and indirectly their families and communities.

134. The 2017–2021 National Mental Health Plan gives an assessment of the results produced by mental health services and the services provided by other sectors and institutions. It also registers advances in respect of public health policy, as well as the progress made in terms of the active participation and representative roles of civil society groups, aboriginal and indigenous communities and campesinos. The headway being made in this connection highlights the lessons learned about approaches to mental health issues. The goal is to contribute to overall health by developing rights-based mental health services and centering public health policy around the promotion of health and the prevention, treatment and rehabilitation of the main mental health and behavioural disorders, with the aim of achieving the Good Life for all inhabitants, irrespective of age, gender, identity, social status, political views or culture. The Plan's strategic focuses are to:

- (a) Strengthen the law and institutional support with the participation of the population in order to develop subnational plans and programmes on mental health with their own budget;
- (b) Ensure community-level mental health prevention and promotion with a view to implementing intersectional and inter-institutional promotion and prevention measures together with social organizations and associations;
- (c) Establish a mental health model under the unified health system;
- (d) Train staff of institutions and community-level service providers in mental health issues;
- (e) Enhance information management and research in the area of mental health.

135. The 2017–2021 National Mental Health Plan is designed for the population in general, but in particular for at-risk and vulnerable groups, such as:

- Children and adolescents of both sexes
- Women of child-bearing age and expectant mothers
- Members of indigenous, aboriginal, campesino and Afro-Bolivian communities
- Older persons
- Persons with disabilities
- Other vulnerable persons, such as: children, young people and adults living in the streets, child workers, persons with dementia, women victims of commercial sexual exploitation, migrants, persons deprived of their liberty, and victims of people smuggling or trafficking in persons

136. Programming measures have been carried out in response to the Subcommittee's observations and recommendations. For instance, steps have been taken to implement the following policies and laws:

- Article 18 of the Constitution, Comprehensive Act No. 348 on guaranteeing a violence-free life for women, Supreme Decree No. 2145 regulating Act No. 348, Act No. 243 on combatting political violence and harassment of women, and Supreme Decree No. 2935 regulating Act No. 243
- General Act No. 223 on persons with disabilities of 2 March 2012
- Act No. 475 on the provision of comprehensive health-care services by the Plurinational State of Bolivia of 30 December 2013
- Supreme Decree No. 29601 on family and intercultural health
- National Mental Health Plan 2017–2021

137. The aforementioned laws and decrees contain strategic focuses on comprehensive care, including measures to promote health, prevent mental disorders and provide support and rehabilitation under the Family and Intercultural Health Policy for, inter alia, children, young people living in the streets, persons deprived of their liberty and pregnant women.

138. The Ministry of Health, pursuant to Act No. 475, provides free care to persons with disabilities at all three levels of the national health system. Prisons at the national level have medical professionals who provide care to inmates and refer them to secondary or tertiary health-care facilities, where warranted by the person's health condition.

Part IV

Observations and recommendations made by the Subcommittee on Prevention of Torture directly related to the functions of the Ministry of Justice and Institutional Transparency

139. The Ministry of Justice and Institutional Transparency reports the following.

Measures that are being taken to implement the recommendations contained in the Subcommittee's report

I. Recommendation made in paragraph 27

140. As part of the implementation of this recommendation, the Directorate-General of International Law has submitted to the Plurinational Legislative Assembly report MJTI-VJDF-DGDI No. 025/2017 (annex No. 1), in which it draws attention to the need to apply the standards of the Rome Statute of the International Criminal Court in national criminal legislation, specifically through the new draft Criminal Code.

141. Article 7 (1) (f) and (2) (e), article 8 (2) (a) (ii) and article 55 of the Rome Statute deal with the treatment and identification of torture as a criminal offence.

II. Recommendation made in paragraph 50

142. The Plurinational Public Defender Service has submitted report SPDP/DNDP/JDAG No. 025/2017 (annex No. 2), in which it notes as follows.

143. Agreements have been concluded between the External Cooperation Agency and the Swiss Agency for Development and Cooperation concerning a project for the comprehensive strengthening of the Plurinational Public Defender Service and between the Plurinational State of Bolivia and the Kingdom of Denmark concerning a country project for the promotion of economic growth, sustainable management of natural resources and the rule of law.

144. The Plurinational Public Defender Service, through the Ministry of Justice and Institutional Transparency, as lead agency, is taking measures aimed at institutional strengthening from a technical, financial, administrative and legal perspective, including requesting an increased budget for the creation of new posts with a new salary scale, based on a prior organizational and budgetary analysis of the institution. It has requested the approval of salary increases and the creation of new posts and additional budgetary resources to cover the administrative costs associated with consultancies provided through international cooperation and to improve operating conditions in all offices across the country.

145. In a technical and legal report dated 12 April 2017 on the historical and current budgetary situation in respect of the provision of free legal defence services, with an emphasis on the infrastructure and budgetary requirements that have a direct impact on the qualitative and quantitative capacity to provide technical assistance to persons facing criminal charges, Administrative Decision No. 036/2017 of 13 April was issued, in which it is concluded that there is a need for institutional strengthening. The report provides the relevant background information, together with the new salary scale and the proposal for the creation of posts and additional budget required by the Plurinational Public Defender Service.

146. In note MEFP/VPCF/DGPGP/USS/No. 0261/17 of 5 July, however, the Minister of the Economy and Public Finances denied the request for additional resources. In order to proceed with arrangements for the adoption of the new salary scale and staffing table, the Ministry of Justice and Institutional Transparency issued Note MJTI-DESP-JG No. 108/2017, in response to which the Public Defender Service submitted the required documentation to request the additional budget from the Ministry of the Economy and Public Finances. To that end, Ministerial Decision No. 178/2017 is planned for the adoption of the technical and legal reports (SEPDEP/DAF/JDAG SPDPALDP No. 028/17 and No. 062/2017, respectively) concerning the request for an increased annual budget, in order to submit the documents in question to the Ministry of the Economy and Public Finances.

