

Report to be submitted to the Committee on the Rights of the Child

This report was coordinated by the Network for the Rights of Persons with Disabilities (REDI) and prepared collaboratively by: the Civil Association for Equality (ACIJ), the Colibrí Association of Salta, the Intersectoral Roundtable on Disability and Human Rights of Córdoba, the Mental Health and Human Rights Observatory of Córdoba, the Rumbos Foundation, Forum Infancias Córdoba, Red Infancias Córdoba and the Disability Observatory of Mendoza.

Introduction

As a consequence of the economic policies of recent years, and the failure to take measures to protect children with disabilities, the most basic rights of this group are at serious risk. The situation of poverty requires the State to implement measures that provide families with economic security, access to resources and basic services such as health, nutrition, accessible transport and education, and care mechanisms that support the role of families in guaranteeing good care and development opportunities during early childhood. However, these policies are neither adequate nor sufficient. In this context, legal claims persist through amparo actions to ensure adequate assistance in relation to childhood disabilities. The Law for the Protection of Children and Adolescents¹ continues without a disability perspective.

The situation worsened since 10 December 2023 when the new government took office, and adopted measures that deepened the economic and social crisis that the population of Argentina is going through, generating a serious deterioration in the living conditions of children in general and those with disabilities in particular. Poverty levels increased from 44.7% in the third quarter of 2023 to 57.4% in January, affecting 27 million people². Although there is no specific data on the disabled population, it can only be assumed that rates are even higher for the disabled.

The seriousness of the situation is reflected in the fact that the general budget for the public administration in force at the end of 2023, including the budget for the National Agency for Disability, was extended to 2024, without projecting any update for inflation. It should be kept in mind that inflation in 2023 was 211% year-on-year, and in the first two months of 2024 it was 36.6%. This implies a sharp cut in the real resources budgeted for this year. ANDIS is in charge of the development, articulation and implementation of public policies on disability from a comprehensive perspective in Argentina, and its policies include the granting of pensions and medical care for their beneficiaries.

¹ Law 26.061

² [AAU warns that poverty will continue to grow](#)

In the provinces, the budget is insufficient to meet the needs of children with disabilities. In Cordoba, the budget allocations are still meagre and the critical working conditions³ of the teams of the integral protection system in the capital and in the interior of the province⁴ have been accentuated. The budget is constantly decreasing and the State's obligations are transferred to the private sector and/or intermediate organisations. This is happening, for example, in health, and especially in mental health, where the shortage of human resources, interdisciplinary teams and their precariousness has increased in the post-pandemic period. In the city of Cordoba there are only 27 psychologists, 17 social workers and 3 itinerant psychiatrists for the 105 health centres in the municipality, with approximately 500 neighbourhoods and a population of 3,978,984 inhabitants⁵.

The President of the Nation announced the closure of the National Institute against Discrimination, Xenophobia and Racism (INADI), a decision contrary to Law No. 24.515. This means a setback in the mitigation of discriminatory acts against children and adolescents with disabilities. In addition, the agency had offices in different provinces of the country. For example, in Cordoba, the office in the city of Cordoba and its branches in San Antonio de Arredondo, Villa María and Río Cuarto were closed. In addition to the interruption of work with the municipalities of the interior⁶.

Mental Health and Institutionalisation of Children with Disabilities Linked to articles 3, 7, 8, 19, 20 and 25 of the Convention on the Rights of the Child

In Argentina, despite the existence of an international and national regulatory framework that establishes the State's duty to guarantee special protection for children with psychosocial disabilities, children using mental health services are still invisible in the design and implementation of public policies that guarantee their rights and promote their deinstitutionalisation, attention and care.

The National Mental Health Law⁷, passed more than 13 years ago in the country, provided for the definitive replacement of psychiatric hospitals by a community-based system that promotes independent living and social inclusion of people in general - and children and adolescents in particular - with a diagnosis in the field of mental health. However, **the tutelary, asylum and hospital-centred approach still predominates, and the main socio-health response provided by the State in this area is hospitalisation in single-sex institutions**. Far from ensuring access to humanised and quality care, **the State continues to condemn children to live in institutions and deprives them of growing up in a family environment**⁸. Despite the fact that by the year 2020 all these establishments should have been closed according to the provisions of the Regulation of the Law⁹, and that it should have been guaranteed the

³ [Call for a day of struggle to demand workers' rights at SeNAF : La tinta](#)

⁴ Public statement Red Infancias Córdoba (RIC)

⁵ Public Policy Commission Forum Infancia

⁶ [The government closes Inadi: how many employees are affected in Córdoba | Perfil](#)

⁷ Law 26.657

⁸ In Argentina, not only people with psychosocial disabilities are institutionalised, but also people with multiple disabilities such as deafblindness.

