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COMMITTEE ON THE RIGHTS OF THE CHILD

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Second periodic reports of States parties due in 1997

URUGUAY*

[18 December 2003]

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Eastern Republic of Uruguay

Ministry of Foreign Affairs

Department of Human Rights and Humanitarian Law

PERIODIC REPORT ON CHILDREN AND ADOLESCENTS IN THE FRAMEWORK OF THE CONVENTION ON THE RIGHTS OF THE CHILD, SUBMITTED IN 2006

1. The Government of the Eastern Republic of Uruguay, in fulfilment of the obligations set out in article 44 of the Convention on the Rights of the Child, herewith submits to the Committee on the Rights of the Child the periodic report on children and adolescents for 2006, which is intended to compensate for the failure to submit the corresponding reports in 1997 and 2002.

2. The delay in the preparation and presentation of the periodic report cannot be attributed to a lack of will or a failure by the Uruguayan State to cooperate with the Committee; rather, it was due to domestic events and other factors arising during those years, which delayed fulfilment of the State party's obligations.

3. It should be recalled, as announced by the Uruguayan Government in 1996 when the initial report was submitted, that there was a major national debate in Uruguay on the need to harmonize the provisions of the old Children's Code with the new paradigms established by the Convention on the Rights of the Child. The preparation of the report was necessarily subject to the adoption of the new Children and Adolescents Code following a detailed and lengthy parliamentary discussion.

4. It should be emphasized that the process of discussion and adoption of the new code and the incorporation of these new paradigms into domestic law shifted the notion of the child as an object of protection to the conceptualization of the child as a subject of rights, thus answering some of the concerns rightly expressed by the Committee on the Rights of the Child in relation to the former regulatory framework for children's rights in Uruguay. The new code was finally adopted by Act No. 17823 of 14 September 2004 (text annexed hereto).

5. Moreover, from 2002 onwards, Uruguay suffered the impact of a historically unprecedented economic and financial crisis, which deeply affected the income of hundreds of thousands of persons and had an impact on all the indicators for social, economic and cultural development, with a particularly strong impact on those indicators reflecting the situation of children and young persons.

6. It must therefore be remembered that this report has been prepared and revised against a background of changing circumstances, whether the latter stemmed from economic realities, the development of the new principles, paradigms and concepts as regards implementation, or the Government's change of direction and priorities from March 2005 onwards.

7. Nevertheless, in the preparation of the report, efforts were made to follow, to the extent possible, the general and specific instructions concerning the form and contents of reports, as contained in the document "General guidelines regarding the form and contents of periodic reports to be submitted by States parties under article 44, paragraph 1 (b), of the Convention" (CRC/C/58, of 20 November 1996), on the basis of a predetermined methodology that made it possible to develop a matrix for the collection and analysis of figures in the context of a consultation process intended to be as broad as possible.

8. On this particular point, and in the light of the observations formulated by the Committee on previous reports, a real effort was made in drafting the present report to involve the largest possible number of institutions and agencies with direct responsibility for the observation, analysis or formulation and implementation of policies relating to children. While the need to broaden the basis of consultation even further through higher levels of participation and a more cross-cutting approach is recognized, the following official bodies and civil society organizations were consulted or participated in the definition of terms and contents:

- *State bodies*: Planning and Budget Office, Ministry of Education and Culture, Ministry of Health, Central Governing Council for Education, Uruguayan Institute for Children and Adolescents (INAU);

- *Academia*: Institute of Economics of the University of the Republic, Faculty of Medicine of the University of the Republic, Centre for Economic Research (CINVE);

- *Civil society*: Ecumenical Service for Human Dignity (SEDHU), Centre for Judicial Studies (CEJU), Gurises Unidos (Kids United), Uruguayan Institute for Legal and Social Studies (IELSUR).

The office of the United Nations Children's Fund (UNICEF) in Uruguay also cooperated in and contributed to the undertaking.

9. The Ministry of Foreign Affairs is aware that the present periodic report still has shortcomings relating to the breadth and depth of the required and desirable statistical and conceptual analysis, and methodological limitations with respect to the preparation and consultation process. Nevertheless, it wishes to reaffirm its desire to collaborate fully and transparently with the Committee on the Rights of the Child, convinced as it is that the latter's observations will be intended solely to enhance the effective implementation of the instruments for the protection of the rights of children.

1. GENERAL MEASURES OF IMPLEMENTATION (arts. 4, 42 and 44)

1.1 Reservations to the Convention

10. Uruguay ratified the Convention on the Rights of the Child without entering any substantive reservations on its provisions. National representatives issued a declaration in respect of article 38 to the effect that the recruitment of persons under the age of 18 into the armed forces would not be accepted in Uruguay.

11. In this respect, the Uruguayan declaration is fully consistent with subsequent developments in this area, in particular the adoption of the Optional Protocol to the Convention on the involvement of children in armed conflict.

1.2 Review of domestic legislation

12. An in-depth debate got under way in 1996 on the necessary reform of the piece of legislation referred to as the "Children's Code". The 1934 Children's Code was considered in its day as a model law for Latin America on account of the criteria on which it was based (protection for pregnant mothers, a quick procedure for obtaining a maintenance order, protection of children against social ills, etc.). The advent of the guiding principles for the Convention on the Rights of the Child, which shifted the focus from the protection of the child to the child as a subject of rights, prompted a widespread feeling that the Uruguayan legislative framework needed to be updated. The draft children and adolescents code underwent close scrutiny, with large sectors of civil society being asked by parliamentarians for their opinion on the criteria used to formulate certain articles. The Children and Adolescents Code was developed with the participation of a wide spectrum of stakeholders in the discussions on the issue, and was adopted on 14 September 2004, by Act No. 17823.

1.3 Main innovations of the Children and Adolescents Code

13. The new code has introduced various innovations, including the following: persons aged under 18 years are guaranteed the enjoyment and exercise of basic human rights as they grow up; disabled children are ensured full protection and children are entitled to participate in all administrative and legal proceedings that might affect their rights; special measures have been adopted to protect children's identity through footprinting of newborn babies; single mothers, regardless of age, are entitled to legally recognize their biological children; and remedial action and educational measures are given priority over the detention of young offenders in institutions.

1.4 Status of the Convention in domestic law

14. As indicated in the initial report to the Committee, under the Uruguayan Constitution, international treaties signed by the Executive are submitted to parliament for approval. Once enacted, acts approving treaties become part of the domestic legal order. Thus private individuals may invoke the provisions of the Convention before the courts, as these provisions form part of domestic legislation. The Uruguayan Constitution contains no express provisions to resolve any conflict over whether an international instrument or domestic legislation takes precedence. However, national doctrine and case law are in agreement that human rights treaties should take precedence by virtue of their legal nature and the legally protected rights they uphold.

1.5 Participation, consultation, coordination and access to information in the preparation of the report

15. During the preparation of the present report, a dialogue and consultation mechanism was established involving various public-sector stakeholders, non-governmental organizations and international agencies. The most important of these are:

(a) *Civil society*: the Non-Governmental Committee to Monitor the Convention on the Rights of the Child;

(b) *The State*: the Planning and Budget Office of the Office of the President, the Ministry of Health, the Ministry of the Interior, the Uruguayan Institute for Children and Adolescents, the National Public Education Administration, the National Statistical Institute (INE), the Faculty of Medicine of the University of the Republic, and the Supreme Court of Justice, the top-ranking body of the judiciary; and

(c) *International agencies*: UNICEF and the Inter-American Children's Institute.

16. In addition, a coordination mechanism was devised in order to maximize efficiency and promote innovative ways of collecting the data used for preparing the report. This mechanism basically consisted of a request for the identification of contact points in each of the public institutions involved in data collection and analysis. However, despite the efforts made, the results produced by this mechanism were disappointing: various obstacles remain, mostly related to the organizational structure of the Uruguayan State. Some of these intrinsic obstacles relate to fragmentation, the State's sector-by-sector approach and the great difficulty of introducing team-based, flexible, cross-cutting and multidisciplinary working methods (Motta, 2000). These organizational and cultural obstacles can be gauged by, inter alia, the considerable delays in the provision of the requested data by some of the institutions consulted and the failure of others to provide any information at all.

17. Some of the reasons for the difficulties in inter-institutional coordination relate to the fact that the change of government on 1 March 2005 brought with it changes of personnel, political leaders and administrative officials, with the resulting learning curve and adjustments to the new functions in the public administration associated with such change. The notorious difficulty in accessing the information required for the report also had a highly adverse effect. There are multiple reasons hampering access to information, including the above-mentioned fragmentation in child policy decision-making. The new Government is currently considering the urgent implementation of a system to centralize information on Uruguayan children and young persons.

1.6 Child-protection policies and poverty

18. Uruguay's welfare state was founded in the early twentieth century and suffered a crisis in the 1960s; among the many consequences of this crisis was a rise in poverty in the mid-1990s. This trend became more marked in the aftermath of the 2002 economic and financial crisis, at which point the estimated poverty rate stood at between 31 and 41 per cent (Amarante and Arim, 2005). The phenomenon takes a particularly heavy toll on children and the proportion of poor children is markedly higher than that of adults.

Table I

Poverty trends, by age (%)

Below the poverty line (National Statistical Institute, 1997)						
	Under 5 years	6-12 years	13-17 years	18-64 years	65 years or over	Total
1991	41.9	40.6	34.1	20.2	10.9	25.5
1992	38.5	37.8	31.3	19.5	13	23
1993	36.3	35.1	30.8	16.5	9.8	20.1
1994	36.5	34.8	29.3	15.7	6.5	20.2
1995	40.4	37.3	31.6	18	7.8	21.6
1996	44	39.4	33.5	19.3	8.4	23
1997	45.3	39.7	35.2	20.4	8.3	24.6
1998	44.1	37.8	34.7	18.9	9.2	23.1
1999	42.7	38.6	32.6	21.2	7.3	22.2
2000	48.3	41.8	36.3	21.3	10.4	25.1
2001	50.3	45.7	37.7	23.3	8	27.3
2002	57	52.8	45.5	29.3	9.8	32.5
2003	66.5	61.5	53.8	38.4	17	41

Source: Institute of Economics.

	Below the poverty line (National Statistical Institute, 2002)					
	Under 5 years	6-12 years	13-17 years	18-64 years	65 years or over	Total
1991	41	39.9	33	19.1	9.8	23.4
1992	37.5	36.1	29.1	16	6.4	19.9
1993	32.6	31.4	26.8	13.5	5.6	17.1
1994	30.7	28.8	24.1	11.9	4.1	15.3
1995	34.4	32.6	25.9	14	5.1	17.4
1996	35.5	31.8	25.8	13.7	4.8	17.2
1997	36.4	30.5	25.8	14	4.8	17.2
1998	34.7	29.2	26.7	13.1	4.1	16.7
1999	32.5	28.3	22.7	12.5	3.4	15.3
2000	37.4	32.2	25.8	14.5	3.9	17.8
2001	38.3	35.4	27.7	15.3	3.9	18.8
2002	46.5	41.9	34.6	20.3	5.4	23.7
2003	56.5	50.2	42.7	27.8	5.7	30.9

Source: National Statistical Institute, Amarante and Arim, table A.3, p. 79.

19. Poverty increasingly affects Uruguay's children - it is said to have "a child's face" - and is the key to analysing positive and negative developments in the national policy framework for children. The progress and/or setbacks in child-related policy-making are best analysed from a rights-based perspective. This perspective is based on the notion that the individual is the main beneficiary of human rights and as such is in a position to "receive assistance from others to

defend his or her basic freedoms and human rights; in other words, the responsibility for implementing those rights and freedoms is shifted to other actors" such as the State and civil society (Amarante and Arim, 2005, p. 19).

Table II

Poverty trends in Uruguay 1986-2004, by age group (%)

	All ages	Under 5 years	65 years or over	Ratio of children aged under 5 to persons aged 65 or over
1986	46.2	63.2	32.6	1.94
1987	35.6	54.1	20.8	2.60
1988	26.6	44.2	12.4	3.56
1989	26.6	44.1	13.1	3.37
1990	29.7	49.9	14.9	3.35
1991	23.4	41.0	9.7	4.23
1992	19.9	37.5	6.4	5.86
1993	17.1	32.6	5.6	5.82
1994	15.3	30.7	4.2	7.31
1995	17.4	34.4	5.1	6.75
1996	17.2	35.5	4.8	7.40
1997	17.2	36.4	4.9	7.43
1998	16.7	34.7	4.1	8.46
1999	15.3	32.5	3.4	9.56
2000	17.8	37.4	3.9	9.59
2001	18.8	38.3	3.9	9.82
2002	23.6	46.6	5.4	8.63
2003	30.9	56.5	9.7	5.82
2004	32.1	56.5	10.8	5.23

Source: National Statistical Institute (INE), The Family and the Home (Montevideo, INE, 2002); Income-based Poverty Estimates, 2004 (Montevideo, INE, 2005); Income-based Poverty Estimates, 2003 (Montevideo, INE, 2004); De Armas (2005).

20. Supporting this interpretation, De Armas, analysing the table above, notes that the poverty trends over the last two decades lead to the conclusion that the phenomenon increasingly affects children and that the unequal impact of poverty on children and adults - especially between very young children and the elderly - has become more and more marked. De Armas shows that the poverty rate among children under the age of 6, which was twice as high as that of persons aged 65 or over in 1986, was ten times as high by the end of the 1990s (De Armas, 2005, p. 5).

21. An analysis of the trends in extreme poverty in Uruguay also paints a bleak picture of the situation of children. According to De Armas, between 2001 and 2004 "the population living in extreme poverty has tripled, irrespective of the methodology used to determine their numbers, which means that in 2004 practically 1 out of every 10 children under the age of 6 was in this situation". These data are reflected in the table below.

Table III

Children and young persons living in extreme poverty (below the 2002 extreme poverty line), by age group, 2000-2004 (%)

Year	Under 5 years	6-12 years	13-17 years	Total
2000	3.76	3.11	2.62	3.17
2001	3.60	3.21	2.21	3.04
2002	5.44	3.78	2.70	3.96
2003	7.50	5.33	4.23	5.65
2004	8.91	8.55	6.12	7.91

Source: Based on National Statistical Institute, Income-based Poverty Estimates 2004 (Montevideo, INE, 2005).

22. De Armas concludes that the picture is even more critical when quantifying the number of persons living in extreme poverty, defined as "destitution or vulnerability to destitution" or "the situation of persons with a per capita income of less than 1.5 times the cost of the basic food basket or below the extreme poverty line" (De Armas, 2004). As shown in the table below, based on the 2002 value of the basic food basket or poverty line set by the National Statistical Institute, De Armas reckons that "1 in every 10 Uruguayans was living in extreme poverty in 2004: 9.8 per cent in Montevideo and 10.7 per cent in the rest of the country. Applying the 1996 value of the basic food basket or poverty line, the figures are even more critical: 13.4 per cent in Montevideo and 13.6 per cent in the interior. The poverty rate in some neighbourhoods of Montevideo and some departments in the interior is alarming. The situation is at its worst in the Casavalle neighbourhood of Montevideo where, in 2005, two thirds of children under 14 years of age were destitute or close to destitution".

Table IV

Persons living in extreme poverty (destitution or vulnerability to destitution) by selected age group and by method used to calculate the value of the basic food basket or poverty line, in selected geographical locations, 2004 (%)

	Total		Persons between 4 and 14 years of age	
	2002 method	1996 method	2002 method	1996 method
Montevideo	9.8	13.4	22.4	29.1
Casavalle neighbourhood of Montevideo	44.1	57.4	58.7	72.7
Rest of the country	10.7	13.6	21.7	26.5
Department of Artigas	17.9	23.2	34.6	41.4

Source: De Armas, on the basis of microdata from the 2004 Continuous Household Survey of the National Statistical Institute.

1.7 Public social spending on children

23. While Uruguay has made considerable progress in recent years in the analysis of the situation of poor or vulnerable children, the same cannot be said of its efforts to estimate national public spending on children. There are no official or unofficial disaggregated estimates of public social spending on children. The only sources of information are therefore the few isolated studies that have been carried out.

24. One of these, which appeared in the specialized literature, is the analysis conducted by the economist Grau Pérez (2005). Grau's input in terms of estimating the public social spending on children is based on the data compiled by an office of the administration preceding the present Frente Amplio ("Broad Front") Government, namely the advisory centre on social policy attached to the Planning and Budget Office of the Office of the President. Based on these official data, Grau Pérez reaches the following tentative conclusions:

(a) The average public social spending on children for the period 1999-2002 was 4.9 per cent of gross domestic product (GDP), which is less than in Argentina;

(b) Although children account for 29.5 per cent of the population and make up a large proportion of the poor, only 19.5 per cent of public social spending is devoted to them (Grau Pérez, 2005).

25. These data are reflected in the table below.

Table V

Consolidated public social spending on children

	1999	2000	2001	2002	Average
Public social spending on children	4.82	4.78	4.98	4.95	4.88
Total public social spending	25.4	25.3	25.3	25	25.25
Public social spending on children as a percentage of the total	19	18.9	19.7	19.8	19.34

Source: Grau Pérez (2005, table 2, p. 115).

2. DEFINITION OF THE CHILD (art. 1)

26. This section deals with the various rights and points addressed in article 1 of the Convention. Under the current legal framework, a person below 18 years of age is considered a minor.

2.1 Minimum age for medical treatment without parental consent

27. Uruguayan legislation contains no express provisions on a minimum age for consenting to medical treatment without parental approval. However, pursuant to the provisions of the Code of Medical Ethics, the patient's maturity and the nature of the illness are taken into account and may, in special circumstances, justify acceptance of an alternative to parental consent.

28. In practice, it is common for young persons over 12 years of age to see a doctor without their parents and to choose their own doctor.

29. The above-mentioned Code of Medical Ethics was adopted in 1995 by means of a referendum organized by the Medical Association of Uruguay, an association of health professionals. Compliance with the code, which regulates various aspects of the doctor-patient relationship, is mandatory.

2.2 Age of compulsory education

30. In Uruguay there is no age limit for entry into primary or secondary education.

2.3 Age of admission to employment

31. The minimum age for admission to employment is 15, in accordance with Uruguay's commitments under the ILO Convention concerning Minimum Age for Admission to Employment (No. 138). Prior to the adoption of the Children and Adolescents Code, and in accordance with the now repealed Children's Code of 1934, the minimum age for admission to employment was 14. The Committee took note of this and made a specific recommendation in that regard.

32. Article 162 of the Children and Adolescents Code, which was ratified by Act No. 17823 of 8 September 2004, now provides that the age of admission to employment is 15.

2.4 Minimum age for marriage (difference between legal age for men and women)

33. The provisions of the new code do not include specific provisions that differ from the regulations on the minimum age for marriage established under the Civil Code. The Committee raised concerns about this during its examination of the initial report. It is felt that these provisions deserve fresh consideration in the light of the general framework of guarantees, the consolidation of the guiding principles of the Convention and the new code, and the fact that there are few early marriages in Uruguay.

34. Article 14 of the new code provides as follows:

> Article 14 (General principle): "The State shall protect the rights of all children and adolescents under its jurisdiction, regardless of their ethnic, national or social origin, sex, language, religion, political or other opinion, economic status, mental or physical disabilities, birth or any other circumstance of the child or the child's legal representatives … The State shall ensure the implementation of all rules that give effect to these rights."

2.5 Age of sexual consent

35. The age of sexual consent is indirectly regulated by the rules that govern sexual violence in the Criminal Code, depending on the offence. Sexual intercourse with anyone under the age of 15 is considered rape. Similarly, performing a sexual act with a person aged between 12 and 18 years constitutes the crime of corruption of a minor. Statutory rape is a criminal offence defined as having sexual intercourse with a person aged between 15 and 20 after promising to marry that person.

2.6 Age of voluntary enlistment, compulsory military service and participation in hostilities

36. Compulsory military service has not existed in Uruguay for over 50 years. All enlistment is voluntary; it is illegal to enlist anyone under the age of 18 with no exceptions even in time of war.

37. At the international level, Uruguay played an active part in the open-ended working group on the draft optional protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

38. This approach to international affairs has been a permanent feature of Uruguay's tradition. The following declaration was issued when Uruguay ratified the Convention on the Rights of the Child: "The Government of the Eastern Republic of Uruguay affirms, in regard to the provisions of article 38, paragraphs 2 and 3, that in accordance with Uruguayan law it would have been desirable for the lower age limit for taking a direct part in hostilities in the event of an armed conflict to be set at 18 years instead of 15 years as provided in the Convention. Furthermore, the Government of Uruguay declares that, in the exercise of its sovereign will, it will not authorize any persons under its jurisdiction who have not attained the age of 18 years to take a direct part in hostilities and will not under any circumstances recruit persons who have not attained the age of 18 years."

39. In the same spirit of diplomacy, Uruguay sponsored and hosted a regional conference of Latin American and Caribbean countries in cooperation with the Coalition to Stop the Use of Child Soldiers. The aim was to raise awareness of the problem and promote the adoption of a legally binding instrument on that question.

40. Uruguay adopted the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict by Act No. 17483 of 8 May 2002, which was ratified on 9 September 2003.

2.7 Age of criminal responsibility

41. There have been no changes to the age of criminal responsibility since information was submitted to the Committee in 1996. In accordance with the provisions of article 34 of the Criminal Code, "anyone who commits an offence before the age of 18 years cannot be held criminally responsible".