III. Recommendation made in paragraph 52

147. In the same report SPDP/DNDP/JDAG No. 025/2017, the Plurinational Public Defender Service notes the following.

148. Through Instruction SEPDEP/DNDP/DSC No. 116/2017 of 26 September, the National Directorate of the Plurinational Public Defender Service instructed the departmental directors, public defenders and assistant defenders to create institutional user registers in relation to incidents of torture and other cruel, inhuman or degrading punishment, to identify possible complaints in establishments for adolescents in conflict with the law and in any other institutions housing persons deprived of their liberty.

149. The Protocol for Public Defenders establishes mechanisms for responding to and registering signs of physical or psychological violence identified in users of the service.

150. Since March 2017, in coordination with the Service for the Prevention of Torture (SEPRET), training has been provided internally to all staff of the Public Defender Service and then extended nationwide “introduction to prevention of torture,” in order to create mechanisms for receiving complaints from persons who have been the victims of torture and other cruel, inhuman or degrading treatment or punishment in detention centres, prisons, special establishments, institutions for adolescents in conflict with the law or any other institutions.

IV. Recommendation made in paragraph 54

151. The Plurinational Public Defender Service attaches importance to providing specialized criminal defence services for adolescents in conflict with the law and has incorporated into the Protocol for Public Defenders a section on this group, which constitutes a practical tool for the exercise of a technical defence, based on a restorative approach that includes the protection of the rights of adolescents and compliance with due process.

152. As a result, since 2016 various courses have been provided to public defenders to specialize in criminal justice for adolescents.

<i>Number</i>	<i>Course</i>	<i>Defenders trained</i>
1	Specialized training on adolescents in the criminal justice system and the role of the Public Defender Service.	50
2	Refresher course for legal practitioners on the criminal justice system for adolescents.	44
3	Diploma in criminal justice for adolescents with a specialization in restorative justice.	17

153. At the national level, public defenders have been assigned responsibility for following up and dealing with the cases of adolescents in conflict with the law.

V. Recommendation made in paragraph 110

154. The Office of the Deputy Minister for Campesino, Original and Indigenous Justice submits report MJTI-VJIOC No. 320/2017 (annex No. 3), which notes the following.

155. The Patriotic Agenda 2025 is the Government’s long-term plan and is made up of 13 fundamental pillars that guide the entire State planning system. The objectives and targets of the Ministry of Justice and Institutional Transparency’s Strategic Institutional Plan include fulfilling pillars 1, 5, 11 and 12 concerning the eradication of extreme poverty; community and financial sovereignty and sovereignty and transparency in public administration based on the principles of not stealing, not lying and not being lazy and the full enjoyment of our festivals, our music, our rivers, our jungle, our mountains, our snow-capped peaks, our clean air and our dreams.

156. The Economic and Social Development Plan sets out the general guidelines for the comprehensive development of the country with a view to the Good Life, and is intended to frame the actions of public, private, community, social and corporate actors and social organizations, including organizations of the campesino, original and indigenous nations and peoples, and intercultural and Afro-Bolivian communities.

157. The Sectoral Comprehensive Development Plan for the Good Life 2016–2020 comprises strategic objectives and actions that contribute to the results, targets and pillars of the Economic and Social Development Plan 2016–2020, the operationalization of the Constitution and the implementation of the Ministry of Justice and Institutional Transparency’s Strategic Institutional Plan 2016–2020.

158. The Strategic Institutional Plan establishes the continuation of the justice and transparency policies implemented since 2016, while at the same time providing a management tool for the medium term.

159. In compliance with the recommendations made by the Subcommittee, the need to strengthen the effectiveness and operation of the campesino, original and indigenous justice system has been recognized, which will undoubtedly have a direct impact on reducing the backlog of cases in the ordinary courts and ensuring access to justice on the basis of plurality in accordance with the principles set forth in the Constitution.

160. All the actions of the Office of the Deputy Minister for Campesino, Original and Indigenous Justice must be in compliance with strategic guidelines, constitutional provisions and international instruments, in such a way as to ensure respect for rights during trials and sentencing in the campesino, original and indigenous justice system. In accordance with the nature and specificity of the campesino, original and indigenous justice courts, and taking into account the particular focus on conciliation and restorative justice, there are plans to increase the number of cases resolved by these courts, while reducing those dealt with by the ordinary courts.

161. This in turn would reduce the number of persons held in pretrial detention or serving prison sentences; but the primary task is undoubtedly to ensure that other courts know about and respect the jurisdiction of the campesino, original and indigenous justice system.

162. Accordingly, the Office of the Deputy Minister for Campesino, Original and Indigenous Justice has set the following priorities for its activities:

(a) Strengthening the campesino, original and indigenous justice system by providing the necessary technical assistance;

(b) Complying with international instruments that enshrine the right to self-determination as the legal framework for the consolidation of campesino, original and indigenous autonomy;

(c) Implementing sectoral plans as part of the plurinational policy for the strengthening and consolidation of egalitarian judicial pluralism, as set out in the Constitution;

(d) Developing and implementing instruments of coordination and cooperation to ensure equal relations between courts;

(e) Developing and implementing programmes and projects aimed at strengthening the rights of campesino, original and indigenous nations and peoples;

(f) Developing and implementing programmes and projects aimed at strengthening access to constitutional justice.

163. With regard to measures aimed at implementing this recommendation, the Office of the Deputy Minister for Campesino, Original and Indigenous Justice is carrying out the following activities, in accordance with its mandate:

- Promoting and coordinating analysis and reflection exercises based on inter-jurisdictional dialogue to identify needs and weaknesses that need to be strengthened in the campesino, original and indigenous justice system (National Meeting of the campesino, original and indigenous justice system)
- Developing a proposal for a sectoral plan containing a series of actions and programmes linked and coordinated with other sectors of the judiciary and private institutions to consolidate egalitarian judicial pluralism
- Developing a coordination and cooperation protocol as a theoretical and regulatory instrument to guide the actions of the various courts based on the principle of intercultural interpretation to guarantee hierarchical equality and mutual respect
- Concluding inter-agency agreements with the Plurinational Constitutional Court and the judiciary to facilitate access to constitutional justice with an intercultural approach, in keeping with the circumstances of each campesino, original and indigenous nation and people

- Identifying the structures of the legal systems of the campesino, original and indigenous nations and peoples in order to strengthen their institutions.

