

## **Argentina's non-compliance of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**

### *Executive Summary*

Currently, the Argentinian state systematically infringes some provisions of the Convention Against Torture, as it was indicated in the last periodic report of the Committee Against Torture of United Nations (CAT). There are three specific axes in which these infringements are taking place:

1. Lack of implementation of the National Mechanism Against Torture.
  2. Human rights violations in the penitentiary system.
  3. Action of the security forces in the public space.
- **National Mechanism Against Torture.** The Argentinian state has not yet implemented the National Prevention Mechanism despite the ratification of the facultative protocol of the Convention Against Torture through law 25.932 that gave it constitutional category and requested its immediate execution. The National Mechanism of Prevention has to be established definitively so that all institutions, civil society and cooperation agencies converge in the aim to prevent torture.
  - **Human rights violations in the penitentiary system.** The levels of incarceration have considerably raised during the last years. For instance, in the province of Buenos Aires, in 2017 the number of incarcerated people

attained its historic record (38.089). In this state there is almost twice incarcerated population regarding the capacity of the prisons. Additionally, Police Commissaries of the province are still being used as detention places, even if they were conceived as transitory places. On March 2nd 2017, a fight in a Commissary produced a fire that caused the decease of seven detained people. The bodies presented also marks of attacks with knife. The amount and cruelty of registered cases, in which there are acts such physical attacks by public force, torture by isolation, asphyxiation, sexual abuse and burning, indicate that day-to-day life in these institutions is marked by illegal violence. Conditions such as lack of access to health care and proper nourishment, overcrowding and very low standards of hygiene, strongly aggravate the conditions of detention.

- **Arbitrary detention in Argentinian states.** In the state of Buenos Aires, since 2014 there is a “Plan of Emergency in Public Security” that gave more faculties to the police. Since that moment, there are an increased number of practices such as arbitrary detentions and discrimination, especially against young urban marginalized population. In the state of Tucumán, the police forces can capture individuals under mere suspicion and without the due process. On May 7<sup>th</sup> 2014, the Supreme Court declared the articles of the Tucuman’s Police Code that enabled the police to impede suspected offenders to communicate up to 48 hours, and to record their declarations without the presence of a defender lawyer. Nevertheless, this hasn’t prevented that kind of abuses to occur. Additionally, there is an increase in the discrimination against minorities by members of the police. Migrants and LGBTI persons often receive discriminatory treatment.

### **Recommendations:**

- We request to the Argentinian State to adjust the Criminal Law to the Constitutional and international human rights standards.
- We request the abolition of the infraction/offense categories that sanction self-referential conducts that do not harm other persons such as prostitution, trans-sexuality and homosexuality, among others.
- We request the abolition of the infraction/offense categories that sanction merely preparatory acts.
- We request the reformulation of unclear offense categories.
- We request the implementation of alternative methods to solve conflicts that allow victim's participation and avoid effective deprivation of liberty for the offenders.
- We request to use adequate spaces to confine offenders that are condemned to deprivation of liberty.
- We request to abolish the provisions that make possible to convert unpaid fines into arrest.
- We request to separate the jurisdictional function from the contravention persecution.
- We request to guarantee public defense for those being tried.