42. It is worth mentioning that Uruguayan legislation on the age of criminal responsibility does not discriminate between males and females. In the provisions of the new code it is specified that references to children and young people include both genders.[1]

2.8 Age at which capital punishment and life imprisonment can be imposed

43. Neither of these penalties is permitted under domestic legislation. This prohibition also applies to adults.

2.9 Age for giving testimony in court, in civil and criminal cases

44. In criminal cases, there is an overriding obligation to give testimony in order to allow the truth to be established. Given that minors are not per se incapable of giving testimony, judges are trained to use their discretion to assess their statements. Under the provisions of the Code of Criminal Procedure, anyone who learns by any means whatsoever of the commission of an offence prosecutable ex officio may report it to the judicial authorities or the police. For offences not prosecutable ex officio in which the victim is required to file a complaint, article 12 of the Code of Criminal Procedure provides that, if the victim is a child under the age of 18, one or both of the child's parents may press charges. In civil cases, only adults have the right to bring a court action, but it is possible by law for a lawyer to act as a person's legal representative. In such cases, given prior agreement with the lawyer, minors can be represented without their parents' or legal guardians' consent.

2.10 Age for lodging complaints and seeking redress before a court or other relevant authority without parental consent

45. The right to compensation is enshrined in domestic legislation. Any person who causes injury to another person must provide redress before the competent judicial authorities. In accordance with article 1319 of the Civil Code, "any illegal act a person commits that causes injury to another imposes an obligation on the person guilty of malice, fault or negligence to remedy it". The Constitution guarantees compensation at the State's expense when responsibility for the harmful act is attributable to the action or omission of one of its agents.

2.11 Age for participating in administrative and judicial proceedings affecting the child

46. Several provisions of the new code (arts. 8 and 74 et seq.) guarantee children the right to participate in administrative and judicial proceedings that affect their interests.

2.12 Age for giving consent to change of identity, including change of name, changes to family relationships, adoption and guardianship

47. Uruguay's legal system allows for two kinds of adoption: simple adoption and full adoption. Simple adoption is regulated by the children's code, and establishes that the adopted child continues to belong to his or her natural or biological family and retains all his or her

[1] Children and Adolescents Code, art. 1.

rights. Under this kind of adoption, the adopted child takes the adoptive family's name in addition to his or her biological surname. Should the adopted child and the adoptive family have the same surname, no changes to the child's name are registered.

48. Full adoption, or "legitimation by adoption", is regulated by Act No. 10674 of 20 November 1945, which was amended in 1978[2] and 1990,[3] and has been incorporated into the new children's code. This form of adoption is applicable in the case of abandoned children, orphans (father and mother deceased), children living in public institutions, children whose parents are unknown, or children who are the offspring of a child of one of the adoptive parents. Children who have been abandoned by one of their biological parents are also eligible for this form of adoption if the parent with parental authority applies to adopt the child in conjunction with their new husband or wife. In these cases, the new code provides that:

> "Legitimation by adoption as provided for in this subparagraph may be performed only once with respect to the child or young person.
>
> (1) When two or more children or young people are eligible for legitimation by adoption at the same time, it shall not be an impediment if they were born less than 180 days apart;
>
> (2) Efforts shall be made to have abandoned siblings adopted together by the same family."

49. In all cases covered by the code, an executory judgement is required in order to confer the status of abandoned child on a minor, in accordance with the procedures established in article 133 and other related articles. Legitimation is a judicial procedure that is decided before the competent family courts. Regarding names, the text of the executory judgement authorizing the adoption requires that the child be entered in the Civil Register after the adoption as the legitimate child of the adoptive parent. The law therefore establishes that legitimation causes the child's previous parental ties to lapse, and specifies that this should be recorded on the child's original birth certificate.

2.13 Access to information on the child's biological parents

50. Article 173 of the children's code guarantees all children the right to know who their parents are. Ways to access that information are described below.

(a) Determining paternity and maternity

51. The judicial procedure for determining paternity or maternity is regulated by article 197 et seq. of the new children's code, which provide that proceedings can be instigated by: (1) the child, up to the age of 25 years: while the child is a minor, the child's mother, father or legal representative can instigate proceedings; (2) the mother or the father, from the time the

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[2] Act No. 14759 of 5 January 1978.

[3] Act No. 16108 of 20 April 1990.

pregnancy is confirmed until the child reaches the age of 18; (3) the National Minors' Institute, as the government body responsible for monitoring the interests of children, has the authority to initiate paternity investigations *proprio motu* if it finds a child is registered as having an unknown father, or if a child living in a public institution requests it to do so. The code also provides that if the man alleged to be the father recognizes a child as his own before a judge, the latter will decide what rights are appropriate, including maintenance payments. Should a man alleged to be the father of a child deny that fact, an investigation will be launched and documentary, oral and circumstantial evidence produced. In all the cases mentioned, the opinion of the Public Prosecutor's Office, as the representative of the State's interests, must be considered. Lastly, the code provides that the judge, taking into account the information and evidence produced, will order the registration of the child with the father's or the mother's name, or, were appropriate, will dismiss the application for an investigation.

(b) Full adoption

52. In this case, since the ties between the parents and the child that existed prior to the adoption are still intact and since the adopted child still uses his or her biological surname, the child has access to information that will help locate his or her biological parents.

(c) Legitimation by adoption

53. Before the entry into force of the new children's code, the changes to family ties that resulted from adoption had significant effects on the child's original documentation, which made access to information difficult. Article 146 of the current code provides that only third parties have access to the record of the adoption proceedings, although the child or young person has access to them from the age of 18. However, there are precedents in Uruguay for setting aside legitimation decisions in order to guarantee the child's right to information on his or her biological family.

54. In 1996, the Committee on the Rights of the Child noted the lack of domestic legislation to regulate intercountry adoption and the prohibition of trafficking in children within the framework of the Convention. Articles 150-157 of the children's code regulate intercountry adoption "in the absence of international instruments ratified by Uruguay". The administrative and judicial controls in place are, in general, sufficient to meet the requirements of article 21 of the Convention on the Rights of the Child. UNICEF has indicated that the framework of guarantees could be further improved by including a specific reference, in line with articles 21 (d) and 35 of the Convention, to concrete measures to prevent the abduction of, the sale of or traffic in children and to ensure that intercountry adoption does not result in "improper financial gain for those involved in it" (UNICEF, 2004).

2.14 Minimum age for legal capacity to inherit

55. The legal capacity to inherit is not affected by the age of the heir. However, the deferral of a legacy to a minor subject to parental authority may be accepted or rejected by the child's parents, depending on the best interests of the child. In the case of a conflict of interest between the parents and the child, the dispute is decided by a court of law, before which the child is represented by a guardian ad litem.

2.15 Minimum age for legal capacity to conduct property transactions

56. Under the Civil Code, parents are the legal administrators of their children's property, irrespective of whether they have the use and enjoyment of it. The property may be administered by one or both parents. The agreements concluded by the parents and amendments thereto are entered in the official public records, provided they are not injurious to third parties. However, Uruguayan legislation grants children the right to administer their own earnings and assets, which include: earnings in exchange for civil, military or ecclesiastical services; work-related earnings; casual earnings; gifts or legacies, if the donor or testator has expressly designated the child as beneficiary; and on inheritance or legacy passed on to the child because the father or mother is deemed unfit or has been disinherited. Article 271 of the Civil Code expressly prohibits parents from disposing of their children's real property or taking any other measures compromising such property, except in cases of need or clear advantage and then only with prior authorization from a judge and the Public Prosecutor's Office.

2.16 Minimum age for choosing a religion or attending courses of religious instruction

57. The Uruguayan Constitution guarantees freedom of worship and no child may be forced to attend courses of religious instruction. Parents are free to choose their children's school. There is no State-supported religion and one of the main tenets of public education is its secular nature. There are several private primary and secondary schools and universities in Uruguay that are associated with particular denominations. Although there are no general legal provisions for dealing with cases where a child refuses the religious education chosen by his or her parents, any child is entitled to refuse religious education and, should the case be taken to court, has the right to file for *amparo* through a guardian ad litem.

2.17 Minimum age for consumption of alcohol and other controlled substances

58. Uruguayan legislation sets the minimum age for consumption of alcohol in Uruguay at 18.

2.18 Minimum age for admission to employment at the end of compulsory education

59. The new Children and Adolescents Code contains a full chapter on youth employment. The minimum age for admission to employment for all economic sectors is 15, in compliance with the provisions of ILO Convention No. 138. All types of work that prevent the minor from enjoying time with his or her family or that undermine his or her education are prohibited.

60. Under the new code, the National Minors' Institute is tasked to draw up a list of hazardous jobs that are harmful to children's physical or mental health. The code stipulates that the General Labour Inspectorate of the Ministry of Labour and Social Security must act on reports of children being engaged in this type of work by issuing official warnings and/or imposing penalties on companies that fail to respect the relevant provisions or regulations of domestic labour law. Young persons who are authorized to work must have a special work

permit issued by the Uruguayan Institute for Children and Adolescents stating their name, date and place of birth and address, and certifying that the youngster consents to work, with the agreement of the youngster's parents or legal guardians, that the youngster has had a medical examination and been declared fit for work, and that he or she has completed compulsory education or reached a specified level of education. The working day may not exceed six hours, and the young person is entitled to one day off a week, preferably a Sunday, and to a half-hour break in the middle of the working day. In exceptional circumstances, and taking into account the youngster's individual circumstances, an eight-hour working day or night work may be authorized.

61. Parents who encourage or consent to their child working in violation of the relevant legal provisions are criminally liable for failure to provide the financial assistance that goes with parental authority or guardianship.

3. GENERAL PRINCIPLES

3.1 Legal concept of non-discrimination (art. 2)

62. Article 14 of the new Children and Adolescents Code establishes the principle of non-discrimination. Although national doctrine and case law mostly recognize an implied legislative underpinning for this principle, the code sets out express provisions on this subject, thus closing a gap in the law. Two relevant provisions are contained in the chapter on the duties of the State. Article 14 provides that "the State shall protect the rights of all children and adolescents under its jurisdiction, regardless of their ethnic, national or social origin, sex, language, religion, political or other opinion, economic status, mental or physical disabilities, birth or any other circumstance of the child or the child's legal representatives". This article is complemented by article 15, which establishes the State's special duty to protect children and adolescents from abandonment, sexual abuse or exploitation for the purpose of prostitution; harassment, segregation or exclusion in places of education, recreation or work; economic exploitation or any type of work harmful to their health, education or physical, spiritual or moral development; cruel, inhuman and degrading treatment; incitement to use tobacco, alcohol or drugs; situations that might put their lives at risk or incite violence, such as the use or sale of arms; and acts that jeopardize the child's right to an identity such as illegal adoption or the sale of children.

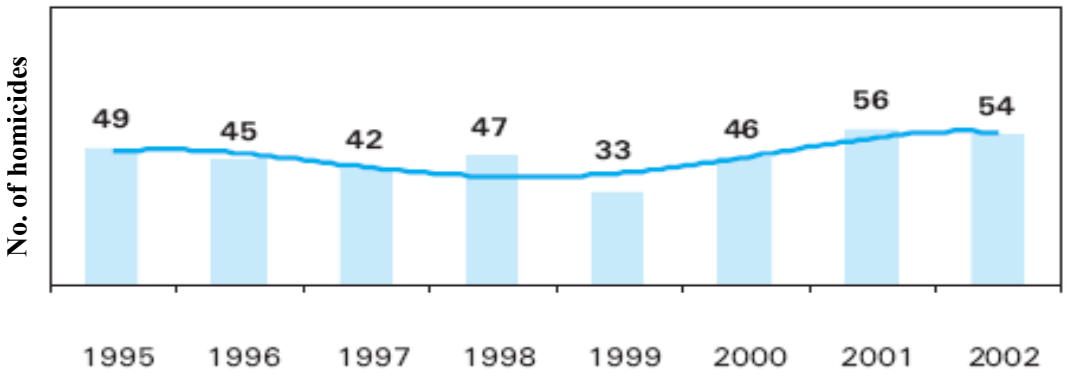
3.2 Stigmatization of young persons

63. Despite recently adopted legislation, in recent years public perception has increasingly stigmatized young persons on the basis of discriminatory stereotypes promoted by the mass media that associate young persons with crime, drug consumption, etc. (UNICEF, 2004). This media image is mainly a result of news broadcasts that tend to focus on crime news coverage depicting "stigmatizing clichés of young offenders" (Quima, in UNICEF, 2004, p. 62). A study carried out by UNICEF in 2001 showed that young people, although they are aware of the existence of juvenile delinquency in Uruguay, feel that the media sometimes exaggerate, for example, when inferring that young people commit more crimes than adults. A survey of juvenile delinquency proved this image wrong, concluding that young people commit neither

more nor more serious crimes than adults.[4] According to this study, over 80 per cent of offences committed by young persons are against property; in 70 per cent of cases no firearms are used. The number of young persons committing serious crimes such as homicide and rape was stable during the period under review (1995-2002), with an average of 47 juvenile proceedings being instituted each year. The figure below shows the number of young persons tried for homicide.

Figure I

Number of young persons tried for homicide



3.3 Best interests of the child (art. 3)

3.3.1 Legislative framework

64. The provisions of the 1934 Children's Code focus on child protection. With the coming into force of the Convention and its wide dissemination and broad application by law-enforcement agents, the "best interests of the child" became the guiding principle of judicial intervention.

65. For its part, article 6 of the draft children and adolescents code established the best interests of the child, namely the recognition of and respect for his or her inherent human rights, as the basis for the interpretation and application of the code.

3.3.2 The guiding principle of the best interests of the child in case law

66. Domestic courts regularly invoke and apply the principle of the best interests of the child. One example is judgement No. 152 of the second rota Court of Appeals of 3 October 2001 concerning an underage child whose separated parent requested judicial authorization to take the child abroad to take up residence in a neighbouring country. In this case, the sentence interprets the best interests of the child, and the guiding principle in cases such as this, to mean the overall interests of the child, that is interests involving all key aspects pertaining to the child's physical, psychological and spiritual development. The guiding principle must be no other than the best

[4] Survey of offences committed by young persons in Montevideo (1994-2002) Defence for Children International-UNICEF, 2003.

interests of the child, rather than those of the parent wanting to take the child with him or her or the parent opposing such a move. In this specific case, the best interests of the child were protected by the judge's refusal to authorize the child's departure with the mother, and thus separation from the father, because of the potential psychological damage (*La Justicia Uruguaya*, 2002).

3.3.3 Public housing policy and child protection in Uruguay

67. With regard to housing policy, the National Housing Department attached to the Ministry of Housing, Regional Planning and the Environment, is responsible for increasing housing supply, with financial assistance from the private sector, and for providing housing solutions for the most disadvantaged sectors of the population through the national housing programme. Uruguayan residents over 18 years of age who do not own a home, are not members of a mutual housing cooperative and whose monthly household income is less than 60 "readjustable units" (UR),[5] are eligible for the comprehensive scheme for access to housing (SIAV), a three-tiered housing programme providing: (a) the improved "*basic modular housing units*" for families with an income of less than UR 30 are provided by the Ministry of Housing, Regional Planning and the Environment or private companies contracted by the ministry. The 32 m² units consist of a bathroom, a kitchen and a bedroom on 120-150 m² of land with sanitation, electricity and water. The units are "modular" in that the foundation allows them to be extended to have up to three bedrooms. The total cost of the unit is 1,150 UR. In order to be eligible for the programme, the families must have UR 5 in savings; the Ministry of Housing, Regional Planning and the Environment gives a grant equalling the total value of the home. The beneficiary makes monthly repayments of UR 2 over a period of five years. The funds raised through these instalments go to neighbourhood non-governmental organizations. (b) *Subsidized housing*. This section includes programmes targeting families with an income of between 30 and 60 UR. The 43-65 m² homes are built by private investors and have all basic services (electricity, sanitation, drinking water). The main purpose of the national programme is to meet the housing needs of low-income families. Three general policies are pursued to achieve this goal: provide housing for the working population; provide housing for the unemployed; and rehabilitate and renovate existing housing stock.

68. In 2000, for example, 5,717 homes were allocated in total; 4,717 in urban and 1,000 in rural areas. (c) *Irregular settlements*. Since the 1990s, and particularly since the 2002 economic and financial crisis, the number of poor and destitute people taking over private or State-owned land to build permanent homes has increased considerably. Such actions are illegal: the homes do not meet the legal requirements for buildings and lack access to public services such as drinking water and electricity. Given the attendant social problems and the impact on the quality of life of the population concerned, the State has built homes to relocate the people living in such settlements.

69. The project was partly financed by the State, and the beneficiary received a loan from the Banco Hipotecario del Uruguay (national mortgage bank) to be repaid in instalments equalling 18-22 per cent of the family income over a period of up to 25 years.

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[5] In October 2005, one readjustable unit was equivalent to approximately US$ 11.

3.3.4 Adoption

70. As stated in the initial report, the current legal system allows for two kinds of adoption: simple adoption and full adoption (or legitimation by adoption). The new code continues to recognize these two kinds of adoption and contains express provisions establishing that adoption shall only be granted if it is in the best interests of the child or young person. In this regard, the following observations should be made: first, the Committee on the Rights of the Child noted in 1996 the absence of legislation governing intercountry adoption and prohibiting trafficking in children. The code contains adequate provisions (arts. 150-157) on the administrative and judicial control of intercountry adoption (UNICEF, 2004b). However, the text could be improved by including an express reference to concrete measures aimed at preventing the abduction and sale of or trafficking in children (UNICEF Uruguay, 2004b).

71. The Uruguayan adoption authority attached to the Uruguayan Institute for Children and Adolescents (INAU) is responsible for the evaluation and preparation of prospective adoptive parents and for the placement and monitoring of children made vulnerable by separation from their family of origin and who are in the care of the institute (INAU, 2005a). The most important functions of the adoption authority include the reception and evaluation of prospective adoptive parents; the preparation of adoptive parents for the experience ahead; the placement of children made vulnerable by separation from their family of origin; and the provision of documentation giving the future adoptive parents custody over the child (INAU, 2005a).

Table VI

Requests from prospective adoptive parents and requests for adoption

Requests for assessment (incomplete) submitted to the Department of Adoption and Legitimation by Adoption

1999	2000	2001	2002	2003	2004	Total
0	1	3	12	48	145	209

Number of requests from prospective adoptive parents for children under 1 year of age, by year

1999	2000	2001	2002	2003	2004	Total
0	11	41	47	34	14	147

Number of requests from prospective adoptive parents for children over 1 year of age, by year

1999	2000	2001	2002	2003	2004	Total
0	7	17	22	15	9	70

Number of children placed with adoptive families, by adoption regime and year

	1998	1999	2000	2001	2002	2003	2004	Total
Simple adoption	3	4	11	5	4	2	1	30
Legitimation by adoption	48	41	47	42	60	53	44	335
Total	51	45	58	47	64	55	45	365

Number of adoption requests and children placed with a family, by year

	1998	1999	2000	2001	2002	2003	2004	Total
Requests	135	159	130	112	120	85	125	866
Children placed with families	51	45	58	47	64	55	45	365

Source: INAU - Department of Adoption and Legitimation by Adoption (2005).

72. An analysis of the data in the table above leads to the following conclusions: first, there are on average twice as many applications for the adoption of children under 1 year of age than for the adoption of children over that age. Furthermore, of the applications processed in the period 1998-2004, between 28 and 64 per cent resulted in children being placed with a family by simple or full adoption (INAU, 2005a).

3.3.5 Immigration, asylum and refugee procedures

73. Where asylum or refugee status is granted in individual cases, Uruguay respects the principle of family reunification and allows minor children to enter together with their parents. Such children are automatically eligible for public education and free public health care.

3.3.6 Administration of juvenile justice

74. In its concluding observations, the Committee expressed concern about juvenile justice provisions in Uruguay that were inconsistent with the principles of the Convention. The new code contains extensive provisions to address this issue and considerable progress has been made with regard to procedural guarantees for children in conflict with the law. According to UNICEF, the progress made in terms of establishing guarantees of due process for children and young persons is particularly noteworthy. Express provisions were also introduced to ensure the effectiveness of constitutional provisions, domestic legislation and international instruments, especially the Convention on the Rights of the Child (UNICEF, 2004b). The new code also strengthens constitutional provisions by recognizing that minors may only be detained when caught in the act or when there is clear evidence of their guilt, in which case detention must be ordered in writing by the competent judge. It also establishes the right to challenge a detention order (art. 74, subpara. C) (UNICEF, 2004b). Article 74, subparagraph D, clearly provides that "no young person shall be subjected to torture or cruel, inhuman or degrading treatment" (UNICEF, 2004b).

75. Below, some additional comments are made with regard to various other issues.

(a) Jurisdiction

76. The former juvenile judges have been replaced by professional juvenile judges. Family courts are the second instance in juvenile matters. In Montevideo and the provinces, the appropriate courts have emergency jurisdiction to deal at any time with matters requiring immediate intervention. The law defines a "serious matter" as an issue involving a potential violation of or disregard for a child's or young person's rights, except for criminal offences committed by the child or young person him/herself. The Supreme Court of Justice, as the top-ranking body of the judiciary, will take the necessary measures to ensure that judges can at any time seek advice from social workers, psychologists or psychiatrists.

(b) Possible judicial proceedings

77. Young person may only be brought to trial if they have committed a criminal offence for which the penalty exceeds one year's imprisonment.