⁹ [Decree 603/13](#)

There are still 162 psychiatric hospitals in Argentina and, according to the latest official information, there are 266 children and adolescents residing there¹⁰.

The situation described above is explained and aggravated by the **absence of family strengthening strategies, home-community interventions and alternative care arrangements to hospitalisation**, which ensure an adequate response to the needs of children and guarantee comprehensive approaches that respect their human rights. As a consequence of this reality, many children continue to be hospitalised in psychiatric hospitals while waiting for a vacancy in the few existing facilities. At the same time, those who manage to be discharged, on repeated occasions, and as a result of the structural shortcomings of the system of attention and care, return to the asylum system, entering into a circuit of permanent reinstitutionalisation and trans-institutionalisation.

In addition, it should be noted that **children and adolescents with psychosocial disabilities often do not receive any kind of care in their places of residence due to the absence of facilities and, as a result, they are institutionalised in other jurisdictions, far from their families and living centres**. This situation hinders the continuity of their family and social ties and distances them from their natural supports.

Recent research in this field indicates that, although policies aimed at children have led to a decrease in institutionalisation in group homes, psychiatric institutionalisation of this group, on the contrary, has shown an increase with a significant progressive trend¹¹. Furthermore, it is observed that children with a diagnosis in the field of mental health go through an institutional circuit of multiple referrals, discrimination and exclusion in both the educational and health spheres, and face processes of medicalisation and asylum approaches aimed at control and social normalisation¹².

To this, it should be added that children hospitalised for mental health reasons are subjected to multiple forms of violence in asylum-type institutions, such as the use of physical and chemical restraints, isolation, excessive or improper use of medication and mistreatment by workers, among other cruel, inhuman and degrading treatment, which in turn is favoured by the separation of children from their parents and their families, as well as the use of physical and chemical restraints, isolation, excessive or improper use of medication and mistreatment by workers, among other cruel, inhuman and degrading treatment, which in turn is favoured by the separation of children from their parents and families.

¹⁰ These data correspond to the results of the First National Census of Persons Admitted for Mental Health Reasons, carried out in 2019 by the Ministry of Health and Social Development of Argentina. It should be noted that the survey did not include institutions exclusively for addictions or homes for children and adolescents, but only institutions with monovalent mental health internment.

¹¹ Barcala A., and Faraone S. (2020). *A diez años de la sanción de la Ley Nacional de Salud Mental: coordinadas para una cartografía posible* (1st ed.), Ciudad Autónoma de Buenos Aires: Teseo. Available at: <https://www.editorialteseo.com/archivos/18485/a-diez-anos-de-la-sancion-de-la-ley-nacional-de-salud-mental/>

¹² Barcala, A. (2018). "Niñez e Institucionalización psiquiátrica: violencias en contextos de encierro. Salud Mental, políticas públicas y derechos humanos", in P. Vommaro, A. Barcala and L. Rangel, *Infancias y juventudes: diversidades, prácticas y perspectivas en derechos y políticas*. Buenos Aires: CLACSO; Bogotá: Fundación Centro Internacional de Educación y Desarrollo Humano CINDE; Manizales: Universidad of Manizales. Available at: http://biblioteca.clacso.edu.ar/clacso/se/20181102011124/Derechos_politicas_infancias.pdf.

children from their primary family nucleus and affective referents. In addition, they are "labelled" with diagnoses that are considered unchangeable and their behaviours are constantly pathologised, instead of being understood as what they really are: a consequence of the essentially iatrogenic asylum approach.

What has been said so far is confirmed by the information gathered by the National Mental Health Review Body¹³ in its monitoring of the situation of children housed in different establishments. The latest report produced by the body (2023) shows that **children and adolescents are hospitalised for more than 30 days and that more than 25% of them are hospitalised for more than 90 days**. Likewise, the organisation states that the approach focused on hospitalisation and referral in situations of social vulnerability or factors of violence is the predominant one, instead of promoting a family strengthening approach. In this sense, the continuity of a dynamic based on institutionalisation with readmissions and referrals to residential or therapeutic homes of a large part of the institutionalised population is a cause for concern, without exhausting less restrictive measures linked to support and accompaniment in the centre of life or habitual residence. On the other hand, the Review Body alerts to the deficits in accompaniment during internment, since it recorded cases of children without family or other referents, both in the internment rooms and in the wards.

The absence of intensive promotion linked to educational inclusion was also identified, which has the effect of causing the majority of children and adolescents who are in prolonged hospitalisation to miss the school cycle, both in the public and private spheres. In all, both in the private and public spheres, the right to informed opinion and consent of children and adolescents is not recognised¹⁴.