164. As a result, it has been necessary to enter into specific agreements with other institutions participating in the process of strengthening campesino, original and indigenous justice and to apply and implement coordination and cooperation mechanisms between constitutionally recognized courts.

165. Efforts have been combined with other institutions so as to consolidate results that benefit campesino, original and indigenous nations and peoples based on activities with a priority focus on populations undergoing processes of building and consolidating autonomy.

166. The activities to be carried out are covered in a medium-term agenda, in accordance with the goals and targets set out in the Strategic Institutional Plan, with a timetable of activities and the steps to be taken between 2016 and 2020 to achieve the intended targets.

VI. Recommendation made in paragraph 114

167. In technical report MJTI-VIO-DGPETFVRGG No. 524/2017 (annex No. 4) issued by the Office of the Deputy Minister for Equal Opportunities, it is pointed out that efforts have been coordinated with the Directorate General of Prisons with a view to producing joint work on the relevant issues. For the sake of efficiency and effectiveness and in order to avoid issuing repetitive or overlapping reports, the Directorate-General of Prisons will report on progress on gender mainstreaming in policies and programmes.

VII. Recommendation made in paragraph 118

168. In report MJTI-VJDF-AJ-SPA No. 033 of 5 October 2017 by the Office of the Deputy Minister of Justice and Fundamental Rights of the Ministry of Justice and Institutional Transparency (annex 5), it is pointed out that according to article 267 of Act No. 548 of 17 July 2014, the Children's Code, the subjects of the juvenile justice system are minors over the age of 14 and under the age of 18 accused of committing a criminal offence, who must comply with a socioeducational measure imposed by a public judge in a care institution – either a centre for social reintegration or a guidance centre (art. 279, Children's Code).

169. Article 281 states that all care institutions, including social reintegration centres, must fulfil the following obligations: “1. Examine the personal and social circumstances of each case; 4. Ensure access to education; 7. Take whatever measures are necessary for the effective social and family reintegration and full and comprehensive development of the adolescents”.

170. Similarly, article 332 (b) of the Code establishes that pretrial detention and residential socioeducational measures are to take place in social reintegration centres in either free-time, semi-open or detention regimes.

171. Article 334 stipulates that, in coordination with the departmental social policy technical bodies, care centres should implement programmes for adolescents in conflict with the law to achieve the following objectives: “(a) develop the centre's general education project and individualized education plans and incorporate them into formal or alternative education; (b) carry out individual and group educational, occupational, therapeutic, recreational, and single and group cultural and leisure activities”.

172. Article 342 provides that, during the execution of the measures, adolescents in conflict with the law have the right: “(b) for the place of detention to meet hygiene, safety and health requirements, to have access to essential public services and to be adequate to ensure their comprehensive training; (k) to participate in all educational, training, recreational and cultural activities that contribute to developing their skills and support their social reintegration. Adolescents may not be prevented from participating in such activities for disciplinary reasons”.

173. To that end, according to the fourth transitional provision of the Code, within 365 days of its entry into force, autonomous departmental governments, with the exception for the moment of that of Pando, shall create specialized centres for the implementation of socioeducational, restrictive and custodial measures, including social reintegration centres.

174. In this respect, the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules) provide that:

- Detention facilities and services shall meet all the requirements of health and human dignity (rule 31)
- The design of detention facilities should be in keeping with the rehabilitative aim of residential treatment, with due regard to the need for privacy, opportunities for association with peers and participation in sports, physical exercise and leisure-time activities (rule 32)

175. With regard to education, rules 38 to 46 provide that minors are entitled to receive education adapted to their needs and capacities, imparted by qualified teachers through programmes integrated into the public education system. This reflects the importance of ensuring the continuity of adolescents' education when they are deprived of their liberty in a centre, either in pretrial detention or following sentencing; the right to education must be guaranteed, as it is one of the rights recognized by law and in international instruments.

176. With that in mind, a meeting was held with representatives of the Ministry of Education on 22 September 2017 to take the necessary steps to guarantee access to education, through mainstream education and the alternative education centres nationwide, during which the Ministry undertook to request specific data, such as age, years of schooling, etc. from the social reintegration centres in order to have standardized information to ensure the integration of adolescents deprived of their liberty into either formal or alternative education.

177. Lastly, article 338 of Act No. 548 provides that social reintegration centres should have internal regulations that respect the recognized rights and safeguards applicable to adolescents, which should cover, at a minimum, the living conditions for adolescents in the centres, possible penalties that may be imposed during the execution of the measure and the procedure to be followed when imposing disciplinary sanctions, all essential aspects for safeguarding the rights of adolescents in conflict with the law during the application of the socioeducational measure, while establishing limits and parameters on the actions of the staff of the centre.

178. It is intended to compensate for the lack of a register of social reintegration centres in the country through the register of the information system on children and adolescents (SINNA) in the module of the criminal justice system for adolescents (MOSPA), which is expected to become operational by the end of December 2018.

179. With regard to the lack of internal regulations in social reintegration centres, such regulations are in the process of being developed and are the responsibility of the social policy technical bodies and the care centres for adolescents in conflict with the law. So far, the Cenvicruz centre in the governorate of Santa Cruz has presented its regulations.

180. A plan is to be launched to ease overcrowding in the social reintegration centres with the largest populations, in coordination with the judiciary, the Public Prosecution Service and the Plurinational Public Defender Service, through the modification of non-custodial precautionary measures, subject to a request for information on the size of the population in each of the centres.

181. Similarly, notes have been sent to departmental autonomous governments in order to ensure that the coordinators of social reintegration centres submit their internal regulations and urging them to fulfil the mandate entrusted to them by law, namely to ensure respect for the rights and safeguards of adolescents deprived of their liberty, in view of the best interests of children and adolescents. In the event that the governorates do not reply at all, a compliance action shall be initiated, within the framework of the powers established by law.