(c) Principles and guarantees

78. The above-mentioned article 74 of the Children and Adolescents Code establishes a range of guarantees of due process such as: judiciality and legality; responsibility; limits to detention; the principle of humanity; the presumption of innocence; the right to a defence; the right to communicate with one's lawyer, parents, guardians, relatives and spiritual guide; the prohibition of default proceedings; the right to challenge any injurious judicial statements; the principle of a reasonable duration of the proceedings; the right to free assistance of an interpreter if the defendant does not speak the official language sufficiently well; and the principle of opportuneness, whereby a young person may be spared if a trial to proceed would be unjustified.

(d) Procedural law

79. Articles 75 and 76 describe the procedural stages and framework for judicial or police action. Thanks to the new code, considerable progress has been made in this area, although UNICEF sees room for improvement in the wording of certain articles such as article 76, subparagraph (e) (Procedure), which, as it stands, does not exclude the possibility of the police interrogating minors in the absence of their lawyer (UNICEF, 2004b).[6] For a more in-depth analysis of procedures, it is advisable to refer to articles 75 and 76 of the code, which include detailed information on key aspects of procedure such as the imposition of precautionary measures, the requirement that the judge should obtain a technical report before handing down a sentence, etc.

[6] Other observations made by UNICEF concern the power of the judge to order provisional detention and the psychosocial assessment carried out by a team of experts which introduces a degree of discretion in the proceedings (UNICEF, 2004b).

(e) Sanctions

80. The Code provides for the possibility of imposing socio-educational measures on convicted young offenders; the sentence may be custodial or non-custodial. Article 86 regulates the deprivation of liberty; it provides that only young offenders convicted of very serious crimes that, in the view of the judge, justify such punishment, and repeat offenders who have failed to comply with the measures imposed by the judge, may be deprived of their liberty.[7] Article 80 regulates non-custodial measures, including warnings, admonitions, compliance with rules of conduct, guidance and support through socio-educational programmes, community service for a period not exceeding two months, the obligation to provide redress or satisfaction to the victim, a driving ban of up to two years, and probation with assistance or supervision. Lastly, disabled young offenders are subject to remedial measures.

3.3.7 Placement and care for children in institutions: changes in the treatment of minors in conflict with the law

81. The establishment of the National Institute for the Rehabilitation of Young Offenders (INTERJ) led to a change in the treatment of minors in conflict with the law by the Uruguayan Institute for Children and Adolescents. The national institute was designed to implement care and treatment policies aimed at preventing the young person from reoffending. There are two options for dealing with young offenders: young persons found guilty of an offence, maybe placed either on probation or in an institution by the Institute for Children and Adolescents.

(a) Probation programme

82. This programme emphasizes the social reintegration of individuals whose movements are not restricted, to ensure that they remain part of their family or community. It is implemented on the basis of agreements with non-governmental organizations and is aimed at young persons whose daily schedule involves formal or informal employment, education, recreational activities, life counselling, therapeutic treatment, etc.

83. The most recent assessment conducted after the programme had been running for 20 months showed recidivism rates of under 20 per cent, which means that 80 per cent of youngsters were successfully rehabilitated. The State, through the Uruguayan Institute for Children and Adolescents, allocates 2,400 UR, or US$ 48,000, per month to this programme.

(b) Placement in an institution

84. In cases where the conduct of the offender precludes him or her from accessing probation programmes, the National Institute for the Rehabilitation of Young Offenders offers two types of treatment: (a) deprivation of liberty by placement in a special institution for minors; and

[7] UNICEF has criticized the excessive discretion available to the judge (UNICEF, 2005b) and has noted that the expression “in situations of manifest danger” contradicts the principles of the Convention and those enshrined in the Constitution and Uruguayan law.

(b) non-custodial placement in an institution. In 1998, the "Travesía" project was introduced under an agreement with the Vida y Educación (Life and Education) association to reduce the time spent in an institution by facilitating early release on probation.

(c) High-security centres

85. The Berro centre has been equipped with agricultural technology including a closed-circuit milking machine, a milking hall and tools for improving grasslands, and offers training in the agricultural skills needed to manage a farm.

(d) Programme for non-custodial centres

86. The open institutions programme covers three homes and the workshops and agricultural production zone at the Berro educational complex. In the first two years, the number of children who failed to return from an outing was cut by 50 per cent. The Ariel centre, which holds only 26 youngsters, has an in-door gym and a large terrain and offers a combination of custodial measures and a semi-open regime, with a strong educational focus. These programmes are linked to employment options offered in the framework of the programme of vocational training and preparation for work run by the Institute for Children and Adolescents, which has concluded agreements with public institutions for such work as cleaning the terraces in stadiums.

(e) Summary of progress made in the treatment of minors in conflict with the law

87. The progress made includes the following:

- Closure of the Miguelete centre in 1997. This detention centre, associated with the old theories on committing offenders to closed institutions, where conditions of detention repeatedly gave rise to serious riots, is no longer used as a juvenile detention centre;

- Change in the treatment model, with priority given to probation and open-regime institutions, with State-funded modernization of former detention centres to make them suitable for the new approach;

- Specialized centres and fewer detainees per centre;

- Mandatory 180-hour training course for staff working with minors;

- Establishment of a special control unit answerable directly to the director of the National Institute for the Rehabilitation of Young Offenders, to prevent and control disorderly conduct, which puts the minors' safety at risk;

- Participation of civil society in the design and implementation of rehabilitation policies through agreements with non-governmental organizations;

- Establishment of a unit responsible for the transfer of young persons in order to eliminate security risks for young persons and officials;

- A drastic reduction in the number of riots: the few incidents recorded were over in a few hours' time, without police intervention and without loss of lives;

- Involvement of the minors' parents through the so-called "escuela de padres" (parenting school);

- Introduction of a free transport service to facilitate parental visits to minors in detention;

- Establishment of a follow-up unit responsible for locating and returning youngsters on unauthorized leave or who run away;

- Establishment of a support fund co-financed by UNICEF and the United Nations Educational, Scientific and Cultural Organization (UNESCO) and run by a joint administrative body, which finances projects of up to $500 to facilitate the social reintegration of young offenders upon release by addressing issues such as housing and self-employment;

- Adoption of house rules on the conduct of prison officials and inmates.

3.4 The right to life, survival and development (art. 6)

3.4.1 Child mortality

88. According to traditional indicators based on the cause of death, infant mortality in Uruguay, like in many other countries, is mainly due to external, rather than general, causes, including accidents, violence and suicide. The table below shows the incidence of child mortality disaggregated by age group and cause of death.

89. The table was prepared by UNICEF on the basis of data provided by the Uruguayan Ministry of Health and shows child mortality rates disaggregated by cause of death.

Table VII

Child mortality rates

Year	Mortality rate of 10- to 19-year-olds (per 100,000 inhabitants)					
	General		External causes		Ratio of external causes to general causes	
	10-14	15-19	10-14	15-19	10-14	15-19
1998	33.1	83.4	16.5	64.9	0.5	0.8
1999	26.9	78.3	14.7	49.8	0.5	0.6
2000	19.9	63.3	10.7	41.0	0.5	0.6
2001	29.2	69.4	12.9	54.7	0.4	0.7

Source: UNICEF, on the basis of data supplied by the Ministry of Health.

90. For the time being, this is the only information available. In Uruguay, it is difficult to obtain data, especially systematic data, that would offer a different perspective on the causes of death (UNICEF, 2004b).

3.4.2 Abortion

91. In 2002, there was considerable public debate about a bill on sexual and reproductive rights. The bill would have allowed women to choose to have an abortion in the first 12 weeks of pregnancy. Two opposing currents of opinion emerged from the public debate, dividing both political parties and society as a whole. Given this divergence of opinion, no progress was made towards the adoption of the bill (the same outcome as in 1985). According to a 2002 survey carried out by the non-governmental organization Mujer y Salud en Uruguay (Women and Health in Uruguay), the reasons given for having an abortion are the following: not wanting more children, 32 per cent; financial problems, 22 per cent; shame, 19 per cent; lack of a stable relationship, 16 per cent; fear of pregnancy, 5 per cent; the child is not the husband's child, 3 per cent; unknown reasons, 2.9 per cent; and rape, 0.1 per cent.

3.5 Respect for the views of the child (art. 12)

3.5.1 The views of the child in the new Children and Adolescents Code

92. Chapter IV of the code regulates parents' and guardians' duties to children and young people and provides that parents are legally obliged to take account of their children's views and respect their right to be heard.

3.5.2 The views of the child in the administration of juvenile justice

93. Among the most important and significant developments in children's rights are the legal provisions guaranteeing that the bodies administering juvenile justice will listen to children's views. In accordance with the applicable special procedure, minors who commit a criminal offence are granted all the basic judicial guarantees, including the right to be heard, to present their defence and to contest judicial decisions that affect them. In cases concerning the custody of children after their parents have divorced or legally separated, the new code provides that the family judge has a solemn duty to hear and take into account the views of the child or young person.

94. There is no information available on respect for the views of children in educational establishments and children living in institutions.

3.5.3 Professional education and training in the rights of the child

(a) Uruguayan Institute for Children and Adolescents (INAU)

95. The Institute has a training centre called CENFORES (Training Centre for Social Workers) which is responsible for training not only the staff of the institute, but also other people

working with children in general. The centre aims to help improve the social and educational situation of the target population - children, young people and families - by holding courses and seminars. In order to accomplish its mission, the centre divides its work into three areas: lifelong learning, training for social workers, and research and academic support.[8]

96. In the area of lifelong learning, the aim is to promote and develop lifelong learning plans, programmes and projects for all staff working with children, particularly INAU staff. Training is also provided for the staff of the civil society organizations that work with the institute and for people who work with socially vulnerable children, young people and families in public or private organizations. The focus on training for social workers is a new development in the region. Thanks to the training centre, the institute can manage the planning, organization, delivery, supervision and evaluation of social workers' training in Uruguay, awarding graduates tertiary-level qualifications.

97. In the area of research and academic support, the institute promotes and carries out analyses of the situation and main social issues facing vulnerable children, young people and families. It also promotes academic support by building up the thematic areas and frames of reference needed in the field of social education, and publishes materials to support training and disseminate research findings.

98. In spite of the training centre's important contribution to education in this area, the institute's management believes that budget restrictions during the last year have impeded the full development of its work. This view supported by the data presented in the following table and figure, which show a clear decrease in the number of teaching hours and the total number of students per year, particularly in 2004.

Table VIII

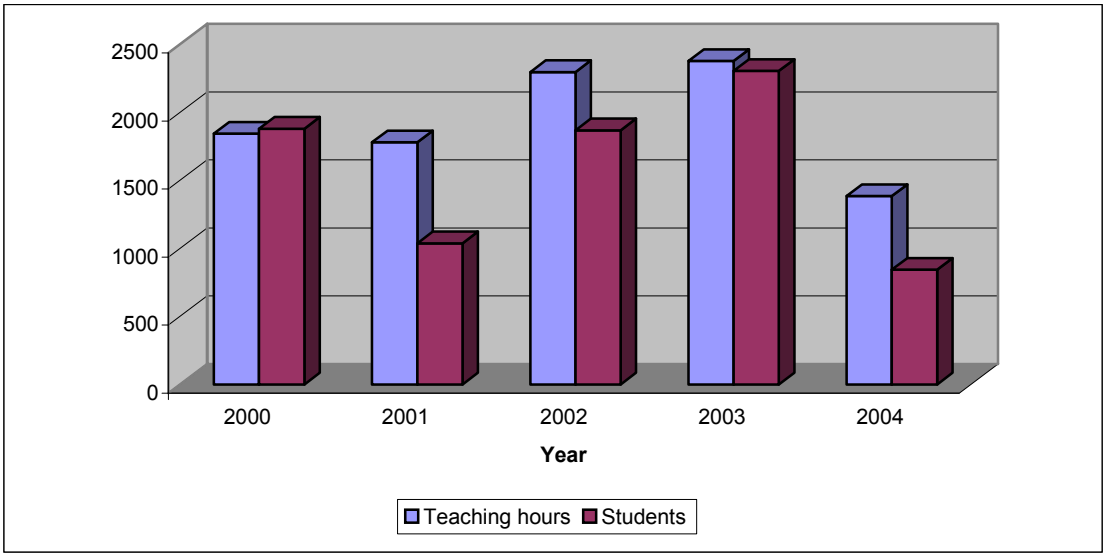
Number of students in the Training Centre for Social Workers, by number of teaching hours per year (2000-2004)

	2000	2001	2002	2003	2004
Number of teaching hours	1 843	1 779	2 296	2 377	1 384
Total number of students	1 879	1 037	1 868	2 304	843

[8] This information was provided by the CENFORES unit managed by INAU.

Figure II

Number of students in the Training Centre for Social Workers, by number of teaching hours per year (2000-2004)



99. The institute and the training centre have provided the following data on educational development in 2004:

- Number of courses taught: 38
- Number of teaching hours: 1,384
- Number of staff trained: 843
- Number of students graduating with a university degree in social work: 32

(b) University of the Republic

100. The following childhood-related training and education courses have been delivered[9] (Faculty of Medicine, University of the Republic, 2005):

- Master's degree in the rights of the child and public policy: University of the Republic and UNICEF partnership, with the participation of the faculties of medicine, social sciences, psychology and law, 2004-2005;

[9] Information provided by the Child Psychiatric Clinic at the Faculty of Medicine, University of the Republic.

- Monthly discussion forum on the Convention on the Rights of the Child and the Children and Adolescents Code, coordinated by the research team working with young offenders, from the Child Psychiatric Clinic, in cooperation with staff from several other institutions;

- Workshops with specialists in the areas of law and mental health. Child Psychiatric Clinic of the Faculty of Medicine, administered by the Graduate School. This clinic runs the only course to train specialists in child psychiatry in Uruguay. Duration: 4 years; hours of attendance: 4,608; entry: 4 candidates per year (Faculty of Medicine, University of the Republic, 2005);

- Courses for paediatricians, neuropaediatricians, adult psychiatrists and family doctors. Duration: 8 weeks; timetable: 16 hours. Introduction to the themes of child psychiatry most relevant to interdisciplinary work.

3.5.4 Judicial decisions recognizing the right of children to express their views

101. In Uruguay, one court case that attracted a good deal of attention from the general public involved a minor who was alleged to be the missing son of a woman who had been a political prisoner during the period of military rule (1973-1985). He refused to undergo a histocompatibility test to ascertain whether he was the woman's son or not. The Supreme Court of Justice, citing the guiding principles of the Convention on the Rights of the Child, decided that it did not have the authority to legally overrule the minor, given that as a subject of law, his right to physical integrity and privacy was guaranteed. In this case, the views of the child were decisive in the court's decision, since they were taken into account and respected by the highest judicial instance.

4. CIVIL RIGHTS AND FREEDOMS (arts. 7, 8, 13-17 and 37(a))

4.1 Name and nationality (art. 7)

102. In accordance with the new provisions of the Children and Adolescents Code, newborn babies in public and private maternity hospitals are registered by taking their footprint and fingerprint, together with the mother's fingerprint. Article 25 of the code establishes the right of all children to be registered with their name and surname. The registration system is described below.

(a) Registration system

103. The code provides that children registered by their father take the father's surname as their first surname and the mother's as their second surname. Children not registered by their father take their biological mother's surname. If the parents' identity is not known, the child is registered with two commonly used surnames by an officer of the Civil Registry. If relatives register the child, they are responsible for choosing commonly used surnames for the child. In full adoption cases, the adopted child's surnames will be replaced by the adoptive family surnames. In simple adoption cases, the child's surname is replaced by the adoptive family surnames, but if there is only one adoptive parent, the child will take the adoptive parent's paternal surname and will be allowed to choose his or her own second surname or will be given a

commonly used second surname. These changes have removed any stigmatization that might have affected the child under the previous system, in which legitimate children (those born while their parents were legally married) and illegitimate children (born to unmarried parents) were registered differently. Similarly, the new system has removed all legal barriers to parents whose divorces from previous spouses had not been finalized from recognizing their biological children. It has also done away with provisions that had prevented mothers under the age of 18 from recognizing and registering their children.

(b) Nationality

104. Under existing legislation, all children born in any part of the national territory are Uruguayan nationals, as are all children born to a Uruguayan father or mother, regardless of where they are born.

4.2 Preservation of identity (art. 8)

105. Any unlawful interference in a child's right to preserve his or her identity constitutes a violation of a right recognized by law. In such a case, as expressly provided for in article 8 of the Children and Adolescents Code, family judges have the authority to take whatever urgent measures they deem appropriate.

4.3 Freedom of expression

106. Article 13 of the Children and Adolescents Code establishes that the right to freedom of expression is guaranteed for all inhabitants of Uruguay without discrimination of any kind.

4.4 Freedom of thought, conscience and religion

107. Article 14 provides that freedom of thought, conscience and religion is part of the basic core of guaranteed rights and any infringement of or threat to that freedom will bring the relevant legal safeguards into play. Religious instruction in schools is not compulsory for children who express the desire not to partake in it.

4.5 Protection of privacy (article 16)

108. Article 96 of the Children and Adolescents Code guarantees the general principle of protecting children's privacy and protecting them from any use of their image in a way that might harm them or that might identify a particularly vulnerable child. It is prohibited to identify any young person who has committed an offence to the media. Civil servants who pass such information on to the press will be suspended without pay from their posts, and repeat offenders will be dismissed. The media are held responsible for the dissemination of any names, photographs, videos or any other means of identifying young people. The courts punish failure to comply with this article with a fine.

4.6. Access to appropriate information (art. 17)

109. No information is available on the production and dissemination of children's books or the dissemination by the mass media of information and material of social and cultural benefit to children [tax regime].

4.7 Protection of the child from the dissemination of material injurious to his or her well-being.

110. The new code combines various provisions that were already in force in the national regulatory system, with the concurrent development of new protection measures. In this area, radio and television programmes broadcast at times when a wide audience of children is likely to be watching are urged to promote educational objectives, human values and the principles of the democratic rule of law. In this respect, they are required not to show programmes which promote violence, crime, discrimination, pornography or antisocial behaviour.

111. The following guiding principles have been established to protect children from programmes which may affect their well-being: programmes must not incite violence, crime or discrimination; advertisements must be understandable and truthful; and children may not appear in advertisements for alcoholic beverages, cigarettes or any other product injurious to physical or mental health. The participation of children in advertisements that constitute an offence to their dignity or their physical, psychological or social integrity is also prohibited. Overseeing compliance with these principles is the responsibility of the National Minors' Institute or the competent court, as the case may be.

4.8 The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment (art. 37 (a))

112. Torture has not been incorporated into Uruguayan criminal law as a separate offence, but acts that constitute the offences of torture fall within the framework of behaviours criminalized by domestic law. Article 15 of the code sets out the State's obligation to protect children and young persons.

113. The Uruguayan Institute for Children and Adolescents (INAU) is a decentralized State body whose primary responsibilities include the provision of policy guidance in matters related to children, together with the promotion, protection and care of children and their relationships with their families, using all the resources available to it.[10]

114. Notwithstanding the scope of its mission, the Children and Adolescents Code, adopted in September 2004, stipulates that the institute's activities should focus on the most disadvantaged and vulnerable children and young people.

115. Currently, INAU caters for 60,000 children in a variety of care settings throughout the national territory, through direct State services and agreements with non-governmental organizations, as detailed in the information annexed hereto.

116. Based on the analysis of the chronology of events provided above, it can be asserted, in broad terms, that during the period under review the level of assistance was increased mainly through the provision of more part-time care. That is to say, assistance was provided for children in community-based facilities providing day or night care according to the youngsters' needs and offering various options other than boarding.

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[10] Children and Adolescents Code.

117. It should nevertheless be pointed out that the relative proportion of the population receiving 24-hour care, that is to say, children placed in institutions, remained between 9 per cent and 12 per cent of the total number of children receiving care.

118. In addition, it should be noted that, in absolute terms, the population living full-time in an institution increased between 2000 and 2004, with a significant rise in 2002. This was initially associated with the fact that in 2002 the country experienced its worst socio-economic crisis in 25 years (INAU, 2005).

Table IX

Population of the National Minors' Institute (INAME)/INAU system, by type of care provided (2000-2004)

Type of care provided	Description	2000	2001	2002	2003	2004
Part-time	Part-time	50 679	55 394	59 395	58 516	74 535
	Special education	1 185	1 146	1 204	1 326	1 532
	Total part-time	51 864	56 540	60 599	59 842	76 067
24-hour	Special education	815	859	839	845	812
	Other	6 117	6 290	6 701	6 931	6 834
	Total 24-hour	6 932	7 149	7 540	7 776	7 646
Total		58 796	63 689	68 139	67 618	83 713

Source: Child Data System Project (SIPI) (data supplied by INAME).

Table X

Trends in INAME/INAU care centres, by type of care provided (2000-2004)

Type of care provided	Description	2000	2001	2002	2003	2004
Part-time	Part-time	456	469	472	482	562
	Special education	19	21	23	23	29
	Total part-time	475	490	495	505	591
24-hour	Special education	28	29	27	29	28
	Other	643	648	628	623	637
	Total 24-hour	671	677	655	652	665
Total		1 146	1 167	1 150	1 157	1 256

Source: SIPI (data supplied by INAME)

(a) INAU's protection service, Línea Azul

119. INAU has a free telephone service for child abuse. The service, called Línea Azul, currently operates from Monday to Friday, between 8 a.m. and 8 p.m., and provides nationwide coverage.