What happens in the Autonomous City of Buenos Aires is also a clear example of the above. According to the information produced by the Unit of Lawyers for Minors, a large part of the children who are interned in this locality are in street situations or reside in residential homes, shelters or closed educational centres, and do not have parental care nor are there effective interventions on the part of the agencies for the protection of rights for their restitution¹⁵. The organisation also expressed its concern about the serious situation of children and adolescents living on the streets, affected by the problematic consumption of psychoactive substances, and the lack of public policies that adequately address this problem. They alternate between shelters and hospitals, and they do not have access to a

¹³ The National Mental Health Review Body is an entity created by Law 26.657 within the Public Ministry of Defence to promote compliance and to protect the rights of users of mental health services.

¹⁴ National Review Body, Annual Management Report 2023, available at: <https://www.mpd.gov.ar/pdf/publicaciones/Libro%20IA%202023.pdf>, p. 256.

¹⁵ Ministerio Público de la Defensa (2019). "Unidad de Letrados Art. 22 Ley 26.657 (Personas Menores de Edad). Análisis del trabajo realizado durante el período", in Informe Anual 2019. Available at: https://www.mpd.gov.ar/pdf/Informe%20Anual%202019_compressed.pdf

comprehensive approach that guarantees the restitution of their rights, which generates a great deterioration of their psychophysical health¹⁶ .

The latest report of the organisation¹⁷ indicates that **from 1 October 2022 to 30 September 2023, the Unit intervened in 1388 hospitalisations, and points out that there is a persistent tendency to refer children and adolescents with psychosocial or intellectual disabilities, or substance use problems to monovalent institutions, both in the public and private sphere, in violation of what is proposed by the mental health law.** Likewise, the Unit warns about the lack of public mechanisms to address problematic substance use, mainly for those who are in a situation of greater vulnerability, which generates an insufficient approach and results in the gradual deterioration of the psychophysical health of children. On the other hand, the organisation found that, in general, hospital wards do not have an interdisciplinary monitoring team, recreational and therapeutic activities and, in many cases, decent living conditions.

Also, data from the latest National Census of People Admitted for Mental Health Reasons in 2019¹⁸ , indicate that of the 12,035 people who were admitted to 162 psychiatric hospitals, 266 are children or adolescents. Most of them **did not sign** consent to be in a psychiatric hospital and many of them do not even meet the criteria for internment established by the National Mental Health Law, constituting illegal detention. Only 12.4% of those hospitalised are in possession of their ID cards and only 41.6% are allowed to make phone calls, and some of them even have to pay to do so.

Despite the scenario described above, **there are no structural public policies aimed at reversing this situation and guaranteeing the deinstitutionalisation of children.** The human and economic resources that the National State invests in this area are scarce, they are still destined to sustaining the asylum system, and there are no sufficient and adequate budget allocations to respond to the needs of this group. The marginal place that the issue occupies in public policy has direct consequences on children with psychosocial disabilities and on the exercise of their rights. In this sense, psychiatric institutionalisation restricts their possibilities of developing an independent life in the community, accessing an inclusive and quality education, growing up in a family environment, sustaining their family and social ties and planning an autonomous life project. It also subjects children to a life of violence, stigma and exclusion.

To these issues must be added the attempt to reform the National Mental Health Law N° 26.657 by the Executive Power through the project called "Ley Bases". Although in the end the project did not prosper, after a strong work of

¹⁶ Public Prosecutor's Office of the Defence (2020). "Unidad de Letrados Art. 22 Ley 26.657 (Personas Menores de Edad) Análisis del trabajo realizado durante el período", in Informe Anual 2020. Available en:

https://www.mpd.gov.ar/pdf/publicaciones/Informe%20Anual%202020%20Libro_compressed.pdf

¹⁷ Public Prosecutor's Office of the Defence (2020). "Unidad de Letrados Art. 22 Ley 26.657 (Personas Menores de Edad) Análisis del trabajo realizado durante el período", in Informe Anual 2023. Available at: <https://www.mpd.gov.ar/pdf/publicaciones/Libro%20IA%202023.pdf>

¹⁸ Available at: [link](#).

In our opinion, we are very concerned about the profoundly regressive approach of the bill, which severely violates the rights of persons with psychosocial disabilities. That is why civil society organisations continue to be active and alert to any progress that would imply a step backwards in terms of rights, in the face of the attacks that this regulatory framework may suffer.

In Cordoba, of the 90 health centres in the city of Cordoba, only 20 have mental health professionals (psychologists and/or social workers) and none of them is a professional specialised in children. A similar proportion is repeated in the services of the provincial network. This is happening while the consumption of psychotropic drugs is increasing due to the mental health crisis generated by the socio-economic deterioration¹⁹ and the demand of patients without social coverage who seek psychological care in the public system is growing²⁰.