VIII. Recommendation made in paragraph 121

182. In report MJTI-VIO-DGPCD No. 305/2017 (annex VI), the Office of the Deputy Minister for Equal Opportunities notes the following.

183. Article 37 of the General Act on Persons with Disabilities¹ and Supreme Decree No. 1893² provide that responsibility for the provision of training for prison officers on disability-related regulations, the accessibility of police stations and prisons and alternative means of communication of persons with disabilities lies with the Ministry of the Interior.

184. In implementation of the Act, three training workshops on the human rights of persons with disabilities have been conducted at the national level with a view to improving the conduct towards and treatment of persons with disabilities deprived of their liberty by the authorities, prison officers and those responsible for assistance in prisons.

185. Training workshops have been conducted for persons with disabilities deprived of their liberty in various prisons across the country with a view to protecting the rights of this vulnerable group.

186. Nationwide, there are 166 persons with disabilities deprived of their liberty, of which 75 are serving sentences and 91 are in pretrial detention.

IX. Recommendation made in paragraph 124

187. According to the same report, MJTI-VIO-DGPCD No. 305/2017, in order to ensure adequate and free access to health care for persons with disabilities deprived of their liberty, each prison is equipped with a health centre that provides free health care on a preferential basis to persons with disabilities.

188. When persons with disabilities who are deprived of their liberty require specialized tertiary care, they are transferred to the relevant service by court order and the costs are covered by the Ministry of the Interior. In the circumstances, the creation of a plan of action is not a priority given the care this group currently receives.

189. Supreme Decree No. 1984³ sets out the procedure for accessing health services at the national level, including by persons with disabilities deprived of their liberty, who have access to two health-care systems simply by showing a disability card issued under the Programme on the Central National Register of Persons with Disabilities and referral and counter-referral forms, the first for free health care, issued by the Directorate General of Prisons, under the Ministry of the Interior, in each prison, and the second issued by the public health system under the Ministry of Health, which also provides free health care depending on the severity of the individual case.

Part V

Observations and recommendations made by the Subcommittee on Prevention of Torture directly related to the functions of the Public Prosecution Service

Observations and recommendations made in paragraphs 24, 25, 29, 30, 31, 32, 64, 73, 97, 111, 115, 118 and 125

190. The following relevant information is provided in response to the points raised in those paragraphs.

¹ *Gaceta Oficial*. Act No. 223, General Act on Persons with Disabilities of 2 March 2012.

² *Gaceta Oficial*. Supreme Decree No. 1893. Regulations to Act No. 223 of 12 February 2014.

³ *Gaceta Oficial*. Supreme Decree No. 1894. Regulations to Act No. 223 Dated 30 April 2014.

191. The recommendations emphasize aspects related to the situation of persons in pretrial detention and consequent judicial delays and possible corruption, which are of concern to the Public Prosecution Service and are reflected in the Strategic Institutional Plan⁴ and the 10 Proposals for a Real Revolution in the Bolivian Justice System⁵ and the New Model of Prosecutorial Management, whose objectives include reducing judicial delays in the work of prosecutors and reducing opportunities that could give rise to corruption. The number of persons in pretrial detention is never used as an indicator or mechanism for evaluating prosecutors; on the contrary, the following message has been reiterated systematically: “The best prosecutor is not the one who issues the most charges or who has the most people in pretrial detention, but the one who seeks alternative ways out and solutions to resolve conflicts”.⁶

192. The Public Prosecution Service has recognized its institutional mission to be: “To promote a criminal justice system that is restorative, plural, swift and timely and defend the rights of society and victims, contributing to the construction of a culture of peace and a constitutional State based on the rule of law”, and its institutional vision as: “To be recognized as an institution serving society, characterized by its autonomy, independence, reliability and technical and scientific responsiveness in public criminal action, the protection of victims and the search for material and historical truth”. The Public Prosecution Service has also identified principles that are substantive (related to its specific functions and mandate) and managerial (through administrative and financial support) in nature.

(1) Substantive principles

193. The substantive principles on which the Public Prosecution Service’s work is based are derived from the provisions of the institution’s Organic Act, as follows:

- Legality – Criminal conduct shall be prosecuted and subject to the provisions of the Constitution, international treaties and conventions and laws
- Timeliness – Priority shall be given to finding a solution to criminal conflict, refraining from criminal prosecution when legally permitted and there is no serious risk to society, by applying alternatives to oral proceedings
- Objectivity – Circumstances that demonstrate the criminal responsibility of the accused but also those that reduce or exempt them from responsibility shall be taken into account when applying alternatives to oral proceedings
- Accountability – The officials of the Public Prosecution Service shall be responsible for their actions in the exercise of their duties, in accordance with the Constitution and laws
- Autonomy – The Public Prosecution Service is not answerable to any other State organs in the exercise of its functions
- Unity and hierarchy – The Service is unified and indivisible throughout the territory of the Plurinational State and exercises its functions through the prosecutors who represent it with integrity and through coordinated action
- Promptness – The Public Prosecution Service shall exercise its functions in a swift and timely manner and without delays
- Transparency – The Public Prosecution Service shall transmit information on the investigation to the parties involved in criminal proceedings, besides applying current regulations on transparency

⁴ <http://www.fiscalia.gob.bo/webfiscalia/index.php/features/pei>.

⁵ http://www.fiscalia.gob.bo/webfiscalia/attachments/article/376/10_porpuestas.pdf.

⁶ https://www.laestrelladeloriente.com/index.php?option=com_k2&view=item&id=21771:fiscal-garantizalibertad-de-prensa-y-anuncia-sanciones-si-se-violaron-derechos-de-quisbert&Itemid=721.
<http://www.fiscalia.gob.bo/webfiscalia/index.php/noticias/731-arranca-en-santa-cruz-el-curso-presencial-para-lanueva-carrera-fiscal-del-ministerio-publico>.