120. It became operational in 1999, and has received 10,333 requests for intervention to date. Most cases of abuse are reported by third parties; a lower percentage of cases are reported by the child or young person involved.

121. The service coordinates its activities with community stakeholders and with all other INAU services and offers yet another way of addressing extremely high-risk situations for children.

122. A historical analysis of the service shows that the number of requests for intervention has risen, which might indicate a higher level of citizen awareness of abuse and its consequences.

123. The requests for intervention received are classified in accordance with the following forms of child abuse:

- *Physical abuse*. This consists of intentional physical assault on a child, or young person and its intensity may be recorded as low, moderate or severe. It is also classified according to whether it occurred recently, recurrently or previously;

- *Psychological abuse*. This is considered to be an assault on the emotional life of the child, generating multiple conflicts on a temporary or permanent basis;

- *Neglect*. This is considered to be deprivation of the basic elements (when they are available) that enable the harmonious all-round development of the child;

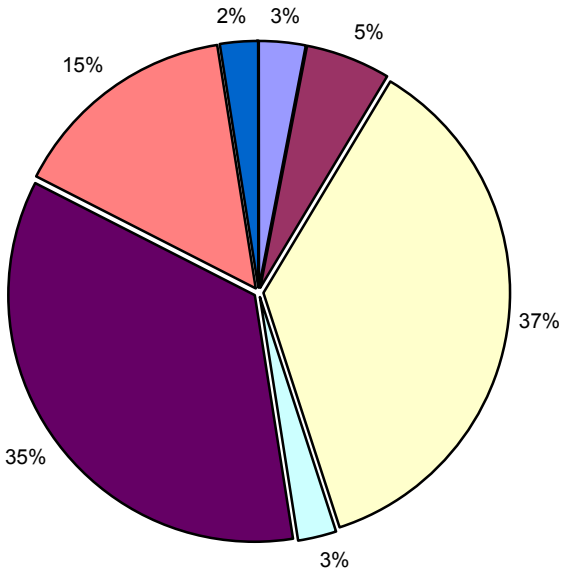
- *Sexual abuse*. This is the involvement of a child in sexual activities performed by adults seeking sexual gratification whose victims are dependent and incapable of understanding the true significance of these activities and who are thus incapable of giving consent. Moreover, such activities are inappropriate at their age and level of psychosexual development and are imposed under pressure, through violence, blackmail or seduction;

- *Exploitation*. This refers to the exploitation of children by employing them before they reach the minimum age for employment established by the Children and Adolescents Code - which thereby also affects their schooling. A commercial activity that subjects the child to working in the sex trade or industry, including for the purposes of pornography and sex trafficking, is considered sexual commercial exploitation;

- *Street children*. This refers to children living permanently on the street, who are thus exposed to situations in which they are extremely vulnerable and open to various forms of abuse.

Figure III

Intervention by INAU, by type of child abuse



Source: INAU Línea Azul, 2005.

Figure IV

Complaints of abuse to the Línea Azul hotline, by age and year

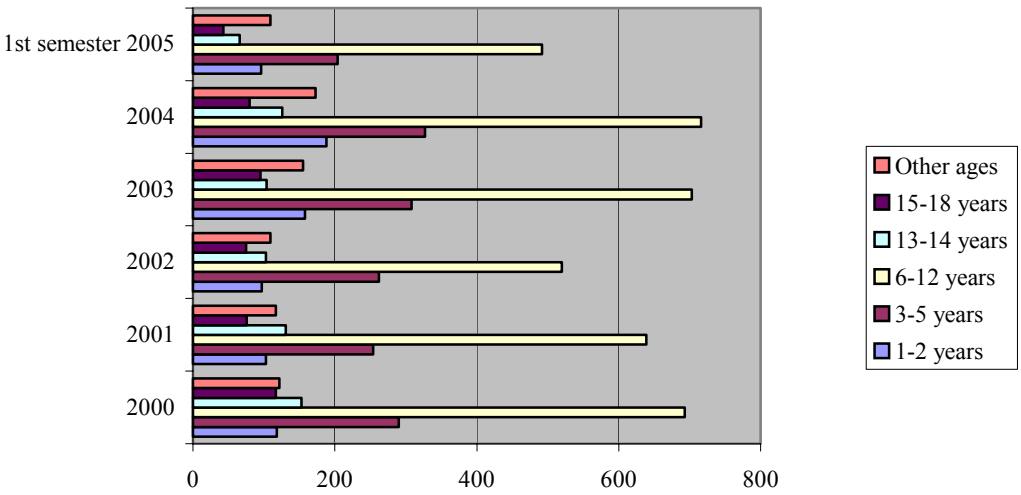
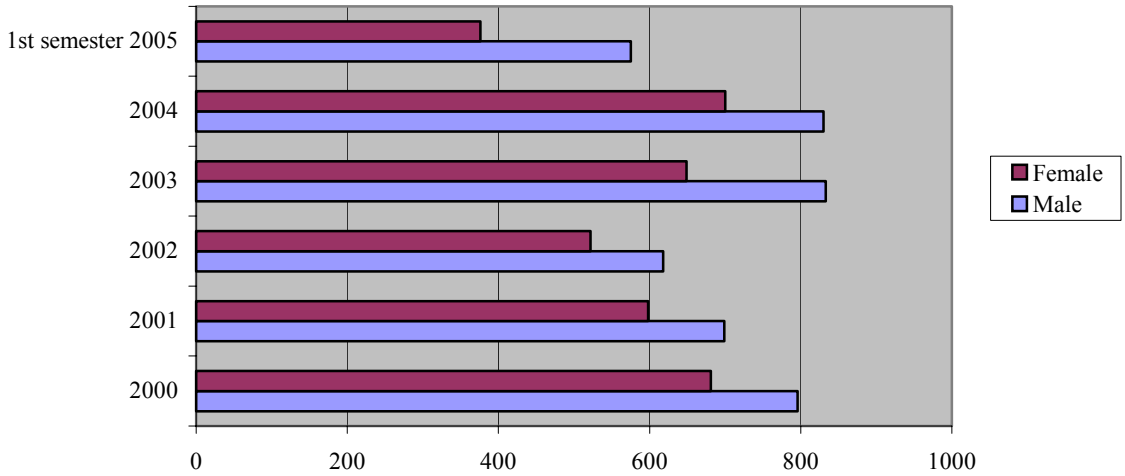


Figure V

Reports of abuse, by gender and year



124. It can be seen from the information provided that complaints concerned mainly children aged 6-12 years and 3-5 years, a majority of whom were boys. As to the type of abuse reported, neglect was most common (37 per cent), followed by psychological abuse and street children. Abuse has been on the increase since 2002, probably as a result of the economic crisis.

5. FAMILY ENVIRONMENT AND ALTERNATIVE CARE (arts. 5; 18, paras. 1 and 2; 9-11; 19-21; 25; 27, para. 4; and 39)

5.1 Parental guidance (art. 5)

125. Domestic legislation regulates parental duties. Article 16 of the Children and Adolescents Code defines these duties as follows: to respect and take into account the fact that children and young people are subjects of law; respect the child's right to be heard and express views; help ensure that children actually enjoy their rights; offer children guidance in how to exercise their rights; adequately discipline their children and charges; request or allow the intervention of social services in the event of a conflict that cannot be resolved within the family and that puts the child's rights at grave risk; ensure regular attendance at educational institutions and participate in the educational process; and fulfil all other duties inherent in being a parent. [Information on training programmes for parents not available.]

5.2 Parental responsibilities (art. 18, paras. 1 and 2)

126. In the national context, all children up to the age of majority have the right to receive from their parents or guardians the protection necessary for their all-round development, and it is the duty of parents to provide this. Mothers and fathers have the same parental obligations

towards their children. In this regard, for example, the law establishes that both parents are responsible for child maintenance, without establishing any preference between them. These obligations apply to both biological families and adoptive families.

5.2.1 Measures to protect children's rights that are under threat or vulnerable

127. The family judge shall take protection measures if the recognized rights of children and adolescents are under threat or violated. If the decisions adopted by the judge involve the protection of the child's rights from the child's own family, the judge is authorized to impose: a reprimand; temporary family guidance, support and follow-up to be provided by recognized public or private programmes; an obligation to enrol the child in an educational institution or educational or training programmes and to monitor the child's attendance and progress; and, as a last resort and in very serious cases, a referral to a public or private family protection programme.

128. The officiating judge may even order measures to be executed by the State, through the lead agency for children's and young people's affairs. Thus, for example, the judge may order the enrolment of the child in a comprehensive day-care scheme or the provision of outpatient medical, psychological or psychiatric assistance in a public or private institution.

5.3 Separation from parents (art. 9)

129. Uruguayan law establishes the right of children to enjoy community life with their parents and family.[11] Article 12 of the Children and Adolescents Code establishes that the family is the best environment for ensuring overall protection. All children and young people have the right to live and grow up with their families and not to be separated from them for financial reasons. Separation is permissible only when the judicial authorities, bearing in mind the child's best interests and observing due legal process, identify an alternative to the family. In the event of family separation through divorce, the right of the child to maintain personal relations and direct contact with one or both parents must be respected, unless it is contrary to the child's best interests. Children or young persons who do not have a family have the right to grow up in the care of a foster family or children's home, which is selected with the objective of ensuring their well-being. If none of these alternatives is possible, the child shall be sent to a public or private institution, but every effort shall be made to ensure his or her stay there is temporary.

(a) Right of the child to express his or her views in proceedings involving separation from his or her family

130. The new code guarantees that one of the fundamental responsibilities of the officiating judge is to ensure that the views of children are heard in all judicial proceedings to determine their temporary or permanent separation from the nuclear family.

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[11] Children and Adolescents Code, art. 12.

(b) Right of the child to maintain contact with parents from whom he or she is separated

131. This right is clearly provided for in the Children and Adolescents Code. In addition to the general obligation established by article 12 of the Code, article 38 provides that all children and adolescents have the right to maintain contact with their parents, grandparents and other relatives from whom they are separated. In any decision on visitation rights, the views of the child must always be heard. Under the law, the unjustified refusal by one parent to allow the other parent to visit the child is a serious matter, as is non-compliance with agreed visiting arrangements if this affects the emotional development of the child or young person.[12]

(c) Children separated from their parents owing to exile, detention or similar circumstances

132. Since the child is recognized as a subject of law, the law provides for the possibility of initiating *amparo* proceedings to protect the child's constitutional rights. The proceedings may be brought by the Public Prosecutor's Office or any interested party, including welfare associations or the child, assisted by a guardian ad litem. Under the current system, the Uruguayan State has a full array of democratic institutions and in the last 18 years there have been no recorded cases of deportation or forced exile. There are no systematic statistical data on the detention, exile, deportation or death of children or young persons.

5.4 Family reunification (art. 10)

133. The State has a policy that is in keeping with, and respectful of, the principle of family reunification. Uruguay's joint programmes with other countries on the continent on the reception of refugees put this principle into practice. The application for asylum is submitted by the person concerned, his or her family members or national or international organizations such as the Office of the United Nations High Commissioner for Refugees (UNHCR), and the process involves checking the points on which the application is based, particularly family separation. In application of the principle of family unity enshrined in annex I of the Final Act (section IV, recommendation B) of the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons, which adopted the 1951 Convention relating to the Status of Refugees and its 1967 protocol (ratified by Uruguay through Act No. 13777 of 17 October 1969), Uruguay extended the rights of refugees to cover their families too. As a result, during the period 1990-2005, refugee status was granted to the persons referred to in the table below, of whom 12 were children at the time (Ecumenical Service for Human Dignity, 2005). These data are disaggregated in the table.

[12] Children and Adolescents Code, art. 93.

Table XI

Total number of refugee children and dates of reunification in Uruguay (1990-2005)

Refugees	Date of reunification	Women	Men	Children	Total
1	4 October 1990	1		2	3
1	26 June 1992	1		1	2
1	20 October 1994	1		1	2
1	15 August 1996	1		2	3
1	6 February 1999	1		5	6
1	29 September 2002	1		1	2
6		6		12	18

Source: Ecumenical Service for Human Dignity, 2005.

5.4.1 Measures adopted to guarantee the right of children whose parents reside in different States to maintain contact with both parents

134. As previously stated, the law guarantees the right of children to maintain contact with their parents, grandparents and other relatives and consequently to have visiting arrangements with them. Visiting rights are preferably agreed by the parties themselves. If they cannot reach agreement, the judge in the place of the residence of the child or young person has the authority to establish visiting arrangements for the parents.

5.4.2 Right of the child to leave his or her country

135. In Uruguay, there are no restrictions of any type on persons leaving the country. In practice, as a result of the national economic crisis, a significant number of nationals decided to emigrate. Despite this, legislation does not make these departures subject to any restriction. Article 191 et seq. of the new code regulate travel authorization for minors travelling with their parents, alone or in the company of third parties.

5.5 Illicit transfer and non-return (art. 11)

136. The Children and Adolescents Code contains an important innovation in that it regulates the duties of the State in respect of the protection of the rights of the child. The general principle is that the State shall protect the rights of all children under its jurisdiction, regardless of their ethnic, national or social origin, sex, language, religion, political or other opinion, economic status, mental or physical disabilities, birth or any other circumstance of the child or the child's legal representatives. Article 15 of the Code establishes the State's special duty to protect children and adolescents from abandonment, sexual abuse or exploitation for the purpose of prostitution; harassment, segregation or exclusion in places of education, recreation or work; economic exploitation or any type of work harmful to their health, education or physical, spiritual or moral development; cruel, inhuman or degrading treatment; incitement to use tobacco, alcohol, inhalants or drugs; situations that might put their lives at risk or incite violence,

such as the use or sale of arms; situations which put their safety at risk, such as illicit detention or transfers; and acts that jeopardize the child's right to an identity, such as illegal adoption or the sale of children.

137. In practice, the few recorded cases of the illicit transfer of children are the result of illegal adoptions overseen by organizations involved in the trafficking of children for this purpose. In this regard, the new code also extensively regulates the conditions that must be fulfilled in the case of adoption, as well as the supervision by the National Minors' Institute of the legality of the proceedings. The establishment of a national register of national and international adoptions, with a view to checking the procedures, will also contribute to these efforts. Adopted children or young persons may only leave the country once judicial authorization has been granted and in the company of one or both of the adoptive parents. The Ministry of the Interior, the authority in Uruguay that is responsible for controlling the illicit transfer of children, does not have any official data on these situations.[13]

5.6 Recovery of maintenance for the child (art. 27, para. 4)

138. The definition of maintenance in Uruguayan law includes monetary assistance or assistance in kind that helps meet the child's need for food, accommodation, clothing and medical care, the cost of acquiring a profession or trade and the cost of education, culture and leisure. The maintenance payment is proportional to the financial capacity of the person responsible and the needs of the beneficiaries, children or young persons. Children under the age of 18 and those over 18 and under 21 who do not have a sufficient income of their own to ensure a decent standard of living are considered beneficiaries of maintenance. In the case of children with disabilities, the obligation exists whatever the child's age. The following persons are legally obliged to pay maintenance: (a) biological, legal or adoptive parents; (b) grandparents, preferably those of the financially responsible parent; (c) legitimate or illegitimate siblings, with preference to those who share both parents; and (d) aunts and uncles.

5.7 Children deprived of their family environment (art. 20)

139. In cases in which the rights of the child are threatened in any way, the qualified family judge takes urgent steps to place the child in care. In cases in which the threat comes from within the family, the child may be placed with a family or person selected by the National Minors' Institute. These measures form part of the programmes of temporary alternative care. Definitive separation of the child from his or her birth family may only be decreed by court order, following a report by a team of experts. Under the law, the referral of a child deprived of his or her close family to a permanent State-run care institution is a last resort, after all the aforementioned alternatives have been exhausted.

5.8 Adoption (art. 21)

140. Domestic legislation recognizes two types of adoption: simple adoption and full adoption ("legitimation by adoption").

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[13] Information provided by the Ministry of the Interior.

(a) Simple adoption

141. Any person over 25 years of age, irrespective of his or her marital status, is authorized to adopt, provided he or she is at least 15 years older than the adoptee. Married couples wishing to adopt must have been married for at least one year and have had the child in their care for the same period. When calculating the time periods, stable cohabitation prior to marriage is taken into account. Any child or young person giving consent is eligible for adoption. The adoption of children who are subject to parental authority is contingent on the consent of whoever exercises that authority. Adoption applications are handled by the family court in the place of residence of the adoptive parent. Before an adoption is granted, the Uruguayan Institute for Children and Adolescents, as the lead agency for all matters pertaining to children, must provide the court with an assessment of the personal circumstances of the adoptive parent(s), the stability of the home and any other aspect that might have some bearing on whether an adoption request should be granted.

(b) Legitimation by adoption

142. Legal adoption is available to any child who has been abandoned, has lost both parents or is in institutional care or whose parents are unknown, or any legitimate child whose father or mother requests such proceedings. This type of adoption is also authorized in respect of children who have been abandoned by one parent if requested by the other parent together with the latter's new spouse.

143. Abandoned siblings are placed with the same adoptive family wherever possible. Adoption requests can be made by: (a) couples who have been married for at least four years, are over 25 years of age and at least 15 years older than the adoptee, and who have had the child in their care for at least one year; (b) widows or widowers and divorced spouses who had the child in their care during the marriage and after its dissolution. Both age requirements and other conditions are flexible, depending on the specific circumstances of each individual case. Decisions on adoption fall within the remit of the family courts, subject to prior assessment by the Institute for Children and Adolescents.

(c) Intercountry adoption

144. Intercountry adoption is a fallback solution, since legislation provides that the Institute for Children and Adolescents and other competent authorities must give priority to placing children with families or in institutional care within Uruguay. Where this is not possible, intercountry adoptions may be granted, but only with countries where childcare protection standards are similar to those in Uruguay.

145. Foreign couples may adopt if they have been married for at least four years and have lived with the child in Uruguay, even intermittently, for at least six months.

146. Intercountry adoptions are granted by family courts in the place of residence of the adoptee.

5.9 Periodic review of placement (art. 25)

147. The new Children and Adolescents Code stipulates that there must be a periodic review of placements. The situation of children placed in institutions or participating in projects or programmes conducted by non-governmental organizations under agreements with the National Minors' Institute is reviewed periodically.

148. These reviews are carried out by social workers or other professionals, who establish whether the children's living conditions, treatment and education meet the required standards. The Institute for Children and Adolescents is entitled to issue observations or report violations of children's rights or any irregularities or offences it observes.

149. Courts may order the termination or replacement of custodial socio-educational measures imposed for serious violations, should this be the advice contained in the relevant technical report.

5.10 Abuse and neglect, including physical and psychological recovery and social reintegration (art. 39)

150. As already mentioned in the oral presentation, Uruguay has made domestic violence a criminal offence.[14] On 9 July 2002, parliament approved a national plan of action to combat domestic violence. The law defines domestic violence as any action or omission that directly or indirectly, in any way whatsoever impairs, by illegally restricting, the free exercise or enjoyment of a person's human rights and that is brought about by a person with whom he or she is or was engaged, or has or has had an affective relationship based on living together as a relative, spouse or partner in a de facto union. Domestic violence can take the form of physical violence, psychological or emotional violence, sexual violence or violence against property. Any person who learns of a case of domestic violence may report the incident and take part in the proceedings as a third party.

151. In all matters pertaining to domestic violence, the judge appointed may, at the request of the Public Prosecutor's Office or a party to the proceedings, order victim protection measures. Under the Criminal Code, precautionary measures may include: removal of the aggressor from the shared home; the return of the victim to the home; prohibition or restriction of access by the aggressor to the victim's home, place of work or study or any other place frequented by the victim; a ban on the aggressor communicating, having contact, meeting or engaging in any

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[14] Art. 321 of the Criminal Code, which was incorporated in that Code by art. 18 of Act No. 16707 of 1995: "A person who, through violence or threats over an extended period of time, inflicts harm on another person with whom he or she has or has had an affective relationship or ties of kinship, irrespective of the existence of any legal ties, shall be liable to 6-24 months' imprisonment. The punishment shall be increased by between one third and one half if the victim is female, if the circumstances and conditions mentioned in the previous paragraph apply. The harsher punishment also applies if the victim is under 16 years of age, or if his or her physical or mental capacities are reduced because of their age or for other reasons, and is a relative of or lives with the perpetrator."

similar conduct with the victim; surrender of any weapons in the possession of the aggressor and a ban on future possession; temporary maintenance payments to the victim; obligatory enrolment by the aggressor in a rehabilitation programme.

152. Pursuant to article 18 of the above-mentioned law, in order to prevent secondary victimization, the confrontation or joint appearance in court of the aggressor and victims under 18 years of age is prohibited.

(a) Institutional mechanisms to deal with citizens' complaints

153. The Ministry of the Interior has established a direct-dial public telephone hotline for victims of violence. This service, known as "SOS Niños" (SOS Children), became operational in 1999 and covers all of metropolitan Montevideo, comprising a total of 1.7 million persons. The service is run by a professional team of psychologists, social workers and community police officers.

