



NGO Report (for LOIPR) to the 7th Report of Argentina on the Convention on the Rights of the Child (CRC)

Dear Committee on the Rights of the Child

All typical forms of Intersex Genital Mutilation are still practised in Argentina, facilitated and paid for by the State party via the Universal Health Care System under the oversight of the Argentinian Ministry of Health. Parents and children are misinformed, kept in the dark, sworn to secrecy, kept isolated and denied appropriate support. Despite previous Concluding Observations by this Committee (2018) denouncing IGM in Argentina as a harmful practice, to this day the Government refuses to take action, therefore upholding the impunity of IGM practitioners, while IGM survivors are denied access to justice and redress.

In contrast, Argentinian intersex advocates are vocal about the need of legislation explicitly prohibiting IGM practices, ensuring access to justice for survivors, and establishing a Truth Commission, as included in a Draft Law submitted to Congress in 2020. However, so far, there has been no progress in passing the law.

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1. Argentina's commitment to "protect intersex children from violence and harmful practices", "investigate abuses", "ensure accountability" and "access to remedy"

a) UNHRC45 Statement, 01.10.2020

On occasion of the 45th Session of the Human Rights Council the State party supported a public statement calling to "*protect [...] intersex adults and children [...] so that they live free from violence and harmful practices. Governments should investigate human rights violations*

*and abuses against intersex people, ensure accountability, [...] and provide victims with access to remedy.”*¹

b) UNHRC48 Statement, 04.10.2021

On occasion of the **48th Session of the Human Rights Council** the **State party** supported a public follow-up statement reiterating the call to end harmful practices and ensure access to justice:

*“Intersex persons also need to be protected from **violence** and States must **ensure accountability** for these acts. [...]*

*Furthermore, there is also a need to take measures to protect the **autonomy** of intersex children and adults and their rights to health and to **physical and mental integrity** so that they live **free from violence and harmful practices**. Medically unnecessary surgeries, hormonal treatments and other invasive or irreversible non-vital medical procedures without their free, prior, full and informed consent are **harmful to the full enjoyment of the human rights** of intersex persons.*

*We call on all member states to take measures to combat violence and discrimination against intersex persons, develop policies in close consultations with those affected, **ensure accountability**, reverse discriminatory laws and **provide victims with access to remedy**.”*²

2. IGM practices persist, insufficient protections, Government fails to act

All forms of **IGM practices remain widespread and ongoing**, persistently **advocated, prescribed and perpetrated** by state funded University and Public Children’s Clinics, as well as in some private clinics, and **paid for** by the Argentinian Universal Health Care System under the oversight of the **Argentinian Ministry of Health** (see 2018 Intersex NGO Report for Session, p. 12-16). Despite previous Concluding Observations by this Committee (CRC/C/ARG/CO/5-6, para 26), the **Government fails to take appropriate action**.

Accordingly, the Argentinian Society of Urology endorses the current 2022 ESPU/EAU “*Paediatric Urology*” Guidelines prescribing all forms of IGM:

a) IGM 3 – Sterilising Procedures:

**Castration / “Gonadectomy” / Hysterectomy /
Removal of “Discordant Reproductive Structures” / (Secondary) Sterilisation
Plus arbitrary imposition of hormones**³

The **Argentinian Society of Urology** (“**Sociedad Argentina de Urología (SAU)**”) endorses the **2022 Guidelines of the European Association of Urology (EAU)**,⁴ which include the current ESPU/EAU “*Paediatric Urology*” **Guidelines 2022**⁵ of the European Society for Paediatric

1 Statement supported by Argentina (and 34 other States) during the 45th Session of the Human Rights Council on 1 October 2020, <https://www.dfat.gov.au/international-relations/themes/human-rights/hrc-statements/45th-session-human-rights-council/joint-statement-led-austria-rights-intersex-persons>

2 Statement supported by Argentina (and 52 other States) during the 48th Session of the Human Rights Council on 4 October 2021, <https://www.bmeia.gv.at/oev-genf/speeches/alle/2021/10/united-nations-human-rights-council-48th-session-joint-statement-on-the-human-rights-of-intersex-persons/>

3 For general information, see 2016 CEDAW NGO Report France, p. 47. <https://intersex.shadowreport.org/public/2016-CEDAW-France-NGO-Zwischengeschlecht-Intersex-IGM.pdf>

4 <https://uroweb.org/guidelines/endorsement/>

5 <https://d56bochluxqnz.cloudfront.net/documents/full-guideline/EAU-Guidelines-on-Paediatric-Urology-2022.pdf>

Urology (ESPU) and the European Association of Urology (EAU) which stress:⁶

*“Individuals with DSD have an **increased risk of developing cancers of the germ cell lineage, malignant germ cell tumours or germ cell cancer in comparison with to the general population.**”*

Further, regarding *“whether and when to pursue gonadal or genital surgery”*,⁷ the Guidelines refer to the *“ESPU/SPU standpoint on the surgical management of Disorders of Sex Development (DSD)”*,⁸ which advocates “gonadectomies”:

*“Testes are either brought down in boys or **removed** if dysgenetic with tumour risk or in complete androgen insensitivity syndrome or 5 alpha reductase deficiency. Testicular prostheses can be inserted at puberty at the patient’s request.”*

Also, the **“2016 Global Disorders of Sex Development Consensus Statement”**⁹ refers to the *“ESPU/SPU standpoint”*, advocates *“gonadectomy”* – even when admitting *“low”* cancer risk for CAIS (and despite explicitly acknowledging CRC/C/CHE/CO/2-4)¹⁰:

Table 2. GCC risk: clinical management

	Male	Female	Unclear gender
Gonadal dysgenesis (45,X/46,XY and 46,XY)	Undescended testes – Orchiopexy with biopsy – Self-examination – Annual ultrasound (post-puberty) Post-pubertal biopsy – Based on ultrasound and results of first biopsy – If CIS becomes GB → gonadectomy Low threshold for gonadectomy if ambiguous genitalia	Bilateral gonadectomy at diagnosis	Low threshold for gonadectomy if ambiguous genitalia If intact, gonadectomy depends on gender identity
Undervirilization (46,XY: partial AIS, complete AIS, testosterone synthesis disorders)	Undescended testes – Orchiopexy with biopsy – Self-examination – Annual ultrasound (post-puberty) Post-pubertal biopsy – Bilateral, CIS → gonadectomy/irradiation Repeat biopsy at 10 years of age – Consider gonadectomy to avoid gynecomastia or if on testosterone supplementation	Partial AIS and testosterone synthesis disorders – Prepubertal gonadectomy Complete AIS – Postpubertal gonadectomy or follow-up – GCC risk low, allow spontaneous puberty	Partial AIS and testosterone synthesis disorders – Bilateral biopsy – Low threshold for gonadectomy Intensive psychological counseling and follow-up
No data are available on the value of cryopreservation or safety if a precursor lesion for GCC is present.			

Source: Lee et al., in: Horm Res Paediatr 2016;85:158-180, at 174

b) IGM 2 – “Feminising Procedures”: Clitoris Amputation/“Reduction”, “Vaginoplasty”, “Labiaplasty”, Dilatation¹¹

The **Argentinian Society of Urology (“Sociedad Argentina de Urología (SAU)”**) endorses the **2022 Guidelines of the European Association of Urology (EAU)**,¹² which include the current

6 Ibid., p. 89

7 Ibid., p. 88

8 P. Mouriquand, A. Caldamone, P. Malone, J.D. Frank, P. Hoebeke, “The ESPU/SPU standpoint on the surgical management of Disorders of Sex Development (DSD)”, Journal of Pediatric Urology vol. 10, no. 1 (2014), p. 8-10, [http://www.jpurology.com/article/S1477-5131\(13\)00313-6/pdf](http://www.jpurology.com/article/S1477-5131(13)00313-6/pdf)

9 Lee et al., “Global Disorders of Sex Development Update since 2006: Perceptions, Approach and Care”, Horm Res Paediatr 2016;85:158–180, <https://www.karger.com/Article/Pdf/442975>

10 Ibid., at 180 (fn 111)

11 For general information, see 2016 CEDAW NGO Report France, p. 48.

<https://intersex.shadowreport.org/public/2016-CEDAW-France-NGO-Zwischengeschlecht-Intersex-IGM.pdf>

12 <https://uroweb.org/guidelines/endorsement/>

ESPU/EAU “*Paediatric Urology*” Guidelines 2022¹³ of the European Society for Paediatric Urology (ESPU) and the European Association of Urology (EAU). In **chapter 3.17 “Disorders of sex development”**,¹⁴ despite admitting that “*Surgery that alters appearance is not urgent*”¹⁵ and that “*adverse outcomes have led to recommendations to delay unnecessary [clitoral] surgery to an age when the patient can give informed consent*”,¹⁶ the ESPU/EAU Guidelines nonetheless explicitly **refuse to postpone non-emergency surgery**, but in contrary **insist to continue with non-emergency genital surgery** (including partial clitoris amputation) on young children based on “*social and emotional conditions*” and **substituted decision-making by “parents and caregivers implicitly act[ing] in the best interest of their children” and making “*well-informed decisions [...] on their behalf*”, and further **explicitly refusing “prohibition regulations”** of unnecessary early surgery,¹⁷ referring to the 2018 ESPU Open Letter to the Council of Europe (COE),¹⁸ which further invokes **parents’ “social, and cultural considerations”** as justifications for early surgery (p. 2).**

c) IGM 1 – “Masculinising Surgery”: Hypospadias “Repair”¹⁹

The **Argentinian Society of Urology (“Sociedad Argentina de Urología (SAU)”)** endorses the **2022 Guidelines of the European Association of Urology (EAU)**,²⁰ which include the current **ESPU/EAU “Paediatric Urology” Guidelines 2022**²¹ of the European Society for Paediatric Urology (ESPU) and the European Association of Urology (EAU). In **chapter 3.6 “Hypospadias”**,²² the ESPU/EAU Guidelines’ **section 3.6.5.3 “Age at surgery”** nonetheless explicitly promotes, “*The age at surgery for primary hypospadias repair is usually 6-18 (24) months.*”²³ – despite admitting to the “*risk of complications*”²⁴ and “*aesthetic[...]*” and “*cosmetic*” justifications.²⁵