(2) **Managerial principles**

194. The principles that guide the internal management of the Public Prosecution Service and all its staff are:

- Commitment to justice and human rights. All officials in the Service shall promote and follow the principles of plural justice with a focus on human rights
- Interculturalism. Prosecutors shall ensure equal treatment of all persons in performing their duties, recognizing and respecting cultural differences and other perspectives
- Gender and generational equality
- Results-based management
- Organizational culture and climate
- Technological modernization
- Prosecution, administrative and forensic career path. Public servants employed in the Service shall follow an established career path, providing them with security and development opportunities based on the integrity and competence they show

195. With respect to paragraph 31 of the report on the training of justice officials (for the correct application and interpretation of regulations concerning non-custodial sentences and increased use of alternative measures on speeding up proceedings so as to reduce the number of persons in pretrial detention and on the limited application, substantiated by the judicial authorities, of pretrial detention), the National School for Prosecutors, in its first programme on initial training for entry to the prosecution service, developed a module on human rights for prosecutors. The modular structure of the course covers areas of performance and problematic issues, providing a theoretical basis for understanding the conceptual plurality of the term human rights and the problems addressed in this field.

196. The School’s programme also deals with the binding nature of human rights at the internal level, including the obligation for prosecutors to respect, protect and guarantee human rights in accordance with national law and international human rights law, which are very useful in the context of exercising public criminal action.

197. The following learning units are also available:

- Learning unit V on human rights protected by international instruments
- Learning unit VI on the right to a fair trial and due process
- Learning unit VIII on specific rights and rights holders

198. The part-distant learning model for the initial training programme for entry to the prosecution service takes account of the responsibility and potential of the trainees and includes self-learning activities based around group tutorials.

199. The following table shows the locations where the human rights for prosecutors module takes place and the number of participants.

<i>Location</i>	<i>Dates</i>	<i>Three locations</i>		<i>Total</i>
		<i>Departments</i>	<i>Participants</i>	
Sucre	Online 24–27 October 2016	Potosí	5	25
	In class 28–29 October 2016	Chuquisaca	9	
		Tarija	11	
Cochabamba	Online 7–10 November 2016	Cochabamba	14	20
	In class 11–12 November 2016	La Paz	6	
Santa Cruz	Online 17–19 October 2016	Santa Cruz	8	13
	Online 20 and 21 October 2016	Beni	5	
Total			58	

200. The number of course hours for each group was as follows:

<i>Modules/learning units</i>	<i>Online course hours</i>	<i>In-person class hours</i>	<i>Independent learning</i>	<i>Total academic hours</i>
Human rights for prosecutors	18 hours	16 hours	6 hours	40 hours

201. Regarding paragraph 32 of the report, the Department of Prosecutorial Management, Monitoring and Evaluation has provided statistical data on the application of alternative sentences in 2016 and 2017.

2016

<i>Department</i>	<i>Criterion of opportunity</i>	<i>Conditional stay of proceedings</i>	<i>Summary proceedings</i>	<i>Conciliation</i>
Beni	140	34	290	235
Chuquisaca	1 048	331	467	15
Cochabamba	647	285	813	78
La Paz	668	454	688	325
Oruro	210	317	144	9
Pando	51	30	192	139
Potosí	248	125	106	52
Santa Cruz	1 182	337	788	49
Tarija	1 393	356	329	106
Overall total	5 587	2 269	3 817	1 008

2017 up to the third quarter

<i>Department</i>	<i>Criterion of opportunity</i>	<i>Conditional stay of proceedings</i>	<i>Summary proceedings</i>	<i>Conciliation</i>
Beni	169	79	309	234
Chuquisaca	714	267	161	9
Cochabamba	292	267	700	103
La Paz	624	342	642	408
Oruro	206	336	88	18
Pando	64	28	115	116
Potosí	242	214	145	94
Santa Cruz	772	291	663	30
Tarija	1 521	334	360	43
Overall total	4 604	2 158	3 187	1 055

202. With one quarter still to come in 2017, it is expected that the application of alternative sentences will increase by 15.7 per cent by the end of the year.

203. In paragraphs 29 (d) and 97, the Subcommittee noted the high rate of delays and breaches of procedural time limits and recommended that Bolivia urgently address the case backlog in the courts and determine the reasons why hearings were deferred. In that respect, the Public Prosecution Service has implemented the prosecution management model, a new system for bringing public criminal action in a strategic and intelligent manner, in the framework of the accusatory criminal justice system, the constitutional system and domestic laws and regulations. As a result, strategic institutional objectives have been achieved to guarantee the effective enjoyment of the right of access to criminal justice on the basis of material equality.

204. In this context, with a view to meeting current social challenges, it was decided to transition from an individual to a team-based approach, changing paradigms and prosecutorial processes. The prosecution management model currently being implemented includes the following elements:

205. *Platform.* To provide support and guidance to users who visit the Prosecutor's Office to request prosecutorial action in a particular conflict and refer them to the appropriate body; if the conflict in question is not criminal in nature or if it involves victims in crisis, it can be dealt with promptly by the Victim and Witness Support and Protection Unit, in accordance with the applicable protocols.

206. *Effective filter.* Made up of analysis units with a filter system that can distinguish cases that are obviously criminal from those that are not, thus avoiding the processing of non-criminal cases (family, labour, civil cases), which, based on the principle of ultima ratio, should not enter the criminal system. This prevents the criminal system from being used as a means of extortion, pressure or bribery thanks to the effective dismissal of cases, with the effect that more than 15,644 cases have been dismissed so far in 2017.

207. *Prosecution teams.* Implemented based on the principle of unity of the Public Prosecution Service and organized according to needs, they make it possible to increase efficiency and capacity for dealing with cases and promote criminal investigation and prosecution, avoiding arbitrariness and judicial delays. Up to the third quarter of 2017, a total of 119,815 cases from previous years and the current year were closed at the national level.

208. *Alleviating the prosecutorial caseload.* By applying legal principles such as the criteria of regulated opportunity, conditional stay of proceedings, conciliation and summary proceedings, in other words alternative sentences, fostering social peace, rejecting and dismissing cases when there is insufficient basis for prosecution and avoiding judicial delays that lead to corruption, impunity and a lack of public trust. The introduction of prosecution teams has improved the exercise of criminal action, resulting in the resolution of more cases in less time, as shown in the following table.