154. The assistance provided involves specially trained staff taking the call and transferring it to a member of the professional team, who determines whether the call should be handled by SOS Niños or transferred to an outside institution. If SOS Niños takes on the case, the professional team visits the caller's home to verify the claim made by telephone. The National Crime Prevention Department has introduced an interview-based system for analysing individual cases. If the existence of an offence is established, a report is sent to the competent judicial authorities.[15]

(b) Prevention of domestic violence and dissemination of relevant information

155. The Ministry of the Interior, with the support of international cooperation agencies, has been implementing a citizens' security programme since 1998. In this framework, domestic violence was made a policy priority.

156. The programme financed a series of publications, including:

- 500 copies of the book *Violencia familiar, una aproximación multidisciplinaria* (Domestic violence, a multidisciplinary approach);
- 1,000 copies of the Uruguayan guidelines for social workers, sponsored by UNICEF, Foro Juvenil and the National Institute for Youth;
- Information leaflets containing information on services available to victims of domestic violence, which were distributed to educational establishments, health centres, police stations and non-governmental organizations;

[15] Following the change of government in Uruguay on 1 March 2005, many of these services are currently being reorganized.

– Information leaflets available at bus stops, prepared in cooperation with the British Embassy and containing information on the 24 Montevideo police stations providing assistance to persons affected by domestic violence.

(c) Training on domestic violence

157. Uruguay conducted various training programmes for public officials working in the health sector, education, the police and the judiciary. Representatives of civil society and academics also took part.

158. Some of the most important training programmes were:

– Programme on crisis support and referral criteria for health, education, police and judicial staff, conducted by the non-governmental organization Mujer Ahora (Women Now);

– Training programme on initial support for victims of domestic violence aimed at health-care professionals, conducted by the Faculty of Psychology of the Catholic University.

(d) Projects dealing with family violence

159. The following key projects were implemented in Uruguay during the period under review:

Subprogramme D: Family violence - project support		
Institution/project	Expected outcome on completion	Results achieved by April 2001
Arcoiris Objective: direct assistance to child and adolescent victims (between 3 and 15 years of age) of violence, ill-treatment and sexual abuse; training and capacity-building for persons working with this population group Duration: 36 months Total cost: US$ 41,000 Start: December 1998	Support for 210 child and adolescent victims of ill-treatment and sexual abuse	345 children and young persons assisted
	Support for 120 parents or adults in charge of victims of ill-treatment and sexual abuse	249 adults working in the field of ill-treatment and sexual abuse assisted
	120 professionals trained in early detection and initial response to situations of ill-treatment and sexual abuse of children and young persons	51 professionals trained

Subprogramme D: Family violence - project support		
Institution/project	Expected outcome on completion	Results achieved by April 2001
Plemmu Objective: set up a crisis centre to provide psychological and legal advice, guidance and referral for female victims of violence over 14 years of age in the Pando area; extend the Montevideo helpline to Canelones to take calls, offer support and make referrals Duration: 36 months Total cost: US$ 150,040	Offer assistance and advice to 1,200 female victims of violence in Pando	424 women in Pando assisted
	Offer assistance and advice to 1,200 female victims of violence in Ciudad de la Costa	456 women in Ciudad de la Costa assisted
	Make available a telephone support, advisory and referral service to 1,500 female victims of violence in Canelones	Contract cancelled by mutual agreement
Casa de la Mujer de la Unión Objective: comprehensive support system, improving victims' quality of life through training and access to employment and by boosting their self-esteem to enable them to lead an independent life Duration: 36 months Total cost: US$ 105,000 Start: February 1999	Psychological, social and legal support service for 1,500 women victims of domestic and sexual violence	2,028 women assisted
	Help women victims of violence find a job	139 women registered with the employment office by December 2000 35 women in employment by December 2000
Comuna Mujer - Montevideo city council Objective: strengthen the "Comuna Mujer" project run by the Montevideo city council aimed at working-class women in zones nos. 9, 12 and 18 of Montevideo and the corresponding NGO-run services, and train women from neighbourhood associations Duration: 36 months Total cost: US$ 134,400	Psychological, social and legal support service for women victims of family violence in the district community centres (CCZ) in zones 9, 12 and 18 Psychosocial consultations: CCZ 9: 1,200 CCZ 12: 1,034 Legal consultations: CCZ 18: 1,560	CCZ 9: 649 consultations since May 1999 CCZ 12: 703 consultations since February 1999 CCZ 18: 1,222 consultations since May 1999

Subprogramme D: Family violence - project support		
Institution/project	Expected outcome on completion	Results achieved by April 2001
Start: March 1999	Domestic violence training programme for 30 women from neighbourhood committees, local councils and administrative bodies	3 training courses for 41 community workers
El Faro youth forum Objective: support for women, especially young women who are victims of violence and sexual abuse; awareness-raising; finding ways to approach aggressors Duration: 36 months Total cost: US$ 60,000 Start: December 1998	Support for 1,350 adolescent victims of ill-treatment	1,037 youngsters served
	Training of 150 community workers	111 agents trained
	Outreach to 56 aggressors in order to involve them in the process	37 aggressors involved
Mujer Ahora Objective: contribute to eradicating violence through preventive action, support and training of community workers Duration: 30 months Total cost: US$ 129,000 Start: April 1999	Psychological, social and legal support for 1,200 women victims of domestic violence	821 women assisted
	400 community workers trained in prevention and initial response to domestic violence	410 workers trained
Centre for Victims of Domestic Violence (National Crime Prevention Department) Objective: establish an institutional network in metropolitan Canelones, thus decentralizing the services provided by the centre Duration: 36 months Total cost: US$ 72,000 Start: May 1999	Training courses for 275 staff working in institutions	144 staff completed their training
	Technical support for partner institutions in respect of the 1,050 cases handled by them	Technical support provided in 376 cases 55 cases referred from institutions

Subprogramme D: Family violence - project support		
Institution/project	Expected outcome on completion	Results achieved by April 2001
Mujer y Sociedad Objective: strengthen victims' self-esteem by raising public awareness of their rights and helping them claim their rights, by establishing new legal advice offices that provide assistance and follow-up and train legal counsellors in prevention Duration: 36 months Total cost: US$ 123,000 Start: April 1999	Legal and psychological assistance for 2,200 women	647 women assisted
	Training of 210 legal counsellors	143 legal counsellors trained
PNEL - women's shelter Objective: respond to the housing and employment needs of families with at least one member in conflict with the law, through the provision of temporary shelter and vocational training workshops Duration: 48 months Total cost: US$ 159,000 Start: April 1999	Housing for 84 families for an average stay of 4 months	Housing provided for 50 families for an average stay of 4 months
	36 housing solutions for women and families	33 housing solutions for women and families
	Sewing workshops for training of 30 women and for garment production	18 women trained as seamstresses and 14 currently in training
	36 employment solutions for women	45 employment solutions, e.g. as domestics or civil servants in the Escuela Chile and the Police Fund

Source: Ministry of the Interior, Citizens' Security Programme, 2004.

6. BASIC HEALTH AND WELFARE (arts. 6; 18, para. 3; 23; 24; 26; and 27, paras. 1-3)

6.1 Disabled children (art. 23)

160. The new code recognizes the right of children with psychological, physical or sensory impairments to participate in society and to have effective access to education, culture and employment.

161. The Government recognizes that the full enjoyment of these rights requires the implementation of basic, complementary, specific and comprehensive social policies adapted to different circumstances, as well as better coordination between the State and civil society.

162. Article 22 of the code establishes that child protection must be ensured through: basic social policies ensuring the effective implementation of the rights of children and young persons guaranteed in the Constitution; comprehensive short- or long-term care programmes for disabled, vulnerable or marginalized children and young persons in need; special medical and psychosocial prevention and care programmes for victims of neglect, ill-treatment, violence or labour or sexual exploitation; programmes for the social and legal protection of children in conflict with the law and education programmes facilitating their social rehabilitation; programmes to promote children's access to sports, culture and recreation; and the use of child development indicators that respect the right to privacy.

6.2 Disabled children and education

163. There are no official data on disabled children and education in Uruguay.

6.3 Child health in Uruguay: historical context (art. 24)

164. Thanks to the welfare state built since the early twentieth century, its expansion during the 1950s, low birth rates and broad access to health care, infant and maternal health indicators in Uruguay have been very favourable (UNICEF, 2004b). However, the structural crisis of the welfare state in the 1960s, which became increasingly pronounced in the 1970s and 1980s, and the social and political changes brought about by the reform process in the 1990s had serious consequences for infant and maternal health, leaving the country to face problems of an unprecedented scale.

165. On the basis of a UNICEF study, the most recent data on different indicators (infant mortality, nutrition, health-care coverage, breastfeeding and HIV) are given below.

6.3.1 Infant mortality

166. Infant mortality in Uruguay, which is closely linked to sanitation and the general welfare of the population, has steadily decreased over the years. The most recent figures illustrate this trend. However, the decrease in infant mortality in Uruguay has been slower than in other countries of the region with similar social and demographic characteristics, such as Chile and Cuba (UNICEF, 2004b). It has not been possible to bring the infant mortality rate down to the level in those countries. In 2001, the infant mortality rate stood at 13.9 per 1,000 live births, which, in absolute terms, is equivalent to 721 children out of a total of 52,000 births per year. In 2002, the rate decreased further to approximately 13.5 per 1,000 live births. Table XII shows the trends in the infant mortality rate disaggregated by neonatal and post-neonatal mortality over the five-year period 1998-2002.

Table XII

Mortality rate (per 1,000 live births)

	Infant	Neonatal	Post-neonatal	Under-5s
1998	16.5	8.7	7.9	19.0
1999	14.4	8.5	5.9	16.9
2000	14.1	7.9	6.2	16.5
2001	13.9	7.9	5.9	16.3
2002	13.5	n/a	n/a	16.0

Source: UNICEF, based on data from the Ministry of Health.

167. The table reveals a steady decline in both neonatal and post-neonatal mortality rates in the period 1998-2002.

168. The main reason for the downward trend in the neonatal infant mortality rate is improved medical care during and immediately after birth. The decline in post-neonatal mortality is due to better follow-up care for mother and child after they leave hospital (UNICEF, 2004b).

169. This shows that, if the infant mortality rate is to be reduced further, both neonatal and post-neonatal care must be improved, including by monitoring pregnancies and providing follow-up care for mother and child after birth (UNICEF, 2004b, p. 25).

6.3.2 Infant mortality and health-care coverage

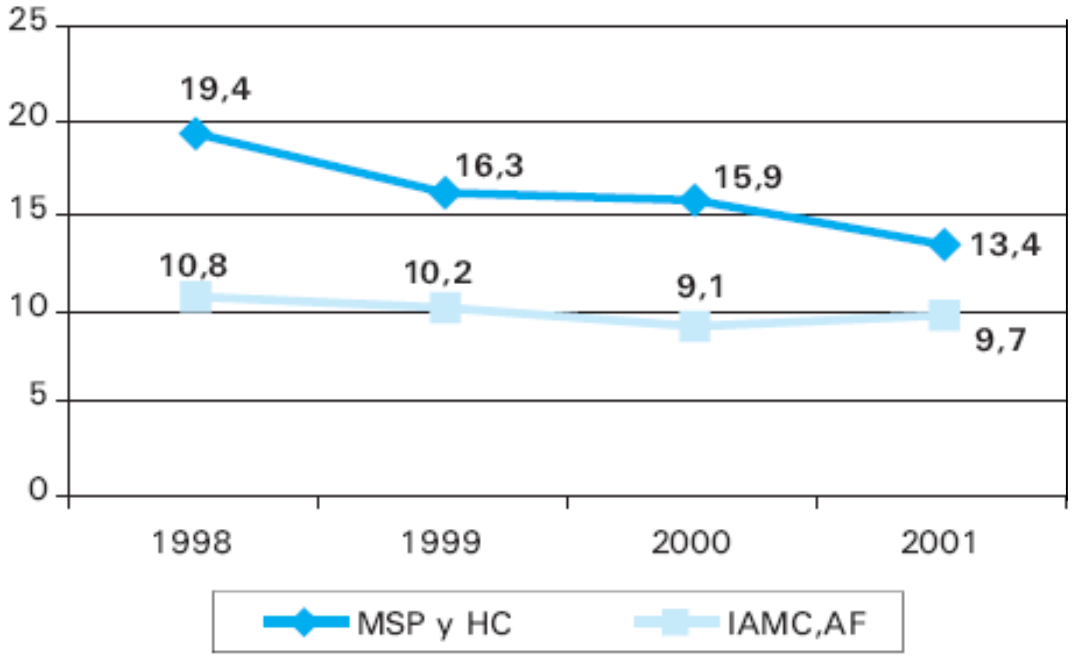
(a) Children up to the age of 5

170. One factor that influences infant mortality is health-care coverage. It is well known that in Uruguay the infant mortality rate varies according to whether treatment is provided under the public or private health-care system. The infant mortality rate in the public sector stood at 13.4 per 1,000 live births in 2001, as compared with 9.7 in the private sector (op. cit., p. 26). The trends in infant mortality rates in the public and private health sectors are reflected in the figure below.

171. Figure VI shows that in 1998 the gap between the two sectors was wider than in 2001: the infant mortality rate in the public sector was 19.4, while it was 10.8 in the private sector. According to UNICEF, the narrowing of this gap is the result of a decline in the rate in the public sector (op. cit., p. 27). The same UNICEF study concludes, albeit provisionally, until a more in-depth analysis is made, that the neonatal mortality rate declined in the public sector and stabilized in the private sector (op. cit., p. 27).

Figure VI

Infant mortality rate by institution where the death occurred



MSP: Ministry of Health.

IAMC: collective health-care institutions.

Source: Data analysis by UNICEF (2004).

172. Nevertheless, other data and considerations should be taken into account. Firstly, although public-sector health care is available to all those who do not have access to any other health-care provision, the Continuous Household Survey shows that 2.8 per cent of children under the age of five have no access to health care (UNICEF, 2004b, p. 31). Trends in the percentage of children under the age of five who have no access to health care in Uruguay are presented in the following table.

Table XIII

Percentage of children with no access to health care

1998	2.3
1999	2.9
2000	2.3
2001	2.8
2002	2.8

Source: UNICEF, based on data from the INE Continuous Household Survey.

173. It would, however, be necessary to ascertain the reasons for this apparent contradiction, whereby part of the population does not receive health care although access to it is, in principle, universal. Accurate data on the subject are lacking. One very plausible interpretation (UNICEF, 2005b) is that the economic difficulties experienced by many households might interfere with adequate access to health services (cost of transport, opportunity, etc.) (op. cit., p. 31). In addition, the profound crisis in the Uruguayan health-care system, exacerbated by the significant migration of service users to the public sector as a result of the national crisis, generated "uncertainty about health-care coverage, which may have led to a decline in the quality of services" and which affected access to health care for children under the age of five.

(b) Children aged 6-12

174. Few data are available on the situation of children in this age group in Uruguay. Mortality is not significant compared to mortality in early childhood: in 2001, 66 children aged between 5 and 9 years died across the country, which represents a rate of 24 per 100,000 children. There is no doubt much to be learned about this age group, with regard to treatment, illnesses, etc. If the causes of mortality, for instance, are analysed, a rise in the number of deaths due to external causes is observed. In recent years, 30-50 per cent of deaths occurred as a result of different types of accident (UNICEF, 2004b, p. 33). Trends in the mortality rate of children aged 5-9 are presented in the following table.

Table XIV

Mortality rate, mortality rate due to external causes, and relationship between external causes of mortality and general mortality among children aged 5-9 (per 100,000 inhabitants)

	General	Due to external causes	External causes as a proportion of general causes
1998	25	9	0.4
1999	27	12	0.5
2000	20	6	0.3
2001	24	10	0.4

Source: UNICEF, based on data from the Ministry of Health.

175. Furthermore, the findings related to health-care provision for children under the age of five also apply to this age group. The INE data show that 3.3 per cent of children in this age group do not have access to health care (UNICEF, 2004b, p. 33). Developments in these data are reproduced in the following table.

Table XV

Percentage of children with no access to health care

1998	3.8
1999	4.3
2000	3.7
2001	3.4
2002	3.3

Source: UNICEF, based on data from the INE Continuous Household Survey.

(c) Children/adolescents aged 13-17

176. As has already been mentioned in relation to other age groups, the Convention on the Rights of the Child protects the right of the child to the enjoyment of the highest attainable standard of health and to adequate access to health services. Adolescence is a period of life associated with specific health requirements. Nevertheless, the prevailing view is that this is not the case, since young people do not have major health problems at this time of life. This view is consistent with that already mentioned of the relative "invisibility" of adolescents to adult society. A consequence of this is that virtually no specific health services address young people's specific needs at this stage of their lives. Health-care services tend to be restricted to obstetric care or mental health care, while other specific health requirements of adolescents are not met adequately. Adolescents are expected to move directly from childhood to adulthood, which clearly demonstrates that the health-care system does not recognize the specific problems faced by adolescents.

6.3.3 Birth weight and infant mortality

177. Low birth weight poses a significant risk to the survival of the child; thus, there is a close relationship between infant mortality and weight at birth. To a certain extent, this indicator measures the child mortality risk, since it partially reflects the social and medical history of the mother. Weight at birth, breastfeeding, and the family's socio-economic conditions are probably the three main indicators of malnutrition (op. cit., p. 28).[16]

[16] In Uruguay, the organization in charge of performing annual measurements to assess the nutritional status of children aged under five is the Nutritional Status Monitoring System (SISVEN) of the Nutrition Department of the Ministry of Health. Only children who have received assistance from the Ministry are covered by SISVEN. A percentage of the high-risk population without coverage is not included (2.8 per cent of children in 2002, according to the INE Continuous Household Survey). However, the shift from the private to the public sector (in 1998, 36 per cent of children under the age of five were treated in the private sector, as compared with 28 per cent in 2001) may have had an impact on the characteristics of the sample population, through greater representation of children who are not at nutritional risk (UNICEF, 2004b).

178. The following table presents the changes in data on low-birth-weight newborns between 1998 and 2001, from which it may be concluded that in 2001, the percentage of low-birth-weight newborns increased to 8.2 per cent, reaching a peak of 9 per cent in 2003. These data were provided by the Child Welfare Programme of the Ministry of Health (2005).

Table XVI

Percentage of newborns weighing under 2,500 grams

Year	Births	Low birth weight	Percentage
1999	54 004	4 269	7.9
2000	52 770	4 010	7.6
2001	51 959	4 506	8.2
2002	51 953	4 156	8.0
2003	50 631	4 557	9.0
2004	50 052	4 304	8.6

Source: Child Welfare Programme, Ministry of Health, 2005.

6.3.4 Malnutrition and infant mortality

(a) Children under the age of 5

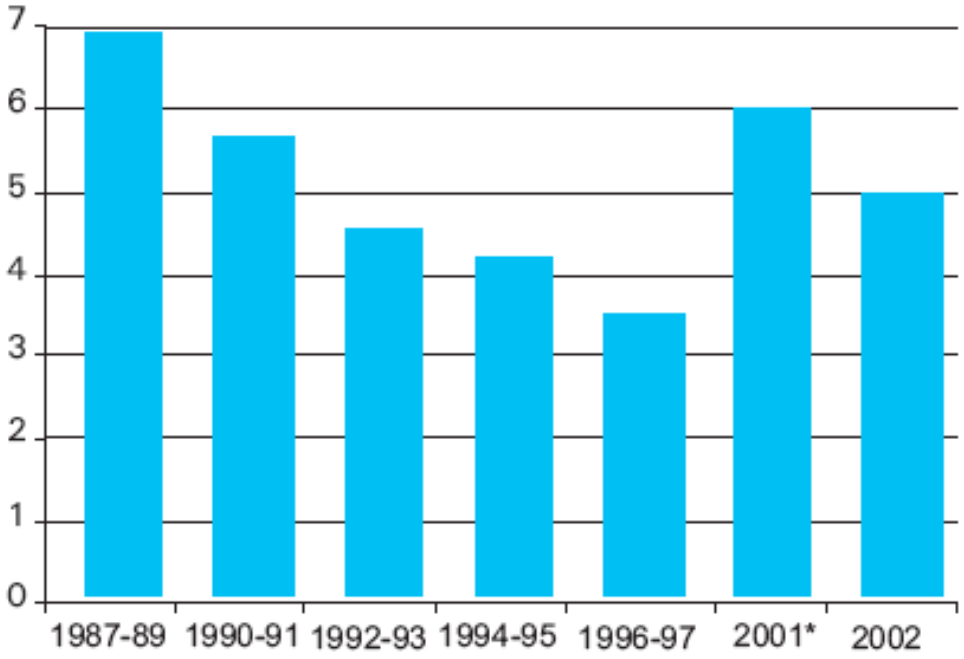
179. In 2002 and 2003, infant malnutrition became a subject of concern on the national public agenda, following a period in which that had not been the case. Certain analysts have interpreted the phenomenon as a consequence of the economic crisis of 2002, while others believe that malnutrition is not immediately related to the economic situation. Moreover, some specialists think that malnutrition cannot be reduced to "a child-specific nutrition problem" but consider it to be an indicator of a whole set of problems related to the child and the child's mother, family and environment (UNICEF, 2004b, p. 28).

180. The number of children in Uruguay slightly increased between the mid-1990s and 2002. Not only global malnutrition (weight/age), but also chronic malnutrition (height/age) and acute malnutrition (weight/height) increased. What is most alarming is that these levels remain approximately the same as in the early 1990s.

181. As shown in the following figure, following a sharply declining trend in malnutrition after 1987 (weight/age criteria), severe and moderate malnutrition started to increase in 2001 (UNICEF, 2004b, p. 28).