In 2018, this Committee urged the State to take measures to accelerate the process of deinstitutionalisation of children, to implement the National Mental Health Law throughout the territory, to promote the formulation of a mental health policy for children that ensures the availability of qualified personnel and the provision of outpatient psychosocial care and rehabilitation services throughout the country, and to develop alternative approaches to medication, so that medication is prescribed only as a measure of last resort²¹. However, as demonstrated above, **nothing has changed since then.**

Regarding the situation of children and adolescents without parental care with disabilities, the Argentine State indicates in the Country Report that the national survey 2022 showed that they represent 7.9% of the total (774 children and adolescents without parental care with disabilities in the whole country). This figure does not correspond to the situation in Cordoba, where of the 413 children and adolescents without parental care living in the Residential Care Centres²² of the National Secretariat of Childhood, Adolescence and Family (SeNAF), 75 have CUD (18%). We should also mention that the lack of articulation protocols between SeNAF and the areas of Education and Health results in the lack of updated documentation, either DNI or CUD, so we consider that the number of children and adolescents with disabilities without parental care is under-recorded.

In addition, we have highlighted the late and/or deficient physical health care and the almost non-existent mental health care in the SeNAF Residential Care Centres, which are also overcrowded, which means a violation of the right to live in a healthy, cared-for environment and a concrete operational problem for children and adolescents with disabilities.

¹⁹[Socio-economic deterioration increases the use of psychotropic drugs | ANCCOM 20Mental health: growing demand from uninsured patients seeking psychological care](#)

²¹ Committee on the Rights of the Child, Concluding observations on the combined fifth and sixth periodic reports of Argentina, CRC/C/ARG/CO/5-6, 1 October 2018, para. 31.

²² According to the latest report available from SeNAF Cordoba in 2019, there are 13 open houses and 4 zonal services in the city of Cordoba and 24 UDERS throughout the province. According to their own surveys, there are 16 residences (10 in the capital and 5 in the interior).

In the Province of Buenos Aires²³ , the Comisión Provincial de la Memoria filed an injunction on behalf of children and young people with disabilities who reported torture, ill-treatment, insane asylum practices and over-medication in the home they live in.

Although the Argentine State has been asked to provide information on "reducing the high rate of children with disabilities living in institutions", the Country Report only mentions the AUNAR initiative²⁴ developed together with UNICEF, and support programmes for adoptive and foster families are still absent. Children with disabilities remain in alternative systems to the family group even though they have the condition of adoptability dictated. This context of lack of protection is deepened by the decision of the Argentine State to close the Regional Reference Centres (CDR), affecting areas of the SeNAF that articulate national public policies in the interior of the country²⁵ .

The systematic separation of mothers with disabilities, in poverty, from their children with the argument that they would not be able to care for them properly, situations that openly contradict the best interests of the child²⁶ , as well as the right to motherhood of PWDs, is observed. In the province of Tierra del Fuego in July 2019, the judiciary decided to separate a newborn child from his mother for the sole reason that the woman had an intellectual disability, despite her and her family's request to continue raising their child²⁷ . Another similar case occurred in February 2022 in the province of La Pampa. The Directorate of Children, Adolescents and Family of the province decided to remove a deaf woman from the care of her six-year-old son, despite the fact that there was no evidence that he had suffered violence and was housed in a hotel, with only visits from social workers²⁸ . In none of these cases did the State choose to provide these mothers with disabilities with the support they might require in the exercise of motherhood.

As a result of the above, the following are some of the measures that the Argentinean state must urgently implement to guarantee the rights of children with psychosocial disabilities:

1. Advance in processes of sustainable deinstitutionalisation of children with disabilities, favouring the creation of social and family re-connection and social inclusion mechanisms. Displacements should be accompanied by an individual follow-up plan that takes into account the children's opinions, the support systems for their inclusion in the community, the services they need for the continuity of their treatment, and all the measures required to avoid readmission.
2. Close psychiatric institutions and ensure mental health care in all public and private general hospitals and primary care centres. Each of these facilities should be equipped with teams

²³ [Allegations of torture in a home for children with disabilities](#)

²⁴ [Cordoba joins the AUNAR programme - Web de Noticias](#)

²⁵ [MILEI's chainsaw has arrived at CÓRDOBA's CDR: 140 jobs at risk](#)

²⁶ Law 26.061

²⁷ Infofueguina.com, "[Le quitaron el bebe a joven con retraso madurativo](#)", 20 July 2019.

²⁸ [A woman with a disability separated from her child for more than two months](#)

- interdisciplinary, providing a holistic approach; ensuring accessible services; and being available in the places where children have their centre of life.
3. Ensure that children and adolescents have information in accessible formats about their rights and the treatment of their health. Promote public policies aimed at providing sexual and reproductive health within detention centres to prevent and avoid situations of violence and abuse.
 4. Allocate sufficient resources for the transformation of the care system for children with psychosocial disabilities and avoid budget cuts that violate the principle of non-regression. Ensure that child users of mental health services and civil society organisations advocating for their rights are consulted and their views taken into account.
 5. Strengthen the system of control and monitoring of institutions for the internment and asylum of children and adolescents with a diagnosis in the field of mental health or addictions until their definitive closure.
 6. Create a centralised information system to adequately monitor the situation of children with psychosocial disabilities and the effects of the policies implemented, and collect updated and sufficiently disaggregated information from all Argentinean provinces.