2017

	<i>Active caseload as at 1 January 2017</i>	<i>Cases closed in 2017 carried over from previous years</i>	<i>Percentage reduction of caseload</i>
Chuquisaca	9 768	4 809	49.23
Pando	2 350	935	39.79
Beni	5 467	2 035	37.22
Tarija	12 763	4 683	36.69
La Paz	117 724	40 638	34.52
Oruro	11 084	3 671	33.12
Potosí	5 440	1 743	32.04
Cochabamba	18 229	4 582	25.14
Santa Cruz	86 295	19 343	22.41
Overall total	269 120	82 439	30.63

209. *Results-based management.* The prosecutor's offices have established regular targets for reducing the backlog of cases and avoiding judicial delays; more cases are being settled within the established legal time frames, with the following results.

<i>Department</i>	<i>Cases registered 2017</i>	<i>Cases closed 2017</i>	<i>Percentage of cases settled</i>
La Paz	27 440	51 627	188.15
Santa Cruz	18 521	26 018	140.48
Chuquisaca	5 256	7 265	138.22
Oruro	4 664	5 567	119.36
Pando	2 184	2 517	115.25
Tarija	7 047	7 846	111.34
Potosí	4 094	4 284	104.64
Beni	4 226	3 648	86.32
Cochabamba	13 847	11 043	79.75
Overall total	87 279	119 815	137.28

210. Instructions FGE/RJGP/DGFSE No. 19/2013 of 26 April were issued in relation to the inappropriate suspension of hearings. Single scheduling of hearings has been implemented in all prosecution teams, with daily programming of investigative activities for the prosecution team office and hearings fixed by court authorities. Monitoring and follow-up of compliance with the schedule is carried out by the head of the prosecution team, without prejudice to the oversight to be carried out by the departmental prosecutor.

211. The Public Prosecution Service has a primarily prosecutorial role; however, a disciplinary system is in place to sanction behaviour by prosecutors involving possible favouritism being shown to one of the parties, if it constitutes administrative misconduct. In the event that an offence has been reported, the details are referred to the relevant prosecutor for analysis, without prejudice to the actions of the Department of Prosecutorial Management, Monitoring and Evaluation, whose mandate includes overseeing and supervising cases, which is also done by departmental directorates.

212. *Attendance at hearings.* There are fewer suspended hearings due to non-attendance of prosecutors thanks to the internal organization of prosecution teams.

213. *Oversight, supervision and follow-up.* Under this model, the departmental prosecutors exercise greater oversight, supervision and follow-up of the work of prosecutors and the conduct of investigations, through case analysis and regular meetings and assemblies of prosecutors in coordination with the persons in charge in each area.

214. In order to avoid the inappropriate suspension of hearings, the Prosecutor General's Office has issued the following instructions.

215. ***Instructions FGE/RJGP/DGFSE No. 19/2013***

(1) Measures to prevent the undue suspension of hearings. "As part of their duties to supervise the work of prosecutors, the departmental prosecutors shall make arrangements with the respective departmental court of justice to ensure that courts and tribunals inform them of any suspensions of hearings, procedures or measures that rely on the presence and/or participation of the assigned prosecutor, whether it be:

- (a) Due to the unjustified absence of the prosecutor;
- (b) At the express request of the prosecutor; or
- (c) Due to the unjustified absence of prosecution witnesses or experts or other persons on the prosecution side.

(2) In such cases, the Departmental Prosecutor shall request a duly substantiated report from the assigned prosecutor, based on which he or she shall, where appropriate,

refer the case to the competent investigating authority, in accordance with articles 116, 126 et seq. of the Organic Act on the Public Prosecution Service, or shall apply the disciplinary measures set out in article 122 in relation to article 119 of the Organic Act;

(3) Hearings and prosecutorial and/or investigative actions (inspections, declarations, etc.) that require the due diligence of prosecutors may not be suspended without justification, and any suspension must be recorded in writing, citing the grounds for the suspension, and sent to the respective Departmental Prosecutor for the purposes of paragraph 2 of these instructions;

(4) If the departmental prosecutors, in accordance with article 34.12 of the Organic Act on the Public Prosecution Service, decide to displace a prosecutor, or if a prosecutor has been declared to be on secondment, holiday or leave of absence, or assigned to deal with cases that would make it physically impossible for him or her to be at his or her prosecutorial base, he or she is required to provide a list of the hearings or procedures that have been agreed or are pending, with a view to taking the necessary measures to ensure that these take place or are completed;

(5) In all the above cases, the Departmental Prosecutor shall report this information to the undersigned for his or her consideration and for the respective performance evaluation;

(6) If the hearing or procedure has been suspended for reasons attributable to the judges or courts, whether because of late notifications, delays in the establishment of the hearing or other reasons, this must be reported to both the relevant departmental court and the Judicial Council for appropriate action;

(7) As the suspension of hearings or procedures is inadmissible in a procedural system as a means of undue delay, and this cannot be accepted in the exercise of the material or technical defence of the accused, prosecutors shall ensure that, if this happens, it is recognized by the relevant judicial authority and noted in the record. Articles 104, 105 and 330 (2) of the Code of Criminal Procedure must be applied, without prejudice to the lawyer reporting to the relevant disciplinary authority and requesting the most severe procedural fines commensurate with the importance of the procedure or the expected delays it will cause;

(8) The departmental prosecutors are responsible for disseminating the present instructions; to this end, they shall personally notify each prosecutor and place a copy of the instructions in each prosecutor's office for dissemination among litigants."

216. Instructions FGE/RJGP/DGFSE No. 063/2013, Follow-up, supervision and oversight of cases involving crimes of corruption: "To departmental prosecutors: all procedural and investigative measures must be carried out with due diligence, in compliance with procedural deadlines and rules of due process. To the Office of the Special Prosecutor for Crimes of Corruption: monitor and follow up active cases in the annexed list, providing support for all actions that may be necessary and relevant in the matter, preserving due process and applicable principles, rights and guarantees and the effectiveness of criminal prosecution."