Table VII

Severe and moderate malnutrition (weight/age criteria) of the population under 5 years of age receiving assistance from the Ministry of Health



Source: UNICEF, 2004b.

182. Table XVII presents trends in the nutritional status of children aged under five who received assistance from the Ministry of Health in the 1994-2002 period, and table XVIII shows the nutritional status of children in 2002, by age.

183. It may be concluded from these tables that: chronic malnutrition is the most common type of malnutrition in the population receiving assistance from the Ministry of Health, and the highest figures are found in children under the age of one; no data are available regarding micronutrient deficiencies in the country (iron and zinc), which are factors that also contribute to retarded growth; the increase in acute malnutrition is no doubt linked to the national economic crisis, which may have affected the availability of food for the poor; and obesity is a problem that is having a growing impact on the child population (UNICEF, 2004b, p. 30).

Table XVII

Nutritional status of children under the age of 5; public health service users

	Malnutrition (%)			Obesity (%) (>2SD)
	Global (weight/age) (-2SD)	Chronic (height/age) (-2SD)	Acute (weight/height) (-2SD)	
1994-1995	4.1	8.1	1.1	-
1996-1997	3.5	9.4	1.3	-
2001	5.9	12.7	1.2	-
2002	4.9	10.6	1.8	7.4
Ref. pop.[a]	2.3	2.3	2.3	2.3

Source: Nutritional Status Monitoring System (SISVEN), Nutrition Department of the Ministry of Health.

Note: The cut-off points were a z-score of -2 standard deviations. Data for the population assisted by the Ministry of Health until 1997 were obtained from clinical records. Data for 2001 refer to children assisted by the ministry at some time during the year.

[a] Results expected in the reference population, United States National Center for Health Statistics (NCHS).

Table XVIII

Nutritional status of children under the age of 5, by age, 2002

	Malnutrition (%)			Obesity (%) (>2SD)
	Global (weight/age) (-2SD)	Chronic (height/age) (-2SD)	Acute (weight/height) (-2SD)	
Children under 1 year of age	3.6	10.0	1.2	8.4
1-year-olds	8.1	16.7	2.2	9.3
2- to 4-year-olds	5.2	8.1	2.5	5.0
Ref. pop.[a]	2.3	2.3	2.3	2.3

Source: Nutritional Status Monitoring System (SISVEN), Nutrition Department of the Ministry of Health.

[a] Malnutrition according to weight-for-age criteria. Moderate-severe. Percentage lower than -2 standard deviations from the weight-for-age mean of the reference population.

(b) Nutritional status of children aged 6-12

184. A height survey of first-grade State school pupils was conducted in 2002 in Uruguay for the National Public Education Administration school meals programme. The anthropometric measurements performed in the survey illustrate, through the height/age indicator, the most

common patterns of malnutrition in children. According to UNICEF, in its observations on this study, the existence of persons exhibiting height retardation in relation to age indicates strong persistence of malnutrition at some stage in their life. Children in Uruguay do not suffer from severe malnutrition problems, but the survey data indicate the existence of higher levels of moderate and severe retardation as compared to the reference population (UNICEF, 2004b, p. 34). Some 20 per cent of children exhibit moderate retardation, which means that their weight is one standard deviation below that of the reference population, while severe retardation affects 4 per cent of children attending State schools. These data are classified in the following table.

Table XIX

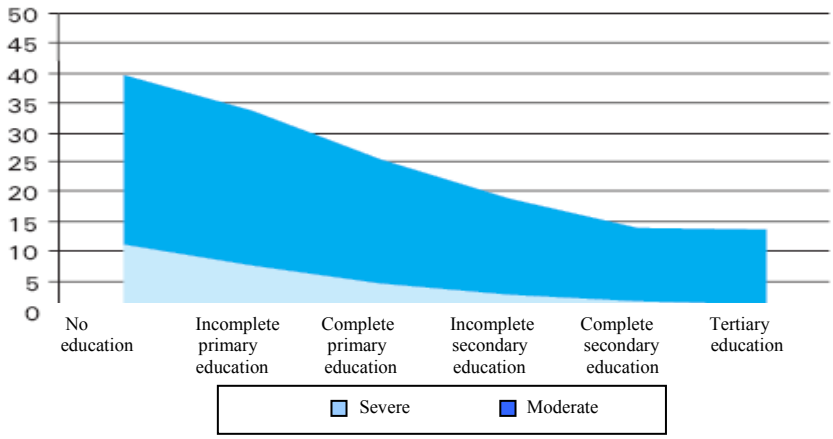
Nutritional deficit in first-graders, by gender, 2002

State schools (2002)	Nutritional status (percentage of first-graders)	
	Moderate height-for-age retardation (-1SD)	Severe height-for-age retardation (-2SD)
Total	18.8	4.1
Boys	19.5	4.8
Girls	17.9	3.3
Expected NCHS	13.6	2.3

185. This nutritional deficit in first-graders is combined with various factors relating to family history, such as insufficient nutrition at specific stages of their life.

Figure VIII

Moderate and severe height-for-age retardation in first-graders, by mother's level of education (%)



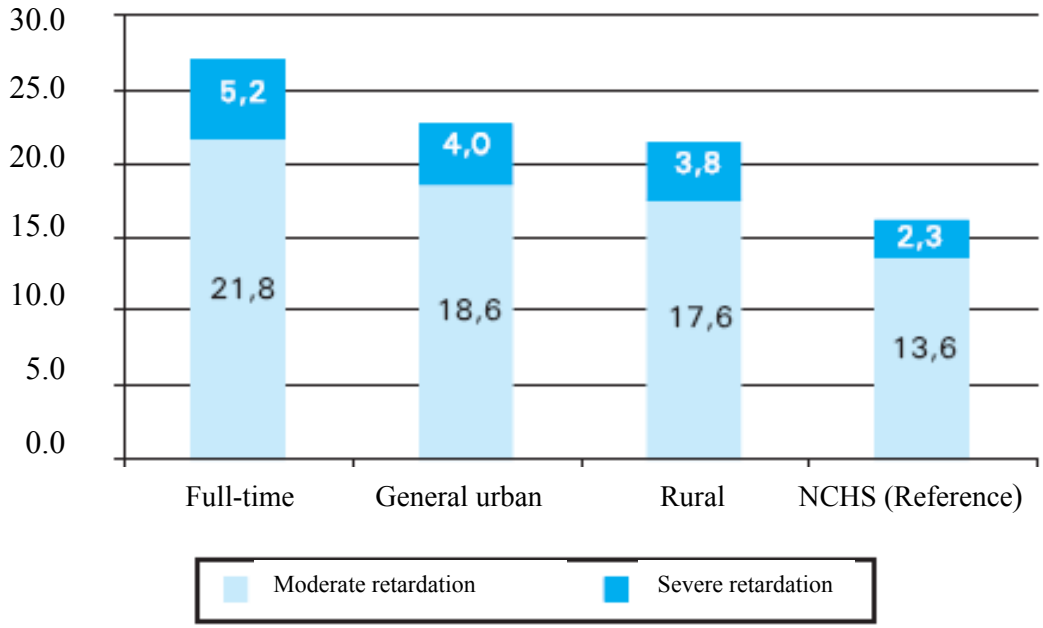
Source: UNICEF.

186. Figure VIII shows the effect of the mother's level of education on the child's health: the probability that a child will present with severe malnutrition in his or her first year at school is six times higher for a child whose mother did not complete primary school than for a child whose mother has had tertiary education (UNICEF, 2004b, p. 32).

187. Regarding types of school, according to UNICEF, the figures show that there is a "nutritional gap" between pupils in Uruguay, resulting from the positive impact of the full-time school programme focused on the poorest (UNICEF, 2004b, p. 32). These figures are shown in the following figure.

Figure IX

Moderate and severe height-for-age retardation in first-graders, by type of school (%)



(*c*) *Children aged 13-17 years*

188. In Uruguay, in the area of nutrition, problems arise when poor children move from primary school where food supplementation programmes are implemented to secondary school, where there are no such programmes. However, there is insufficient systematic information on this category of children.

6.3.5 Breastfeeding

189. In Uruguay, the Child Welfare Programme of the Ministry of Health covers the follow-up, treatment, evaluation and development of breastfeeding policies, programmes and projects.

190. The parts of the report presented by this programme that are most relevant to the present report (Ministry of Health, Child Welfare Programme, 2005) are presented below.

(a) Guiding principles and actions[17]

191. The 1989 Convention on the Rights of the Child clearly establishes the right of all children to adequate nutrition, including breastfeeding. Accordingly, the Ministry of Health has been promoting various activities related to supporting and promoting breastfeeding. Furthermore, programmes have been developed with the support of international organizations such as UNICEF.

192. Breastfeeding is the most valuable resource to ensure the best start in life for all children. Breast milk alone until 6 months of age, then supplemented until 2 years of age, is the best food for a child. It protects the child against diarrhoea and respiratory infections, and each day more evidence arises to suggest that breastfed children have a lower incidence of many illnesses such as cancer, asthma, childhood diabetes and gastrointestinal disorders.

193. During the period between 1995 and 2000, a programme of activities was developed through the national breastfeeding programme and the National Breastfeeding Commission, which included the following courses of action: training of personnel in public and private health services, accreditation of baby-friendly hospitals and clinics, support for and coordination of the celebration of World Breastfeeding Week and monitoring of compliance with the International Code of Marketing of Breast milk Substitutes. Moreover, two surveys were conducted (in 1996 and 1999) on the status of the main breastfeeding indicators and food supplement guidelines.

194. During this period, training was provided to health personnel in most of the Ministry of Health services, and also to health workers and professionals in private services and maternity units, in the context of the baby-friendly hospital accreditation programme. The national breastfeeding promotion programme spurred the WHO/UNICEF Baby-Friendly Hospital Initiative to promote changes in hospital practices and routines to implement the "Ten Steps to Successful Breastfeeding".

195. To date, three baby-friendly public hospitals and two clinics have been accredited in the cities of Rivera and Treinta y Tres. In the private sector, maternity units and a baby-friendly clinic have been accredited.

196. Communication campaigns have been run in the media (television, radio and press) and printed materials have been developed to support training activities, together with materials for the general public and health workers.

197. Throughout a year-long process, an advisory group was busy preparing a national plan for the comprehensive care of children and reproductive health. The plan provides the conceptual and operational basis for implementation involving broad participation, with a view to providing a basic tool to guide health promotion policy, including the operational aims and objectives of improving child nutrition practices, and taking into account specific activities related to the promotion and protection of, and support for, breastfeeding.

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[17] All the data presented on breastfeeding are taken from the report on the Ministry of Health's child welfare programme (2005) produced for the preparation of the present report.

(b) Legislative measures introduced

198. Other measures for the promotion and protection of breastfeeding were taken during the period under review. These include Act No. 17803 of 26 August 2004, which establishes breastfeeding promotion mechanisms and stipulates the following:

> Article 1. The Ministry of Health and the Ministry of Labour and Social Security shall implement breastfeeding promotion mechanisms.

199. Accordingly, the letterhead used for correspondence and invoices from the ministry or the relevant department, including medical centres, must display visibly and legibly the following slogan: "Breast milk is best for newborn babies and infants."

> Article 2. Private medical organizations with gynaecological, obstetric and paediatric units shall display a similar slogan in their letterheads.

> Article 3. Popular consumables used during pregnancy and breastfeeding shall display a similar, easily legible, slogan.

200. Act No. 17386, on assistance during childbirth, was also enacted. The Act stipulates the following:

> Article 1. Every woman, throughout the duration of labour, including the moment of birth, has the right to be accompanied by a person she trusts or, failing this, by a person of her choice who is specially trained to provide her with emotional support.

> Article 2. Every medical centre shall inform the expectant mother of her right to be assisted under article 1 and shall encourage the practice to which that article refers.

> Article 3. The provisions of this Act shall be applied by professionals and by medical institutions in the area of health, both public and private.

(c) Research to improve breastfeeding management

201. In 2003, the Uruguayan Support Network for Child Nutrition and Development, with the support of UNICEF, conducted the third national breastfeeding survey. In August of that year, in the context of World Breastfeeding Week, a workshop was held to draw up recommendations for a national breastfeeding promotion policy. Based on the conclusions of the workshop and in the context of a joint UNDP/UNICEF project, work began on various initiatives, including the accreditation of primary-care services and of the Pereira Rossell hospital, in the context of best practices for infant and child nutrition. In 2003, feeding practices were studied in the case of 2,896 children aged under 2 years. The results obtained were compared with two surveys using identical methods, conducted in 1996 and 1999 with the support of UNICEF for the then breastfeeding promotion programme of the Ministry of Health. The samples were adjusted in accordance with age in months and distribution of births by region (Montevideo and the interior of the country) and type of health service (public and mutual).

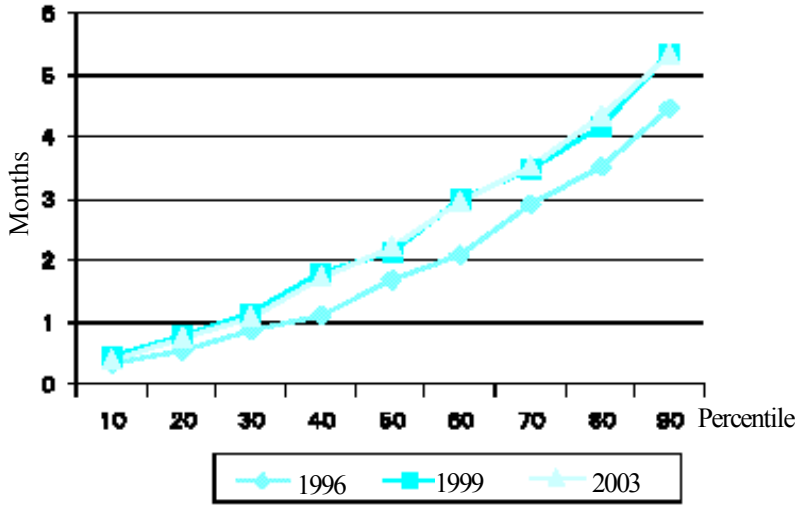
(d) Survey of developments and trends in breastfeeding indicators

202. A descriptive, cross-cutting survey was carried out (1996, 1999, 2003). Its structure makes it possible to triangulate comparative data on breastfeeding trends and prevalence over a period of time (1996-2003). Arrangements were made to dispatch a team of 53 qualified pollsters experienced in dealing with population groups like the survey population. The pollsters received special training in how to conduct the survey. Data was collected using a standardized questionnaire identical to those used on previous occasions. The questionnaire gathers information about the child's feeding regime over the past 24 hours. The field-based collection and compilation of data was carried out between May and June 2003. Eight per cent of children in the survey population were born underweight. This proportion is greater among children delivered in public health facilities (8.6 per cent) than among those born in facilities operated by the mutual sector (7.1 per cent); the statistics department of the Ministry of Health recorded similar figures.

203. According to the weight/age indicator, the nutritional status of the children surveyed had deteriorated in 2003 as compared with previous years: 5 per cent of children were more than 2SD below average, while the proportion in a given reference population is normally expected to be 2.3 per cent. Malnutrition among children in the public health sector was nearly three times as high as among those in the mutual sector. While breastfeeding is initially near universal in Uruguay, in the second month of life one third of children are no longer exclusively breastfed. The average duration of full breastfeeding is 2.2 months, which is similar to the figure for 1999 (2.1 months) and somewhat longer than that for 1996 (1.7 months). A graphical display of the percentiles for exclusive breastfeeding reveals a complete overlap of the 2003 and 1999 curves and a marked difference with regard to the 1996 curve, which shows that the patterns of breastfeeding were the same in 1999 and 2003.

Figure X

Duration of exclusive breastfeeding (percentiles)



204. When analysing breastfeeding prevalence by age, it can be seen that this indicator improved slightly in 2003 (as compared with 1999) for children between 0.1 and 2 months of age; as compared with previous years, there is a notable decrease at 3 months (when various factors, including difficulties arising from temporary crises in breastfeeding and the return to work of many working mothers, coincide) and a subsequent considerable increase at 5 months (from 19.8 per cent in 1999 to 31.9 per cent in 2003). The latter can be explained by the fact that international organizations began to recommend exclusive breastfeeding for six months, as opposed to the earlier, ambiguous, recommendation to breastfeed for four to six months.

205. There was a notable increase in exclusive breastfeeding prevalence in 1999, as compared with 1996.

206. As in the case of exclusive breastfeeding, this rate has improved considerably, with an increase from 14.9 per cent in 1996 to 31.5 per cent in 1999. The 2003 figures were similar to those recorded in 1999 (32.2 per cent).

207. Users of the public health-care system outside the capital are in a more favourable position (36.3 per cent), with more than a 10-percentage-point advantage over the users of mutual services in Montevideo (25.9 per cent). In 2003, accredited child-friendly hospitals and clinics reduced the level of supplementary feeding to 33.4 per cent, as compared with 38.1 per cent in 1999; although these figures remain favourable as compared with those in non-accredited facilities, the gap has been reduced considerably since 1999.

208. Also, in a manner similar to the developments in exclusive breastfeeding, the proportion of children with a low birth weight receiving supplementary feeding, which had increased considerably between 1996 and 1999 (from 9.6 per cent to 19.2 per cent), fell to 15.1 per cent in 2003.

209. One third of children aged 20-23 months in Uruguay are being breastfed (31.3 per cent). This represents a threefold increase since 1996 (11.8 per cent), and a substantial increase compared with 1999 (22.9 per cent).

(e) Activities under the national child health programme (2005)

210. The activities under this programme took into account, in particular, the following points as regards breastfeeding:

- Uruguay is seeing a resurgence of a “breastfeeding culture”;
- In 1996, Uruguay joined the global move by international organizations to promote, protect and support breastfeeding;
- The duration of breastfeeding has been extended: 47 per cent are breastfed for 12-15 months and one third for 20-23 months;
- Fewer children are given water and tea from an early age;

- The average duration of exclusive breastfeeding increased from 2.1 months in 1996 to 2.6 months in 1999, and remains unchanged;

- At 63 per cent, the breastfeeding rate for children younger than 4 months is similar to the 1999 figure (63.2 per cent), but significantly higher than in 1996 (37.6 per cent);

- The rate for children younger than 6 months increased slightly in 2003 (54.19 per cent) as compared with 1999 (50.7 per cent), mainly because more children under 5 months of age were being breastfed;

- Public health-care facilities in the interior are the only ones to have increased the exclusive breastfeeding rate among children under 4 months of age, from 58.6 per cent in 1999 to 67.6 per cent in 2003;

- The rate of exclusive breastfeeding for babies under 4 months of age and the supplementary feeding rate remained stable between 1999 and 2003;

- Breastfeeding indicators are better in accredited health-care facilities than in non-accredited establishments;

- The average duration of breastfeeding was 8.2 months in 2003, 7.3 months in 1999 and 5.7 months in 1996.

211. Based on this information, the programme prioritized a series of activities related to the promotion, protection and support of breastfeeding. To this end, the three surveys conducted in 1996, 1999 and 2003 were used as a basis for analysing the key breastfeeding indicators and identifying priority areas for future action.

Courses of action

212. The programme suggested two courses of action: the first involves bringing national standards on breastfeeding up to date, in conformity with the programme's leadership role within the department of health.

213. Secondly, and concurrently, UNICEF, through the project implementing the Global Strategy for Infant and Young Child Feeding, and the United Nations Development Programme (UNDP), through a project entitled "Improving nutrition and developing life projects", have formed a strategic alliance for cooperation. The strategy is intended to contribute to changing the care model by way of practical activities, giving priority to primary care and coordinating with the outpatient service of the Ministry of Health, municipal general hospitals in Montevideo and the Pereira Rossell maternity ward. It further aims to develop policies and programmes with public-sector health-providers, optimize available resources and coordinate efforts with international agencies. The practical activities mentioned are linked to awarding best-practice certificates in infant and young child nutrition to health services: (primary-care facilities and maternity wards).

Strategy

214. The two courses of action pursued in the framework of the programme are aimed at contributing to the implementation of the Global Strategy for Infant and Child Nutrition, which establishes key actions to protect, promote and support appropriate infant and young child nutrition. The aim of the strategy is to improve, through optimal feeding, the nutritional status, growth and development, health and thus the very survival of infants and young children.

215. The strategy is intended as a guide for action; it is based on scientific evidence of the significance of the early months and years of life for children's growth and development and identifies actions with a proven positive impact during this period.

216. The strategy is based on respect, protection, facilitation and fulfilment of accepted human rights principles. Children have the right to adequate nutrition and access to safe and nutritious food, and both are essential for fulfilling their right to the highest attainable standard of health. Women, in turn, have a right to proper nutrition, to decide how to feed their children, and to full information and appropriate conditions that will enable them to carry out their decisions. The strategy also takes account of the Convention on the Rights of the Child and the World Declaration and Plan of Action on Nutrition (FAO/WHO, 1992).

217. In Uruguay, much remains to be done to achieve universal exclusive breastfeeding during the first six months of life, although important progress has been made in this respect. Supplementary feeding tends to commence either prematurely or too late and the food is often nutritionally inadequate or unsafe. Malnourished children are more prone to illness and suffer the consequences of growth retardation for the rest of their lives. The increase in the number of overweight and obese children is also a cause of grave concern. The first step towards improving infant and young child nutrition is to ensure that women are in good health and well fed at all times, as is their right, and that they receive the necessary support to fulfil their role in taking care of their children and their families. Inappropriate feeding practices and their consequences are major impediments to sustainable socio-economic development and poverty reduction. The provision of adequate supplementary food is contingent on accurate information and proper support for families, the community and the health-care system (Ministry of Health, 2005).