Health and children

Linked to Articles 24 of the Convention on the Rights of the Child.

The System of Basic Benefits of integral attention in favour of persons with disabilities (Law N° 24.901), establishes that both the social security, prepaid health insurance companies and the public system must guarantee assistance to persons with disabilities regarding their health, education, transport, etc., through institutions and/or professional service providers. The system establishes a Nomenclature of Basic Benefits for Persons with Disabilities, which sets the modality and value of 96 benefits. The values are updated in a discretionary way, without being automatically tied to any reference, and they are done through resolutions.

The last update was carried out through Resolution 1/2024, published on 7 February and fixed an increase in the nomenclature of twenty percent (20%) for the month of January 2024 and ten percent (10%) for the month of February 2024²⁹, which means an increase well below the inflationary indexes³⁰, taking into account that, in addition, there was already a tariff gap of 100 points as of December 2023.

In addition, payments to providers are historically made with delays of more than 90 days, which represents a further devaluation of the amounts received. This insufficient increase and delays in payments are causing more and more providers to stop providing services and support that are essential to guarantee the health, education and inclusion of children and adolescents with disabilities.

²⁹ <https://www.boletinoficial.gob.ar/detalleAviso/primera/302476/20240208>

³⁰ <https://www.ambito.com/informacion-general/discapacidad-rechazan-el-aumento-prestadores-y-piden-que-se-revise-n5935619>

Another effect is that many of the available providers are professionals who have recently graduated and therefore have no experience in the field of disability. PWD are receiving support with a low level of professionalisation because the universities do not incorporate the disability perspective in their training programmes and because the Basic Benefits System is the first area of labour insertion of recent graduates in health.

Added to this scenario is the sharp increase in the price of medicines, well above average inflation, and the interruption of the Direct Assistance for Special Situations programme, which provided subsidies for the purchase of medicines or medical supplies for health reasons to people in situations of social and health vulnerability who do not have medical coverage³¹.

Likewise, the suspension of the delivery of part of the medicines and part of the professional interdisciplinary and support services of the Incluir Salud programme is very serious. This state health care programme provides coverage for people with disabilities who are beneficiaries of non-contributory pensions and have no other health care coverage, that is, the most socially and economically vulnerable population, who do not have any kind of medical coverage and need the state to be able to carry out their treatment. "The services at risk are numerous and essential: low and high-cost medicines; transfers; dialysis; oxygen; therapeutic accompaniment; home care; home nursing; nappies and haemophilia treatments. There are almost half a million people affected throughout the country"³². This is in addition to a historical deficiency regarding the benefits of this Federal Programme, with deficient tariffs and payments with delays of up to six months; which has led many professionals to refuse to provide services to people with disabilities who are beneficiaries of the Include Health Programme for these reasons³³.

The difficulties resulting from the minor increase in services in relation to costs is particularly serious in the case of transport, given that as a consequence of the significant increase in fuel prices, the updating of the nomenclature is particularly insufficient, so that many providers are not providing the services³⁴³⁵, which directly affects the possibility for people with disabilities to reach each place of care.

³¹ <https://www.pagina12.com.ar/710648-el-gobierno-corto-la-asistencia-a-pacientes-con-cancer-y-enf>

³² <https://bambacoop.com.ar/2024/01/09/discapacidad-nacion-corto-pagos-a-prestadores-y-no-delivery-funds-to-the-provinces/>

³³ <http://mesadiscapacidadyddhh.ar/2024/01/16/frente-a-los-atropellos-del-gobierno-los-derechos-no-are-for-sale/>

³⁴<https://www.0223.com.ar/nota/2024-1-9-10-54-0-transportistas-en-estado-de-emergencia-seguira-affected-transfer-of-patients-with-disabilities>

³⁵ We consider it important to clarify that public passenger transport is inaccessible for many people with disabilities, so they have to resort to private transport that provides transport services to their care centres. "The non-updating of tariffs for transporters in the face of rising costs (mainly fuel prices) has had the effect that transporters stop providing services because they are unable to cover the costs of transportation. Therefore, thousands of people with disabilities and users have their mobility interrupted. Source: <http://mesadiscapacidadyddhh.ar/2024/01/16/frente-a-los-atropellos-del-gobierno-los-derechos-no-est-an-en-venta/>

The Decree of Necessity and Urgency 70/2023³⁶ , completely deregulated the price of health insurance companies, called prepagas, which is a system through which thousands of children and adolescents with disabilities access health care. As a result, their cost increased by more than 100% in the first quarter of 2024, and further increases are expected³⁷ . Many families will no longer be able to afford the fees, and will have to interrupt treatments, therapies, professionals, and will have to switch to the social security system or to the public health system, which is already collapsing.