217. Instructions FGE/RJGP/DGFSE No. 042/2014, Due diligence, follow-up, oversight and supervision by the departmental prosecutors and prosecutors of cases brought before the various committees and working groups: "Departmental prosecutors shall prioritize the supervision, follow-up and monitoring of all committees and working groups. Departmental prosecutors shall schedule and convene fortnightly meetings for all members of the committees or working groups. The suspension of hearings for reasons attributable to the Public Prosecution Service is prohibited in cases for which a committee or working group has been appointed."

218. Instructions FGE/RJGP/DGFSE No. 191/2014, Compliance with Act No. 586: "Termination of proceedings in inactive cases that are under preliminary investigation; extraordinary closure of the criminal action at the preliminary investigation stage; cases in which charges have been brought, cases to which there is an objection or challenge; monitoring, supervision and follow-up; monitoring and follow-up by the Department of Prosecutorial Management and Performance Evaluation."

219. **Instructions FGE/RJGP/DGFSE No. 192/2014**, Guidelines for the application of Act No. 586 on decongesting and making the criminal justice system more effective: “Ensure compliance with Act No. 586, taking into consideration the functions of the Public Prosecution Service, the guiding principles governing public criminal action and the principles of material truth and minimal intervention for: the identification of cases, termination of proceedings, issuing of decisions or injunctions, cases in which the preliminary stage or preparatory phase has expired, cases on trial before sentencing courts, legal representation of the State, amendments and substitutions to the Code of Criminal Procedure through Act No. 586, conversion of actions, sentencing courts, cessation of pretrial detention, termination of preliminary investigation, additional procedural steps, exceptions, processing pleas, presentation of injunctions, scope of alternative sentences, conciliation, preparation of trial, content of charge, processing of claims in the oral hearing, application of summary proceedings, application of immediate proceedings for in flagrante offences, substantiation of oral hearings.”

220. With regard to paragraph 30 of the Subcommittee’s report in relation to criminal justice policy, under article 225 of the Constitution, the Public Prosecution Service defends the law and general interests of society and brings public criminal action.

221. Since 11 July 2012, there has been a new Organic Act on the Public Prosecution Service; it is important that the new guidelines and criminal prosecution policy are framed by the new legislation, as well as the planned changes to the Constitution in the field of justice, in which the Public Prosecution Service is one of the main operators, as the entity responsible for bringing public criminal action.

222. Article 30 (3) of the Organic Act on the Public Prosecution Service provides that it is the responsibility of the Prosecutor General to “determine, in coordination with the organs of State, the country’s criminal justice policy”. As such, the Department for Criminal Justice Policy has been established and various national meetings and international seminars have been held since 2013 with a view to developing a proposal for a criminal justice policy:

- (a) National Meeting of the Public Prosecution Service, 11–13 July 2013;
- (b) National Meeting of the Public Prosecution Service and international seminar “Towards the construction of a new criminal justice system,” held in the municipality of Tiquipaya-Cochabamba from 21–23 July 2014;
- (c) National Meeting of the Public Prosecution Service and international seminar, 29–30 July 201;
- (d) National Meeting of the Public Prosecution Service and international seminar entitled “Driving the revolution in the Bolivian justice system”, on 25 and 26 August 2017;
- (e) Establishment of the Department for Strategic Planning of Criminal Prosecution and Criminal Justice Policy through resolution FGE/RJGP/DAJ No. 166/2017 of 3 July.

223. In subparagraph 32 (b) of its report, the Subcommittee recommends adopting mechanisms for detecting and sanctioning corrupt practices. In this respect, the Unit for the Investigation of Assets and Transparency reports that it has been fully committed to preventing and combating corruption since 2015. The Prosecutor General proposed to the National Council of the Public Prosecution Service the establishment of a unit for the investigation of assets, which was approved by resolution FGE/RJGP/DAJ No. 030/2015 of 29 April 2015. Since then, in accordance with its regulations, this unit has carried out its functions to review, analyse, monitor and check the assets obtained and/or acquired by officials of the Public Prosecution Service in relation to remuneration or income received during their period of employment in the Service. The investigation of assets is aimed at preventing and combating corruption and ensuring that officials are ethical, correct and transparent and committed to defending the public interest.

224. In 2017, the regulations of the Unit for the Investigation of Assets were amended through resolution FGE/RJGP/DAJ No. 124/2017 of 19 May 2017, approved by the National Council of the Public Prosecution Service, which decided to rename it the Unit for

the Investigation of Assets and Transparency. It was decided to maintain and change some functions set out in the previous regulations and create new responsibilities with a view to promoting and implementing mechanisms to enhance transparency in the Public Prosecution Service in relation to the institutional management of financial resources, developing actions aimed at preventing corruption in the institution, strengthening the right to access to information in the applicable national and internal normative frameworks, promoting public ethics, organizing, planning and supporting the highest executive authority with public accountability and promoting transparency actions with social actors, all of which is in compliance with national regulations governing transparency in public institutions. These functions are based on:

- The Inter-American Convention against Corruption – ratified by Bolivia through Act No. 1743 of 17 January 1997
- The United Nations Convention against Corruption – ratified by Bolivia through Act No. 3068 of 1 June 2005
- The Political Constitution of 7 February 2009
- Act No. 341 on social participation and oversight of 5 February 2013
- Supreme Decree No. 214 of 22 July 2009
- Act No. 004 on combating corruption and illicit enrichment and investigation of assets, “Marcelo Quiroga Santa Cruz”, of 31 March 2010
- Organic Act No. 260 on the Public Prosecution Service of 11 July 2012
- The Code of Ethics of the Public Prosecution Service of 21 July 2014

225. On 4 September 2017, Act No. 974 on the Transparency and Anti-Corruption Unit was promulgated. The Unit on the Investigation of Assets and Transparency is in the process of amending its internal regulations with a view to fulfilling the responsibilities and functions set out in the Act, which aims to prevent and combat corruption in public institutions. Work is under way to implement the Act.