(f) Action in support of the human milk bank in the maternity ward at the Pereira Rossell hospital

218. Human milk is particularly important for premature infants and the small proportion of low-birth-weight infants carried to term, since they are more likely to contract infections, suffer from long-term health problems or die. The programme therefore contemplates a cooperation and support strategy with a view to strengthening and consolidating the work of the human milk bank in the Pereira Rossell maternity ward and is working towards the accreditation of the facility.

(g) Establishment of a technical advisory group on a guide to best practice in infant and child nutrition

219. The main objective of this group is to introduce and analyse a guide to best practice in infant and child nutrition, which will serve as the basic document for the accreditation of health facilities. The group is composed of officials and representatives from different bodies, institutions and organizations working in the field, including civil society organizations, academic institutions, professional associations and international agencies.

220. The group has started a series of technical meetings with key actors (the Faculty of Medicine, professional associations, health service providers and civil society) to discuss and analyse the consensus documents that will serve as a basis for the certification and accreditation of health facilities.

6.3.6 Diseases: HIV/AIDS

221. The observations concerning the situation with regard to HIV/AIDS are based on UNICEF studies (UNICEF, 2004b). In general terms, there was a considerable, nearly twofold, increase in prevalence among the population as a whole from 0.23 per cent in 2000 to 0.36 per cent in 2002, according to studies conducted by the Ministry of Health (UNICEF, 2004b, p. 30). One positive development, namely the decline in vertical (mother-to-child) transmission, is probably related to the quick tests conducted at public-sector maternity wards (see table below).

222. However, it should be pointed out that many women do not receive adequate prenatal care. There is therefore limited opportunity for detecting HIV infection in pregnant women during prenatal checks in Uruguay. Consequently, it is necessary to offer quick checks as an alternative way of reducing transmission (UNICEF, 2004b).

223. The table below shows different HIV and AIDS indicators.

Table XX

HIV and AIDS indicators

	Percentage of perinatal HIV cases (vertical transmission)[a]	Children orphaned by HIV (cumulative total)[b]	Paediatric AIDS (cumulative total)[b]	HIV-positive children (cumulative total)[b]
1995	35.0	-	-	-
2002	5.8	280	64	102

[a] Data provided by the obstetric-paediatric centre for HIV monitoring at Pereira Rossell hospital, State Health Services Administration (ASSE) - Ministry of Health.

[b] Information from the national AIDS programme of the Ministry of Health.

(a) Incidence of HIV/AIDS among young persons aged 13-17

224. Uruguay's institutions have made considerable efforts to respond to the HIV/AIDS epidemic. Despite this, the greatest shortcomings have to do with prevention, especially in the area of education (UNICEF, 2004b, p. 34). This circumstance is of particular relevance, because it affects young people. There has been extensive debate about the contents of sex education programmes but there is still no consistent approach to them within the education system (UNICEF, 2004b, p. 34).

225. The trends in the epidemic in Uruguay show that it increasingly affects young persons and women. While the recorded cases mainly concern 25- to 34-year-olds, sentinel studies suggest that the epidemic primarily affects 15- to 24-year-olds.

226. HIV affects young persons from an early age, which is no doubt related to early sexual relations and high-risk behaviour among this segment of the population (op. cit., p. 35).

227. The lack of information makes it difficult to formulate more appropriate policies and programmes.

6.4 Social security and childcare services and facilities (arts. 26 and 18, para. 3)

6.4.1 Social security programme for children and pregnant women[18]

228. The family allowance scheme is intended to help working parents look after children in their care and to contribute to the children's all-around development. The Social Insurance Bank operates two family allowance programmes for children and pregnant women: the family allowance scheme established by Decree-Law No. 15084 of 28 November 1980, and the most recent programme for children from low-income families set out in Act No. 17139 of 16 July 1999 establishing the programme and Act No. 17758 extending its scope. Both the general family allowance scheme and the programme for low-income families are non-contributory schemes funded from general revenues.

6.4.2 General family allowance scheme

229. Decree-Law No. 15084 covers children and young persons in the care of private-sector employees, unemployed persons, domestic servants, newsvendors, owners of family farms and private-sector retirees and pensioners. In order to be eligible, the beneficiary must be under 18 years of age and enrolled in an accredited primary or secondary educational establishment, and the family income must be below a pre-established cap.

230. The benefit is made up of two components: a monetary allowance and special, in-kind benefits such as access to primary health care and specialized education.

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[18] Section 6.4 is based on the report of the Actuarial Economic Advisory Unit of the Uruguayan Social Insurance Bank (2005).

(a) Child benefits

231. Monetary allowance: Act No. 16697 of 24 April 1995 establishes a sliding scale for allowances, depending on the income of both spouses or unmarried partners living with the recipient. If their combined income does not exceed six times the national minimum wage,[19] the monthly allocation equals 16 per cent of the national minimum wage; if it is 6 to 10 times the national minimum wage, the allocation is fixed at 8 per cent. Those earning more than 10 times the national minimum wage per month are not entitled to benefits, unless the recipient has three or more dependents, in which case the cap is raised by one national minimum wage for each beneficiary after the first two dependents.

232. Table XXI contains statistics on beneficiaries and annual allocations of allowances per child under the general family allowance scheme. In December 2004, a total of 315,220 children received allowances, amounting to a financial outlay of $29 million.

Table XXI

Family allowances (Act No. 15084): number of beneficiaries and cost by geographic area, 2004

	Beneficiaries[a b]	Annual cost ($)
Interior	218 056	20 192 121
Montevideo	97 164	9 205 578
Total	315 220	29 397 699

Source: Based on RING project figures.

[a] December figures.

[b] Includes disabled beneficiaries and prenatal allowances.

233. In-kind benefits: child beneficiaries of family allowances are entitled to primary health care offered at mother-and-child centres operated by the Social Insurance Bank (there are five in Montevideo and one in Pando) or collective health-care institutions elsewhere in the country. Health care includes medical services, food and medicines for children under 6 years of age, dental coverage up to the age of 9, and comprehensive care for children with congenital malformations. The Department of Medical and Surgical Specialities (DEMEQUI) provides special services for persons covered by the family allowance scheme with congenital malformations or perinatal pathologies.

234. Primary-level health care includes:

(a) From 91 days to the day before the child's sixth birthday: medical checks for newborn infants; paediatric check-ups; referral to specialists; vaccinations;

[19] In January 2005 the national minimum wage was replaced as a reference by the benefits and contributions baseline (Act No. 17856 of 20 December 2004).

(b) From 91 days to 9 years: social welfare; dental care and orthodontics, available until the child's tenth birthday. Dental services for children are offered in clinics in Montevideo and Pando only. Orthodontic care is provided in mother-and-child centre No. 3 in Montevideo; travel and accommodation costs are borne by the patient;

(c) From birth to the age of 13 years, 11 months and 29 days, with no age limit for discharge: specialized treatment of congenital malformations at a specialized children's hospital, which refers patients to services such as otolaryngology, plastic surgery for children, neuropaediatrics, urology, orthopaedics, endocrinology and dermatology.

235. Doctors' visits and medicines, as well as the necessary equipment and prostheses (glasses, hearing aids, wheelchairs, etc.) are free of charge. When a patient has to travel from the interior for treatment, the journey and accommodation are free of charge for both the patient and the person accompanying him or her.

236. Tables XXII to XXV contain statistics on health expenditure and medical services covered by the general family allowance scheme. Health expenditure and the cost of travel and specialized care in 2004 amounted to just over $25 million.

Table XXII

Annual outlays for special assistance, travel and health expenditure, 2004 ($)

Special assistance	5 962 515
Travel to health facilities	219 421
Health expenditure	19 167 399
Total medical benefits	25 349 336

Source: Based on Social Insurance Bank balance sheet data.

237. In 2004, health-sector medical staff attended 10,162 deliveries and 10,263 births, representing about one fifth of the total births in the country (in 2003, there were 50,538 births in total, according to the statistical yearbook of the National Statistical Institute).

Table XXIII

Number of deliveries and births in clinics, by geographical area, 2004

	Deliveries	Births
Interior	7 198	7 272
Montevideo	2 964	2 991
Total	10 162	10 263

Source: *Boletín Estadístico, 2005*, AEA - Social Insurance Bank, No. 60.

238. In 2004, the Social Insurance Bank's mother-and-child centres handled almost 196,000 consultations, most of which concerned paediatric medicine and dental health.

Table XXIV

Number of consultations at mother-and-child centres, by speciality, 2004

Paediatrics	87 133
Obstetrics	23 818
General medicine	9 491
Dentistry	75 481
Total	195 923

Source: *Boletín Estadístico, 2005*, AEA - Social Insurance Bank, No. 60.

239. In 2004, there were some 84,300 consultations in the Department of Medical and Surgical Specialities (DEMEQUI) and almost 1,300 operations were performed.

Table XXV

DEMEQUI medical care data, 2004

Service	Number of consultations	Operations
Cardiology	3 748	
Paediatric surgery	2 094	371
Plastic surgery	1 645	180
Dermatology	1 334	
Endocrinology	1 645	
Physiotherapy	800	
Speech therapy	1 572	
Gastroenterology	1 480	
Haematology	703	
Pulmonary medicine	1 509	
Neurosurgery	267	82
Neuropaediatrics	18 789	
Ophthalmology	10 266	192
Orthopaedics	5 642	174
Otorhinolaryngology	7 503	124
Paediatrics	4 308	
Outpatient paediatrics	701	
Psychology	9 681	
Adult psychiatry	1 302	
Child psychiatry	4 096	
Urology	5 273	163
Total	84 358	1 286

Source: *Boletín Estadístico, 2005*, AEA - Social Insurance Bank, No. 60.

6.4.3 Benefits for pregnant women

240. Pregnant women whose children will receive family allowance in future, and who themselves have no medical insurance and are not members of a collective health-care institution, are entitled to health-care coverage through the family allowance system from the time they find out they are pregnant. This is available to all working women who request it, all wives or partners of working men, and single mothers who do not have medical insurance. All the health-care requirements of pregnant women and newborn babies up to 90 days old are covered.

241. The benefits consist of monetary allowances and mother-and-child services. In order to qualify for the prenatal allowance, women must go for at least four health checks during their pregnancy. The mother-and-child health-care service provided by the Social Insurance Bank includes:

- Obstetric check-ups during the pregnancy involving clinical tests and periodic examinations, including special treatments, tests, admissions, dental care, etc.;
- Assistance during delivery;
- Comprehensive care of the newborn baby up to 90 days old.

6.4.4 Benefits for children with disabilities

242. Children with disabilities are entitled to double family allowance; the value is equivalent to 32 or 16 per cent of the national minimum wage, depending on the family's income. This is payable for life or until the disabled person starts to receive another Social Insurance Bank benefit.

243. Apart from double family allowance, children and young people with disabilities are entitled to other benefits to cover the cost of special school fees and transport to schools and rehabilitation institutions.

244. Table XXVI shows the number of beneficiaries and the amount of allowance paid to children with disabilities. In December 2004, a total of 3,171 children with disabilities received benefits through the general family allowance system, and annual spending on the family allowance was slightly over half a million dollars.

Table XXVI

Children with disabilities - family allowance (Act No. 15084): number of beneficiaries and cost, by level of assistance, 2004

	Beneficiaries	Annual cost (dollars)
16% of national minimum wage	174	16 125
32% of national minimum wage	2 997	516 471
Total	3 171	532 596

Source: Based on RING project figures.

6.4.5 Family allowance system for low-income households

245. Since Act No. 17139 entered into force in January 2000, low-income households have been eligible for family allowance. Households are deemed to have a low income if the family's combined monthly income, monetary and otherwise, amounts to no more than three times the national minimum wage. The person qualifying for the allowance must also meet one of the following criteria:

- Be a single mother providing the only income for the household;
- Be an employee (male or female) whose unemployment benefit cover has expired;
- Be a pregnant woman.

246. Pregnant women are given a prenatal allowance from the beginning of the pregnancy, followed by an allowance for a period of 12 months immediately after the birth. Since Act No. 17758 entered into force in June 2004, entitlement to family allowance has extended to low-income households for families whose total income of any kind is less than three times the national minimum wage, and who are not eligible under the two previous acts (Act No. 15084 of 1980 or Act No. 17139 of 1999). Family allowance benefits allocated to low-income households are more limited than the regular benefits. They amount to a fixed monetary benefit equivalent to 16 per cent of the national minimum wage. There are no non-monetary benefits available. In the case of children with physical or mental disabilities, as in the general system, the monthly allowance is doubled.

247. Without prejudice to the assessments carried out by the Social Insurance Bank, the National Minors' Institute - now the Uruguayan Institute for Children and Adolescents (INAU) - is responsible for monitoring children's welfare, particularly to ensure that they attend school, as required.

248. Table XXVII shows the number of people receiving low-income related family allowance and monetary allowances. In December 2004, a total of 184,252 children were beneficiaries of that system and the annual cost of the payments reached slightly over $13 million.

Table XXVII

Family allowance payments to low-income households: number of beneficiaries and cost, by applicable legislation, 2004

	Beneficiaries[a b]	Annual cost (dollars)
Act No. 17139		
Interior	61 435	5 919 289
Montevideo	36 755	3 672 027
Total	98 190	9 591 316
Act No. 17758		
Interior	60 914	2 606 696
Montevideo	25 148	1 087 831
Total	86 062	3 694 527

Source: Based on RING project figures.

[a] Data as at December.

[b] Includes late applicants.

6.4.6 Maternity benefit

249. Women employed in the private sector who contribute to the National Insurance Bank, and unemployed women who are covered by it, have the right to receive maternity benefit before and after they give birth. The amount is calculated on the basis of average earnings over the last six months of employment, and cannot be less than one national minimum wage. The benefit covers a total of 12 weeks - 6 before the birth and 6 immediately afterwards. In the case of adoption, one of the parents has the right to 43 days' paid leave as of the day they take custody of the child.

Table XXVIII

Maternity benefit

Number of beneficiaries and annual expenditure, 2004

Beneficiaries (monthly average)	Maternity benefit ($)
912	5 364 149

Source: RING project figures and Social Insurance Bank balance sheet.

250. The following tables provide additional information.

Table XXIX

Number of contributing Social Insurance Bank members; developments over the period 2000-2004

	2000	2001	2002	2003	2004
Private-sector contributors	738 777	711 898	664 829	682 499	731 668
Business and industry					
Employers	98 954	92 880	86 857	85 427	89 130
Employees	423 181	412 404	374 398	379 571	411 075
Construction	35 527	30 897	21 950	18 674	23 976
Rural work					
Employers	77 506	74 079	74 253	74 707	77 559
Employees	72 824	70 389	72 407	87 215	91 363
Domestic work	30 785	31 249	34 964	36 905	38 564
Public-sector contributors	188 965	189 148	188 049	183 444	184 479
Total	927 742	901 046	852 878	865 943	916 147

Source: *Boletín Estadístico, 2005*, AEA - Social Insurance Bank, No. 60.

Table XXX

Demographic indicators showing population development and forecasts up to 2025

	1996	2000	2005	2010	2015	2020	2025
Total population	3 235 549	3 300 847	3 305 723	3 356 584	3 415 866	3 471 747	3 519 821
Percentage of population aged under 15	25.5	24.9	23.9	22.6	21.1	20.5	20.0
Percentage of population aged 65 or over	12.8	13.0	13.3	13.6	13.9	14.7	15.7
Dependency ratio[a]	61.9	61.0	59.3	56.6	53.9	54.2	55.3
Infant mortality rate (per 1,000)	17.36	13.80	14.20	12.86	11.18	9.76	8.62

Source: National Statistical Institute, Population Forecast (rev. 2005).

[a] Dependency ratio = (0-14) + (65+) / (15-64).

Table XXXI

Public and private contributions to the Social Insurance Bank

	1999	2000
Private-sector contributions	758 962	727 472
Employers	181 094	174 414
Business and industry	103 113	95 992
Rural work	77 981	78 422
Employees	577 868	553 058
Business and industry	424 672	414 349

6.4.7 Social security benefits for people with disabilities

251. The Uruguayan social security system provides the following benefits.

(a) Health benefits

252. The Department of Medical and Surgical Specialities provides special assistance to family-allowance beneficiaries with congenital or pathological malformations linked to risk during the perinatal period.

(b) Financial benefits

253. Apart from double family allowance, children and young people with disabilities receive special financial assistance to cover the cost of school fees, or transport if they go to special schools or rehabilitation institutions.

(c) Maternity benefits paid by social security

254. Female employees in all branches of the private sector are eligible for maternity benefit, even if the woman takes maternity leave or leaves her job during the pregnancy or whilst on leave after giving birth. This benefit is also available to female employees who become pregnant while covered by unemployment insurance.

255. Under the terms of the benefit, the woman must stop work six weeks before her due date and not go back to work until six weeks after the birth. If the woman is ill as a result of the pregnancy or birth, the maternity leave can be extended.

256. During maternity leave, the woman receives a sum equivalent to her salary or wage, plus a sum corresponding to the end-of-year bonus, leave and holiday pay. The amount of benefit payable is calculated on the basis of the length of employment and the remuneration received in the last six months, as long as it is no less than one national minimum wage.

(d) Temporary change in activity during pregnancy

257. All pregnant or breastfeeding women who work in the public or private sector have the right to switch temporarily to a job that presents no health risks. This does not affect the amount the woman earns.

6.5 Public spending on health

258. There are several options available for gathering information pertinent to this issue. One is to conduct a survey asking not only where respondents obtained their health-care cover, but also whether they have used health services in the past few months, and if so, which ones. This strategy was used by Davrieux (1991) to identify public spending on health according to level of household income.

259. In the estimates presented in the following section of this report, another option has been used, based on the available estimates of the expected average spending of a beneficiary according to age. This makes it possible to calculate children's share of expected average expenditure.

260. Determining the allocation of indirect spending presents greater difficulty, since it is difficult to ascertain the distribution of consumption within households (spending, income, welfare) from the information provided by household surveys. How much of the family allowance any one household receives is spent on family members who are under 18? An alternative methodology is to consider that all the income in a given household is distributed according to the spending structure that results from applying equivalence scales. This study used this option in order to ascertain how much of the family allowance is spent on children.

261. Uruguay is notable for its high spending on health relative to gross domestic product (GDP). At the end of the 1990s, spending on health stood at about 11 per cent of GDP. It is currently slightly lower than that owing to the fact that after the 2002 crisis the drop in spending was greater than the fall in the level of economic activity as a result of major sectoral adjustments.

Table XXXII

Spending on health in Uruguay

Year	Population (in thousands)	Spending on health (in millions of US$)	GDP (in millions of US$)	Percentage of GDP spent on health	Spending on health per capita (US$)
1987	2 995	482	7 415	6.5	161
1991	3 078	807	10 087	8.0	261
1992	3 098	979	11 795	8.3	316
1994	3 195	1 590	17 518	9.1	498
1995	3 218	1 781	19 318	9.2	553
1997	3 265	2 163	21 695	10.0	662
1998	3 289	2 292	22 371	10.2	697
1999	3 303	2 238	20 912	10.7	678
2000	3 322	2 182	20 042	10.9	657

Source: Institutional Strengthening of the Health Sector, Central Bank of Uruguay, National Statistical Institute.

262. According to the National Statistical Institute's Continuous Household Survey, in 2003 some 39.5 per cent of people who had the right to health care provided by the Ministry of Health were under the age of 18. This is 33.9 per cent higher than the percentage of people of that age in the population.

6.5.1 Spending on children's health (Grau, 2005; Lazaroff, 2005)

263. Public funds allocated to children's health finance the work of the following service-providers: (a) the State Health Services Administration (ASSE) - Ministry of Health; (b) collective health-care institutions; (c) highly specialized medical institutes; (d) the Social Insurance Bank health department; (e) military and police health services; (f) town councils; and (g) public enterprises.

264. The 2003 Social Policy Advisory Service (ATPS) estimate was used as a starting point for calculating public spending on children's health. This estimate includes spending by the State Health Services Administration - Ministry of Health, the Social Insurance Bank health department, military and police health services, town councils and public enterprises. Spending by the collective health-care institutions and the highly specialized medical institutes is thus not included.

265. Spending on children's health was calculated by working out the proportion of total spending on public health that is spent on children and adding to that figure the spending on children's health by the highly specialized medical institutes.

266. Many public bodies, such as the University of the Republic, include as a perk membership of a health insurance scheme for employees and their families. Since this includes persons under the age of 18, it should be included in the estimates of public spending on children's health. It has, however, not been included in this study since the information was not available.

267. The amount of public spending devoted to children's health was calculated on the basis of total spending on each age group in the population relying on the public sector, as identified in the Continuous Household Survey, and was adjusted according to cost differentials by age.

268. The National Resource Fund (FNR) is a non-governmental public corporation that provides financial coverage for highly specialized medical procedures for the entire population. These procedures are performed by the highly specialized medical institutes, which are private or public health-care providers authorized by the Ministry of Health to perform the procedures covered.

269. The term "highly specialized medicine" refers to medical procedures that demand a high concentration of human resources and materials to provide excellent treatment for a limited number of patients at risk of death or disability.