The situation in the provinces is also serious. In Cordoba there are serious difficulties in accessing basic benefits through the PROSAD Programme³⁸ due to the refusal of institutions to admit children with disabilities who have this coverage³⁹ . This is happening while referrals to the basic benefits system are increasing from educational institutions that classify behavioural and learning problems linked to social vulnerability issues as disabilities⁴⁰ .

In addition, health workers have reported that health care for children with disabilities with complex pathologies is deficient in the public system. The availability of specialised paediatric care services and equipment for complex pathologies in general hospitals is very scarce. At the first level of care (community and preventive), paediatric care is mostly provided by general practitioners. In addition, budget cuts have led many health centres to reduce their opening hours to half a day.

**Social Security in relation to children:
Linked to articles 26 and 27 of the Convention on the Rights of the Child.**

A proportion of the population under 18 years of age with disabilities receives the non-contributory pension for "disability", although there is no documentation that establishes the requirements for granting it. It is a benefit that has income requirements, contained in Decree 432/97, which are not in line with the Convention on the Rights of Persons with Disabilities. The amount of the benefit is historically insufficient, since it is equivalent to 70% of the minimum retirement pension; as a consequence of the adjustment in spending on retirement and pensions⁴¹ , its amount has now become derisory to meet the needs of persons with disabilities. As of March, the pension is \$94,112⁴² , while currently the total basic food basket for a household of 4 members is \$690,900 to avoid falling below the poverty line.

³⁶ Decree enacted, visibly unconstitutionally omitting the National Congress.

³⁷ <https://www.pagina12.com.ar/710312-nuevo-golpe-al-bolsillo-aumentan-las-prepagas-en-marzo>

³⁸ The Programme of Services for Persons with Disabilities ([PROSAD](#)) has as beneficiaries the vulnerable population without Social Security, National Pension or Monotax and is dependent on the Sub-Secretariat of Disability, Rehabilitation and Inclusion of the Ministry of Health of the Government of the Province of Cordoba.

³⁹ See [report 2022 of the Defensoría de NNyA de Córdoba](#) pages 45-46.

⁴⁰ Public pronouncement Red Infancias Córdoba (RIC)

⁴¹ https://www.eldiarioar.com/economia/jubilados-habran-perdido-24-compra-primeros-cuatro-meses-gobierno-milei_1_10951504.html

⁴² <https://www.argentina.gob.ar/trabajo/seguridadsocial/imss> This amount is equivalent to about 88 dollars a month, when the basic food basket is about 709 dollars.

In the Province of Buenos Aires, the amount of provincial pensions, regulated by Law 10.205, must be equivalent to the minimum retirement benefit in force for beneficiaries of the Instituto de Previsión Social, which in March 2024 is \$80,000. In view of the non-compliance with this provision, a class action lawsuit was filed, so that those under 21 years of age who have filed a precautionary measure receive the minimum benefit, and the rest receive only \$ 40,000. It is serious that there is a need for legal action.

Education of children with disabilities

Linked to articles 28 and 29 of the Convention on the Rights of the Child.

Beyond the recognition that Resolution CFE No. 311/2016 meant, in relation to previous regulations, a step forward in guaranteeing the right to inclusive education for children and adolescents with disabilities in Argentina, and in particular their right to equal qualifications, eight years after its enactment, this regulation has still not been fully implemented throughout the country. Furthermore, **no progress has been made since then in the design and implementation of a comprehensive system to ensure inclusive education in the terms of article 24 of the Convention on the Rights of Persons with Disabilities, so this group continues to face discrimination and multiple obstacles to the full exercise of their right to education. In this regard**, despite the recommendations of this Committee in its Concluding Observations on the combined fifth and sixth periodic reports of Argentina, **the disability perspective has not been incorporated into the National Education Law 26.206, which continues to provide for a segregated education system, and beyond some progress at the local level, there are no national policies that progressively promote the structural transformation of the special education system.**

As a consequence of this absence of norms and policies, children **with disabilities** in our country **continue to see their right to education violated in three ways: some are completely excluded from the education system, others remain segregated in special schools and others attend mainstream schools, but without receiving the support they need to learn, participate and progress on equal terms.**

There is no information on children and adolescents with disabilities who are fully excluded from the education system. As for those who remain segregated from the general system, according to the latest available data, extracted from the Annual Survey of the Directorate of Information and Educational Statistics of the Ministry of Education of the Nation for 2022, **there are still 103,108 children, adolescents and young people studying in special schools⁴³**. This means that out of the total number of people with disabilities attending school, 35% still attend special schools, and the proportion of people with disabilities in relation to the total enrolment in regular schools did not exceed 1.8%, according to data from the same source for the same year. The situation is more worrying at the secondary level, since at this level the number of students with disabilities segregated in special schools nationwide amounts to 41.2%. **In some provinces, the situation is even more alarming**, as nearly half of the students with disabilities are segregated in special schools.