226. Concerning paragraph 111 (c) of the report on the protection of victims and witnesses of crimes of ill-treatment or torture, the Directorate for the Protection of Victims and Witnesses reports that each Departmental Prosecutor’s office has staff specialized in social work and psychology who make up the interdisciplinary team of the Unit for the Protection of Victims and Witnesses, whose purpose is to provide information, assistance and protection to victims, witnesses and members of the Public Prosecution Service, as well as support for criminal prosecution in each Departmental Prosecutor’s office, in accordance with the Unit’s guidelines, approved by the Prosecutor General through resolution FGE/RJGP/DAJ No. 190/2017.

227. Among the key elements of the Unit’s guidelines is the prioritization of support based on the following criteria:

(a) By type of victim: children or adolescents with disabilities, children or adolescents as opposed to adults, adults with disabilities, pregnant women; if the victims are adults of the same gender, the older adult will be attended to first, if not, women will be attended to before men;

(b) By origin of the person concerned: foreigners, rural population and the rest of the population;

(c) By type of crime: trafficking in persons, sexual crimes, gender-based violence, homicide and femicide, violent crimes and other crimes. In the framework of the 2017 annual operating plan, a programme for the protection of victims and witnesses is being developed, taking into consideration the responsibilities conferred on the Directorate by Act Nos. 260 and 548, which will become the Directorate’s reference framework for work in this area.

228. With regard to paragraph 29 (d) of the report on delays and breaches of procedural time limits, these are classified as disciplinary offences in articles 120.3 and 121.5 of the

Organic Act on the Public Prosecution Service. The Disciplinary Directorate reports that 46 prosecutors were sanctioned in 2016 and 9 in 2017 (up to the third quarter).

229. It should be borne in mind that these figures refer to enforceable disciplinary decisions (without pending appeals), which explains the low number of sanctions in 2017, as several decisions handed down in first instance are pending appeal, as provided for in article 128 of the Organic Act on the Public Prosecution Service.

230. Instructions FGE/RJGP No. 176/2017 set out specific measures related to the responsibilities and functions of the Public Prosecution Service, instructing:

(1) Departmental prosecutors:

(a) To open prompt and impartial investigations *ex officio* whenever there are reasonable grounds to believe that an act of torture or ill-treatment has been committed by police officers and/or prison personnel and to establish the responsibility of superior officials who instigate, encourage, consent to or acquiesce in such acts;

(b) To take the necessary measures to prioritize the resolution of proceedings and avoid the suspension of hearings that involve persons in pretrial detention;

(c) To prioritize the application of alternative sentences for persons in pretrial detention, provided these are appropriate and do not pose a threat to public security and the general interests of society and the victims.

(2) The Department of Prosecutorial Management, Monitoring and Evaluation: to incorporate in the formulation of a criminal justice policy an approach that takes into consideration both vulnerability and human rights, does away with the widespread use of pretrial detention and favours restorative forms of justice.

(3) The Directorate for the Protection of Victims, Witnesses and Members of the Public Prosecution Service: to include in the formulation of the programme for the protection of victims, witnesses and complainants, victims and witnesses of ill-treatment and torture.

(4) The Office of the Prosecutor for Crimes against Persons: to develop guidelines for the application of the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) within a period of two months.

(5) The Institute of Forensic Investigation: within a period of two months, to take the necessary action to bring forensic reports in line with the Istanbul Protocol and ensure that possible cases of torture are documented.

(6) The School for Prosecutors:

- To implement a training programme for prosecutors and prosecutorial and forensic support staff of the Institute for Forensic Investigation on the Istanbul Protocol, the Standard Minimum Rules for the Treatment of Prisoners, the United Nations Standard Minimum Rules for Non-custodial Measures (Tokyo Rules) and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules)
- To implement a training programme for prosecutors and prosecutorial support staff on the correct application and interpretation of regulations on alternatives to pretrial detention

(7) The Information Technology Unit in coordination with the Department of Prosecutorial Management, Monitoring and Evaluation: To establish a reliable computerized alert system to monitor the duration of pretrial detention; to improve records containing information on vulnerable groups, including women.

(8) To prosecutors:

- Whenever it is necessary to request the application of a personal precautionary measure, this must be limited in nature and enforced in such a way that it causes the least harm to the person and reputation of the suspects, avoiding the uncontrolled application of pretrial detention, in accordance with articles 7 and 22 of the Code of Criminal Procedure
- Ensure that conditions for imposing alternative sentences to pretrial detention take account of the accused's social and economic circumstances
- Take into account the culture and the economic and employment situation of indigenous persons when ordering precautionary measures
- Adequately consider the customs and lifestyle of indigenous persons when these are tried in the ordinary justice system, guaranteeing respect for procedural safeguards, particularly their right to a defence and information on detention and their rights in their language, in accordance with the spirit of the Constitution
- Prioritize the resolution of proceedings and avoid the suspension of hearings that involve persons in pretrial detention
- Prioritize the application of alternative sentences, especially for persons in pretrial detention, provided this is appropriate and does not pose a threat to public security and the general interests of society and the victims

231. In resolving proceedings, take into account the high risk of vulnerability of women and the principle of the best interest of the child and broadly apply alternatives to deprivation of liberty, in keeping with the Tokyo Rules and the Bangkok Rules, including for offences related to Act No. 1008.

232. In cases involving minors in conflict with the law (aged between 16 and 18), give preference to the application of precautionary measures and alternatives to deprivation of liberty.

233. In cases in which the accused is suffering from a mental illness, severe mental disturbance or serious intellectual deficiency, automatically order expert medical, psychological and/psychiatric reports, in application of articles 79 and 80 of the Criminal Code and article 86 of the Code of Criminal Procedure, in the light of the Standard Minimum Rules for the Treatment of Prisoners, the Tokyo Rules and the Bangkok Rules.

234. **The full version of the present report is available at the following link:** <http://www.mingobierno.gob.bo/index.php?r=page/detail&id=58>.