3. 2020 Draft Law to prohibit IGM practices stalled in Congress

On 2 November 2020, a **Draft Law “Integral Protection of Sex Characteristics”**²⁶ was submitted to Congress, with the support of NGOs **Justicia Intersex**, **Abosex**, the **Plurinational Intersex Network** and the **LGTBIQ+ League of the provinces**.^{27 28 29}

13 <https://d56bochluzqz.cloudfront.net/documents/full-guideline/EAU-Guidelines-on-Paediatric-Urology-2022.pdf>

14 Ibid., p. 86

15 Ibid., p. 88

16 Ibid., p. 88

17 Ibid., p. 89

18 https://www.espu.org/images/documents/ESPU_Open_Letter_to_COE_2018-01-26.pdf

19 For general information, see 2016 CEDAW NGO Report France, p. 48-49,

<https://intersex.shadowreport.org/public/2016-CEDAW-France-NGO-Zwischengeschlecht-Intersex-IGM.pdf>

20 <https://uroweb.org/guidelines/endorsement/>

21 <https://d56bochluzqz.cloudfront.net/documents/full-guideline/EAU-Guidelines-on-Paediatric-Urology-2022.pdf>

22 Ibid., p. 26

23 Ibid., p. 27

24 Ibid., p. 27

25 Ibid., p. 27

26 S-2090/19, Exp. 5864-D-2020: Proyecto de ley sobre protección integral de las características sexuales,

<https://www.senado.gob.ar/parlamentario/comisiones/verExp/2090.19/S/PL>

<https://dequesetrata.com.ar/proyecto/senado-ar/2090-19-26126>

English translation: <https://justiciaintersex.files.wordpress.com/2020/11/proyecto-intersex-final.docx>

27 LM La nueva Mañana (02.11.2020), “Promueven una ley de ‘Protección Integral de las Características Sexuales’” (“A law on ‘Integral Protection of Sexual Characteristics’ is being promoted”),

<https://lmdiaro.com.ar/contenido/257076/promueven-una-ley-de-proteccion-integral-de-las-caracteristicas-sexuales>

The Draft Law includes:

- **Prohibition.** It is forbidden to undertake any non-therapeutic body modification procedure without the explicit, free and informed consent of the person whose body is involved. (Art. 4)
- **Violations of Rights. Penalties.** The performance of body modification procedures in violation of the provisions of article 4 of this law shall be considered cruel, inhuman and degrading treatment.

These actions will be considered as very serious bodily harm as described in articles 90 and 91 of the National Penal Code and the perpetrators will be liable to criminal as well as civil, administrative, disciplinary and professional charges. (Art. 8)

- **Truth Commission. Creation.** A National Commission on Non-Consensual Modifications of Sex Characteristics shall be created under the Ministry of Justice and Human Rights, which shall have the purpose of clarifying the facts that occurred in the country related to body modification procedures to which people who presented a variation of sex characteristics have been subjected. (Art. 18)

However, so far, there has been no progress in passing the law.³⁰

28 Grupo La Provincia (02.11.2020), “Presentaron en Diputados proyecto de Protección Integral de las Características Sexuales” (“Draft bill for the Integral Protection of Sexual Characteristics was presented in the Chamber of Deputies”),

<https://www.grupolaprovincia.com/sociedad/presentaron-en-diputados-proyecto-de-proteccion-integral-de-las-caracteristicas-sexuales-600705>

29 LATFEM (06.11.2020), “Un proyecto de ley para proteger las características sexuales con que nacemos” (“A bill to protect the sex characteristics we are born with”),

<https://latfem.org/un-proyecto-de-ley-para-proteger-las-caracteristicas-sexuales-con-que-nacemos/>

30 <https://dequesetrata.com.ar/proyecto/senado-ar/2090-19-26126>

4. Suggested Questions for the LOIPR

The Rapporteurs respectfully suggest that in the LOIPR the Committee asks the Argentinian Government the following questions with respect to the treatment of intersex children:

Harmful practices: Intersex children (art. 24(3))

- **Please provide information on the measures taken to prevent the unnecessary medical or surgical treatment of intersex children, to provide families with intersex children with adequate counselling and support, and to guarantee access to effective remedies for victims subjected to such treatment during childhood, including the statute of limitations for raising a claim against such treatment.**
- **Please provide data, disaggregated by type of intervention, age at intervention, and hospital, on the number of intersex children subjected to non-urgent and irreversible surgical and other procedures.**

Thank you for your consideration and kind regards,

Daniela Truffer & Markus Bauer (StopIGM.org / Zwischengeschlecht.org)