⁴³ Education Statistical Yearbook 2022 available at: <https://www.argentina.gob.ar/educacion/evaluacion-informacion-educativa/anuarios>

students with disabilities attend a special school. For example, in the Province of San Juan this percentage is 48%, and in Chaco and Misiones it is 43.9%.

Students with disabilities still face systematic refusals to enrol in public and private mainstream schools, and are frequently referred to special schools without governments effectively exercising their powers of control and sanction. In the framework of a legal action initiated in 2019 by the Civil Association for Equality and Justice with the advice of the Legal Clinic of the Human Rights Center of the University of Buenos Aires (UBA), which denounced the inaction of the authorities in the face of the continuous rejection of enrollment of students with disabilities in public schools, the Justice of the City of Buenos Aires declared the unconstitutionality of the omissive conduct of the government of this jurisdiction and ordered it to present a public policy proposal to guarantee the admission of persons with disabilities to general schools⁴⁴. As a result of an agreement reached in the framework of this case, the Government of the City of Buenos Aires committed itself to implement a public policy to avoid rejection of enrollment and re-enrollment of students with disabilities. This situation is not specific to the City of Buenos Aires, but occurs throughout the country.

In addition to the obstacles to the entry and continuity of students with disabilities, there is a **lack of adequate policies to ensure full physical and communicational accessibility of the education system as a whole, and to guarantee the necessary support and adjustments. Existing support services tend to be scarce, fragmented, discontinuous and based on a medical model.** In this sense, when it comes to human resources to support educational inclusion, they are usually designed to directly and solely accompany children and adolescents with disabilities, and not to support the classroom teacher. In turn, a report carried out by the Civil Association for Equality and Justice⁴⁵ indicates that 33.5% of the people surveyed did not have support figures, and of this percentage, 81.5% indicated that it was because they did not get them despite the fact that they needed them. In addition, 57% of respondents indicated that they had problems with support staff coverage. **Other forms of discrimination are also observed in schools, such as the imposition of reduced working hours, repetition and resistance to changing forms of assessment.**

The accessibility of materials for visually impaired persons is not guaranteed by the State. During the pandemic, funding for the materials of the Seguimos Educando programme was provided by the Tiflonexos Association, with funds from national and international cooperation⁴⁶. There is also no data on the number of accessible computers provided as part of the Conectar Igualdad programme. Even today, the Ministry of Education does not include in the public tenders for the acquisition of textbooks a section on the obligation for the material to be in an accessible version.

In addition to this, there are **obstacles to certifying apprenticeships on an equal footing.**

⁴⁴ The full judgment is available at: <https://acij.org.ar/wp-content/uploads/2022/06/Sentencia-Primera-Instancia-Amparo-colectivo.pdf>

⁴⁵ Available at: <https://acij.org.ar/wp-content/uploads/2022/03/Apoyos-para-la-educacion-inclusiva-datos-que-evidencian-barreras.pdf>

⁴⁶ Tiflonexos, <https://tiflonexos.org/content/seguimos-adaptando-seguimos-educando>

conditions, the absence of independent mechanisms for complaints and adequate and rapid resolution of conflicts related to violations of the right to inclusive education, a situation that is aggravated by the closure of INADI. Also the lack of both initial and in-service teacher training policies on the social model of disability and the right to inclusive education.

Likewise, there is still a **lack of complete and updated official information on the educational trajectory of people with disabilities** (graduation, repetition, dropout and over-age rates, among others), and the barriers and obstacles they experience in accessing, remaining in and graduating from the education system. There is also no information on the conditions and resources available for inclusion in public and public schools in all jurisdictions of the country (for example, the amount and type of support effectively available and the unmet demand), nor on the budget allocated by the national and local governments to inclusive education.

Based on the above, some recommendations are formulated that the Argentinean State should implement to guarantee the right to education of children with disabilities.

1. Implement measures to reduce the enrolment of students with disabilities attending special schools, prioritising inclusive education over the placement of children and adolescents in segregated institutions.
2. Ensure full accessibility of mainstream educational institutions, and the provision of assistive technologies and supports in sufficient quantity and quality, providing teacher training in inclusive education.
3. Implement measures to prevent discriminatory denials of enrolment in mainstream schools, both public and private, and referrals to special schools.
4. Amend Law 26206 in the sense indicated by article 24 of the Convention on the Rights of Persons with Disabilities, and promote a plan to transfer human and budgetary resources from special schools to regular schools.
5. Advance the implementation of Resolution 311/2016 throughout the national territory.

Leisure, play and cultural life

Linked to article 31 of the Convention on the Rights of the Child.

The efforts of organisations committed to the rights of persons with disabilities to change everyday environments in favour of the inclusion of children with disabilities in their communities are hindered by procedures that reproduce the system of segregation that prevents access to the social fabric. Among other evidence:

- The construction of new housing by the State adopts the idea of a *5% quota in the plans for the allocation or improvement of housing destined to*

*people with disabilities or families*⁴⁷ , in which the guarantee of accessibility is circumscribed, within the housing and habitat policy, as an individualised solution. It does not contemplate the conditions of adaptability⁴⁸ or visitability⁴⁹ in all housing units. Therefore, those families in which a disability appears after the housing has been allocated will not have the accessibility they require, as it was not foreseen in the design and construction. Visiting other homes is a daily practice: during childhood and adolescence it is essential to acquire social skills and, in the adult world, it is essential to receive community support for care and upbringing.

- Squares, parks and pavements are far from being conceived as areas for the promotion of autonomy for children. They are territories disputed by market logics, which oppose the requirements of accessibility and affordability expressed by organisations of people with disabilities. In the Autonomous City of Buenos Aires, pavements are invaded by equipment for restaurants. In squares, the placement of support equipment (adapted games, ramps, signage, among other elements) is more symbolic than effective in its function of promoting inclusive use and enjoyment. Areas for children with disabilities, explicitly differentiated from the rest, make it difficult for them to participate together with the rest of the children.⁵⁰

Accessibility is not considered a necessary condition for children with disabilities to guarantee their right to leisure and play. There are multiple barriers to access to transport for children with disabilities. Decree 38/04, which regulates Law 22.431, determines the right of free of charge for PWD, however, the providers adhere to the Regulatory Decree 118/06, which establishes a quota of seats for PWD per bus and reduces access to semi-bed services. In addition, there are persistent physical barriers to access long-distance services.

In relation to urban transport, children with disabilities are not included in the Single Electronic Ticket System (SUBE) used in buses and subways, which issues the proof of travel and gives access to insurance to those who use the transport. In December 2022, the Federal Administrative Court N°5⁵¹ urged that PCD be included in the SUBE within 90 days, maintaining the free transport established by Law N°22.431. The National State has so far not complied with the sentence.

⁴⁷ Federal Housing System. Law 26.182/2006.

<http://servicios.infoleg.gob.ar/infolegInternet/anexos/120000-124999/123278/norma.htm>

⁴⁸ "Adaptability means the possibility of modifying the physical environment over time in order to make it fully and easily accessible to persons with reduced mobility"

<https://www.argentina.gob.ar/normativa/nacional/ley-24314-713/texto>.

⁴⁹ "Visitability is defined as accessibility strictly limited to the entry and use of common spaces and sanitary facilities that allow people with reduced mobility to interact with each other"

<https://www.argentina.gob.ar/normativa/nacional/ley-24314-713/texto>

⁵⁰ <https://www.rumbos.org.ar/post/una-vez-mas-la-participacion-ciudadana-es-puro-marketing>

⁵¹ https://drive.google.com/drive/folders/1NQLREYmdn0_8H4lsUehjhVJo1zsNFHrn

Some recommendations that the Argentine State should implement to guarantee the right of children with disabilities to inclusive environments:

1. Promote accessibility guidelines in all social housing plans, as well as in building codes, ensuring that all functional units to be built provide the minimum conditions of accessibility through visitability and adaptability, thus covering current and future needs.
2. Promote the implementation of physical and communication accessibility in all public spaces where children congregate, and with the utmost rigour, in the areas of play and education.
3. Promote the binding participation of the educational community in terms of requirements, plans and projects of educational establishments.
4. To ensure accessible routes from the home to the kindergarten or educational establishment, it is necessary to⁵² :
 - Ensure accessibility at the corners corresponding to the blocks of educational establishments.
 - Promote inclusive transport, with sustainability in terms of physical accessibility and affordability (the most frequently cited reason for children with disabilities dropping out of school is the lack or deficiency of accessible means of transport)⁵³ . A serious setback in this sense has been generated by the restriction, by the National Government, of subsidies that helped to pay for accessible school transport.

⁵² <https://www.rumbos.org.ar/post/15-propuestas-en-discapacidad>

⁵³ [https://www.rumbos.org.ar/news/accesibilidad-f%C3%ADsica-en-las-escuelas-en-el-marco-de-la-educaci%C3%B3n-inclusive-educaci%C3%B3n-in-am%C3%A9rica-latina-and-the-caribbean-\(2014\)-](https://www.rumbos.org.ar/news/accesibilidad-f%C3%ADsica-en-las-escuelas-en-el-marco-de-la-educaci%C3%B3n-inclusive-educaci%C3%B3n-in-am%C3%A9rica-latina-and-the-caribbean-(2014)-)