270. In accordance with the legislation in force,[20] and by virtue of its economic and financial characteristics, the National Resource Fund is an insurance scheme with nationwide coverage;[21] contributions are mandatory. It is funded through monthly fixed-amount payments for each beneficiary from the following sources:[22]

(a) State contributions to the treatment of residents holding health-care cards issued by the Ministry of Health. The contributions are made by the Ministry of Economy and Finance, which transfers a fixed amount to the National Resource Fund for each member registered with the Ministry of Health/State Health Services Administration;

(b) State contributions from autonomous bodies, decentralized services and departmental administrations, to pay for the treatment of persons for whose medical care they are directly responsible;

(c) Contributions made by members of collective health-care institutions, either under the former State health insurance system (DISSE), in which case the payments to the Fund are made directly by the Social Insurance Bank, or individually. Collective health-care institutions collect a fixed amount each month and transfer it to the Fund.[23] Highly specialized medical institutes carry out costly, high-technology medical procedures, thus functioning as a backup for collective health-care institutions, which do not provide this kind of service as part of the comprehensive care package, although many have set up highly specialized medical institutes that sell their services to the National Resource Fund.

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[20] Act No. 16343.

[21] The scheme is universal. In practice, coverage does not extend to users of military and police health services, since these institutions have never contributed to the National Resource Fund, and procedures are carried out in their own units. It should be noted that highly specialized procedures have been performed by these units and subsequently included in the procedures covered by the Fund (liver transplants, etc.). Public awareness campaigns have been conducted through the mass media.

[22] The funds are placed with official banks; the Ministry of Economy and Finance, the autonomous entities, decentralized services and departmental governments transfer the requisite monthly payments as appropriate.

[23] There are different ways of interpreting the role of collective health-care institutions: if they serve as withholding agents, contributions to the National Resource Fund should be based on what they charge; if they conclude a reinsurance contract with the Fund, contributions should be made for each member, irrespective of whether he or she already contributes to the Fund.

271. Approximately 4.7 per cent of the total expenditure of the National Resource Fund goes on children under 14 years of age. This figure is obtained by multiplying the number of procedures performed on persons under 14 years of age by the amount the Fund pays to highly specialized medical institutes for each intervention. Since persons aged 15-18 are not taken into account, this approximation underestimates the real cost.

Table XXXIII

Consolidated public spending on children's health
(as a percentage of GDP)

	1999	2000	2001	2002
State Health Services Administration and others	1.17	1.17	1.17	1.17
National Resource Fund	0.03	0.03	0.03	0.03
Total	1.20	1.20	1.20	1.20

Source: Grau (2005).

272. According to the aforementioned formula, 30.9 per cent of public health expenditure goes on children.

6.5.2 Consolidated public social spending on children (Grau, 2005; Lazaroff, 2005)

273. Between 1999 and 2002, public social spending on children in Uruguay accounted for 4.9 per cent of GDP, which is comparable to the country's annual payment of interest on public debt. This is less than in Argentina, where social spending on children accounted for 6.2 and 5.7 per cent of GDP in 2001 and 2002 respectively.

Table XXXIV

Consolidated public social spending on children, 1999-2002
(as a percentage of GDP)

	1999	2000	2001	2002	Average
Education	2.60	2.50	2.70	2.70	2.6
Health	1.20	1.20	1.20	1.20	1.2
Social services	0.14	0.19	0.20	0.26	0.2
Family allowances	0.08	0.09	0.08	0.09	0.1
Housing	0.80	0.80	0.80	0.70	0.8
Total	4.82	4.78	4.98	4.95	4.9

Source: Grau (2005).

Table XXXV

Consolidated public social spending on children: target indicators, 1999-2002

	1999	2000	2001	2002	Average
Public social spending on children	4.82	4.78	4.98	4.95	4.88
Public social spending	25.40	25.30	25.30	25.00	25.25
Public social spending on children as a percentage of public social spending	19.00	18.90	19.70	19.80	19.34
Percentage of persons under 18 years of age	29.80	29.60	29.40	29.20	29.50
Target indicator	63.70	63.80	67.00	67.80	65.60

Source: Grau (2005).

274. The main component of public social spending on children is one single item, namely, education, which represents over 50 per cent of total public spending on children. The second most important item is the cost of health care. The costs of housing, education and health care taken together account for 95 per cent of total public spending on children.

Table XXXVI

Consolidated public social spending on children, 1999-2002 (%)

	1999	2000	2001	2002	Average
Education	53.9	52.3	54.2	54.5	53.7
Health	24.9	25.1	24.1	24.2	24.6
Social services	2.9	4.0	4.0	5.3	4.0
Family allowances	1.7	1.9	1.6	1.8	1.8
Housing	16.6	16.7	16.1	14.1	15.9
Total	100	100	100	100	100

275. Various studies have been carried out on the situation of Uruguayan children with regard to risk factors and vulnerability, especially in connection with the so-called “infantilization of poverty”. Although the difficult situation of children in Uruguay is widely recognized, thus far no studies have been carried out into ways to improve the situation.

276. Grau (2005) mentions a series of methodological issues that need to be taken into account if estimates of child-related expenditure are to be useful not only in evaluating the current situation but also in designing policies. Grau also provides an estimate of public spending on children, putting it at an average of 4.9 per cent of GDP for the period 1999-2002. This percentage is lower than in Argentina and the United States of America. The author states:

> "Two conclusions can be drawn from these estimates. The first relates to the procyclical nature of public spending on children, which casts doubt on its efficiency from the perspective of an intertemporal evaluation. The second is related to the way in which public spending in Uruguay is targeted at different age groups. Although children account for 29.5 per cent of the population and are affected disproportionately by poverty, they receive only 19.5 per cent of public social spending.
>
> Lastly, it should be pointed out that the country would benefit greatly from an official information system to monitor public social spending which would involve both the central Government and regional governor's offices and public enterprises and provide information on the different methodologies adopted. This would be a valuable instrument for evaluating social policies, especially those that directly or indirectly affect children." (Grau, 2005)

277. A study by Lazaroff (2005) estimates the total for that year to be nearly US$ 68 million, or 0.61 per cent of GDP.

278. According to the author, the accuracy of this estimate could be improved further, notably by obtaining data from State institutions (which have access to primary sources) (Grau, 2005).

7. EDUCATION, LEISURE AND CULTURAL ACTIVITIES (arts. 28, 29 and 31)

7.1 Educational policies in the context of policies on children in Uruguay[24]

279. Uruguay has a long-established welfare state which expanded considerably at the beginning of the twentieth century. It is based on four pillars: public health care, public education, protection of the labour market and retirement policies (Midaglia, 2000).

280. Over the past decade, analyses of the problems facing children have led to specific measures and changes to the above-mentioned general policies (Amarante and Arim, 2005).

281. The table below was taken from Amarante and Arim (2005) and shows some of the main child-related measures (see World Bank, 2004), the risks addressed and the programmes required.

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[24] The section on education is based on studies by UNICEF (2004b), Amarante and Arim (2005) and Llambí and Furtado (2005). These studies are particularly detailed and contain in-depth analyses of the available data.

Table XXXVII

Social policies for children (2002)

Age group	Social risks	Required programmes	Available programmes (institution)	Type
Under-5 years	- Health/mortality	- Mother-and-child health	Mother-and-child health (Ministry of Health)	IKT
			National Supplementary Feeding Programme (National Nutrition Institute, INDA)	F
	- Stunted development, nutritional deficiencies	- Feeding programmes - Early childhood development - Preschool education	Child and Family Centre (National Minors' Institute)	IKT
			Compulsory preschool education (National Public Education Administration)	IKT
6-11 years: primary school	- Poor quality education	- Quality education	"Todos los niños pueden aprender" (National Public Education Administration)	IKT
			Full-time schooling (National Public Education Administration)	
	- Poor cognitive skills	- Feeding programmes	School meals programmes (National Public Education Administration)	F
12-18 years: secondary school	- Poor quality education - Inactivity	- Remedial education - Transfers contingent on attendance of the programme	MESYFOD (improving the quality of secondary school education, National Public Education Administration)	IKT
	- Teenage pregnancies	- Reproductive health education	Teenage pregnancies (Ministry of Health)	IKT
	- Street children	- Technical education	Technical University of Uruguay	IKT

Source: Amarante and Arim (2005), compiled on the basis of continuous household surveys.

Note: IKT = in-kind transfers, F = feeding.

282. Among the policies summarized in the table above, attention should be drawn to two in particular, which marked considerable progress towards greater equality: the extension of preschool education and the establishment of full-time schools. Existing evaluations suggest that these policies have yielded positive results. In the framework of educational reforms launched in the mid-1990s, considerable efforts were made to provide education for children of preschool age (Amarante and Arim, 2005).

283. This policy was aimed at achieving greater social equity and was based on the idea that the public sphere plays an important role in socialization, especially among low-income segments of society (Amarante and Arim, 2005). In the early 1990s, preschool enrolment rates in Uruguay were lower than in other countries in the region, as shown in the table below.

Table XXXVIII

Gross preschool enrolment rate, selected countries, 1991

Country	Rate (%)
Spain	51
France	83
Italy	86
United Kingdom	49
United States	63
Mexico	61
Argentina	61
Chile	83
Uruguay	49

Source: Midaglia (2000), cited in Amarante and Arim (2005).

7.2 Children under the age of 6: universalization of preschool education

284. Primary education in Uruguay has long been universal and nearly all children complete the primary cycle.

285. Preschool enrolment is near universal, especially among 5-year-olds, which has benefited in particular the poorest segments of society.

286. Only modest progress was made with regard to 4-year-olds, with particularly low attendance rates for the lowest income quintile (see table XXXIX).

Table XXXIX

Preschool attendance

Year	Age	Quintile 1	Quintile 2	Quintile 3	Quintile 4	Quintile 5	Total
2002	4 and 5 years	71	86	87	89	98	81
	5 years	84	93	92	98	98	90
	4 years	59	80	82	81	98	73
1996	4 and 5 years	54	68	79	86	93	70
	5 years	71	81	89	89	98	82
	4 years	36	62	72	87	92	56

Source: Project to Improve the Quality of Primary Education (MECAEP) (2004).

287. At the same time, preschool enrolment among 3-year-olds remains low. Given that pupils' performance was found to be directly linked to socio-economic integration, the National Public Education Administration (ANEP) extended classroom time in some schools in 1990. In 1995, a more comprehensive intervention strategy was designed as part of moves to offer greater educational opportunities. There are currently 95 full-time schools, with 23,000 children enrolled. There is general agreement that this policy is a step in the right direction, although it is not widely applied and problems have been encountered.

288. Full-time schools have received positive feedback in Uruguay. Their objective has been to promote greater social equity (Amarante and Arim, 2005).

289. In recent years, one of the key elements for change in education has been the considerable increase in State support for nursery education, especially for low-income populations. For example, in 1991, only 20 per cent of 4-year-olds from the first income quintile were attending an educational establishment. Ten years later, the figure was nearly 60 per cent (ANEP, 2002). Despite the progress made, universal attendance is far from being a reality. In 2002, 67 per cent of children between 3 and 5 years of age were attending school, while attendance among 4- to 5-year-olds - the group receiving the greatest amount of government support - stood at 80 per cent (UNICEF, 2004b, 2005). The trend in school attendance by children aged 3-5 is reflected in the table below.

Table XL

School attendance rate for children aged 3-5

Year	3-5	4-5
1998	61.4	76.7
1999	63.8	79.0
2000	65.0	81.2
2001	69.0	81.9
2002	67.0	81.4

Source: Prepared by UNICEF on the basis of data from continuous household surveys conducted by the National Statistical Institute.

7.3 Children aged 6-12: universalization of primary education

290. Primary education is universal throughout Uruguay and, sooner or later, almost all children complete their six years of primary schooling. In recent years, attendance rates among children aged 6-11 have stood at between 98 and 99 per cent; almost all children (96 per cent) complete the primary cycle. However, not all children complete primary schooling at the same age. For example, 15 per cent of 13- and 14-year-olds are still in primary education (UNICEF, 2004b). These data are reflected in the table below.

Table XLI

Primary school attendance rate and completion rate

Year	School attendance rate among children aged 6-11	Primary education completion rate among children aged 13-14	Primary education completion rate among children aged 15-16
1998	99.0	84.7	95.2
1999	99.0	86.6	95.6
2000	98.6	85.7	96.0
2001	98.9	86.8	95.6
2002	98.4	87.5	96.2

Source: Compiled by UNICEF, based on data from the INE Continuous Household Survey.

291. However, more recent data provided by the National Administration of Public Education (ANEP) reveal the existence of so-called "intermittent dropout", that is, children attending school for part of the year, dropping out, and re-enrolling again later. According to data for the period 1998-2002, this phenomenon affects approximately 1 per cent of children. The percentage was much higher in schools in socioculturally deprived areas, with between 1.5 and 2 per cent of poor children attending school for less than 70 days annually (UNICEF, 2004b). The table below shows intermittent dropout trends in recent years.

Table XLII

Intermittent dropout rate in urban primary schools

Year	Intermittent dropout during the first six years of schooling in urban areas		
	Total	Schools in wealthy areas	Schools in deprived areas
1998	1.1	0.4	1.5
1999	1.4	0.4	2.0
2000	1.4	0.4	1.8
2001	1.2	0.4	1.7
2002	1.2	0.4	1.6

Source: Education adviser for State schools: first publication of results, ANEP.

7.3.1 Measures to reduce primary-school repetition rates

292. During the period under review, two major measures were taken to reduce repetition rates: the expansion of nursery education and the introduction of full-time schools. According to some studies, the latter initiative could possibly be extended to cover some 100,000 children.

7.4 Secondary education and young persons aged 13-17

293. In the area of education, analyses of the situation of children and young persons in Uruguay show that most of the problems concern secondary education. There is also the problem of mixed-age classes resulting from high repetition rates. For example, 15 per cent of 13- and 14-year-olds are still in primary education and one out of every five children repeats the first year of school (UNICEF, 2004; Amarante and Arim, 2005).

294. However, the biggest problems with coverage and early dropout concern secondary education (Amarante and Arim, 2005). A study involving a group of students attending State secondary schools reveals that only 40 per cent of students enrolled in the first year manage to complete lower-level secondary school within the normal time limit; 28.5 per cent do not re-enrol during the cycle and drop out of the education system (ANEP, 2004).

295. One out of every six young persons between 13 and 17 years of age in Uruguay does not attend any educational establishment. The situation is more critical for boys (17.2 per cent are outside the education system) than girls (13.2 per cent) (UNICEF, 2004b, p. 33).

296. As shown in the table below, the trend in school attendance among 13- to 17-year-olds has been very positive; absenteeism dropped from 22.2 per cent in 1998 to 15.2 per cent in 2002.

Table XLIII

School attendance rates for young persons aged 13-17 and academic achievement of persons aged 21-22

	Attendance			Academic achievement		
	Percentage of persons aged 13-17 not attending any educational establishment			Percentage of persons aged 21-22 who have completed secondary or technical education		
	Total	Male	Female	Total	Male	Female
1998	22.2	24.6	19.8	31.8	25.5	38.3
1999	19.8	23.2	16.4	32.5	28.3	36.6
2000	19.0	21.1	16.9	33.4	26.1	40.5
2001	16.4	18.7	14.0	34.6	27.2	41.6
2002	15.2	17.2	13.2	33.5	29.3	37.4

Source: Compiled by UNICEF, based on data from the INE Continuous Household Survey.

297. Despite this, secondary school dropout is one of the country's most serious problems and needs to be resolved. Only one out of every five students entering a State-run lower secondary school completes the six-year secondary cycle without repeating a year; three drop out during that time and one falls behind (UNICEF, 2004b). Only one out of every three 20-year-olds has completed secondary education.

298. At the same time, the extent of this phenomenon varies between socio-economic strata: only 14 per cent of young persons in the first income quartile (the poorest 25 per cent) had completed secondary education by the time they reached 20 years of age in 1998, as compared with 66 per cent of youngsters in the richest quartile (Amarante and Arim, 2005).

7.4.1 Access to secondary education

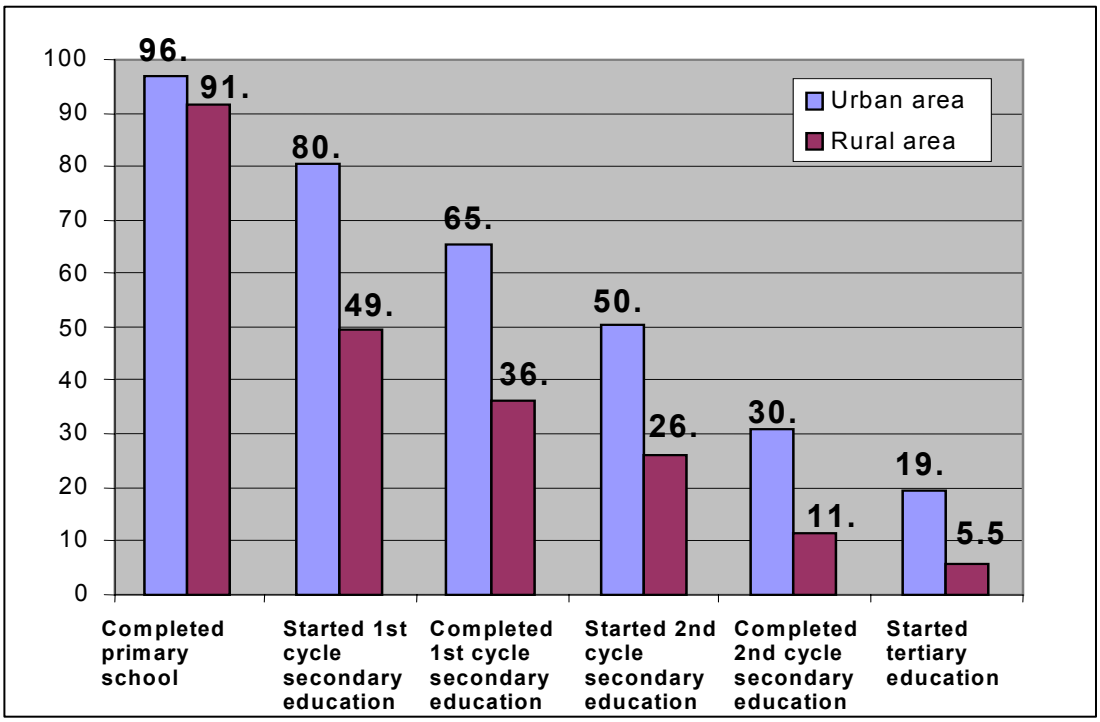
299. Currently, there are practically no impediments to access to secondary education in urban areas, which include small towns of 5,000 or more inhabitants.

300. Conversely, there are problems with access to secondary education in rural areas, as shown by the sampling survey conducted in rural communities of less than 5,000 inhabitants.

301. A study conducted on the basis of this survey (Cardozo and Papa, 2004) shows that, while there is only a marginal difference between access to primary school in urban and rural areas, there is a considerable urban-rural gap when it comes to secondary education. The figure below shows the differences in academic achievement of young persons aged 24-29 in urban/rural areas in 1999.

Figure XI

Academic achievement of young persons aged 24-29 by geographic area, 1999



Source: Cardozo and Papa (2004), based on the 1999-2000 survey conducted by the Ministry of Livestock, Agriculture and Fisheries and the 1999 Continuous Household Survey (cited in Llambí and Furtado, 2005).

Note: The number of students starting each cycle does not include those who started the cycle, but dropped out before completing at least one year. Their actual number is therefore greater, both in urban and rural areas.

302. Cardozo and Papa (2004) (cited in Llambí and Furtado, 2005) show that the primary education supply practically satisfies the potential demand: net primary enrolment rates stand at between 94 and 97 per cent, irrespective of the geographic area. The situation with regard to secondary education coverage is more critical: net enrolment rates in lower and upper secondary schools are lower, especially in rural areas, where nearly one out of every four children aged 12-14 and one out of two aged 15-17 drops out of school. These data are reflected in the table below.

Table XLIV

Net school enrolment rates by geographic area, 1999

	Urban communities of >5,000 inhabitants	Urban communities of <5,000 inhabitants	Rural areas
Primary	95.0	97.2	94.1
First cycle, secondary	69.7	53.7	49.2
Second cycle, secondary	40.6	27.0	30.1

Note: Net enrolment rates are calculated by dividing the number of students in the age group corresponding to a given level of education who attend school by the total population of that age group. Age groups for primary, lower secondary and upper secondary education are 6-11, 12-14 and 15-17 years respectively (Llambí and Furtado, 2005).

7.4.2 Secondary school dropout and socio-economic differences

303. Some of the biggest problems in secondary education concern access in rural areas and small towns, high dropout rates exacerbated by socio-economic differences, and high repetition rates, which cost the country nearly US$ 19 million a year.

304. While overall dropout levels in secondary education in Uruguay are a cause for concern, the differences depending on socio-economic status are even more alarming: 8 out 10 persons belonging to the richest income quintile are likely to complete secondary education, as compared with only 3 from the poorest, as shown in table XLV taken (Llambí and Furtado, 2005).

Table XLV

Probability of remaining in education by income quintile: population aged 12-29 in urban communities of more than 5,000 inhabitants, 2001

Probability of continuing to attend and subsequently:	Income quintile				
	Quintile 1	Quintile 2	Quintile 3	Quintile 4	Quintile 5
Completing the third school year	0.99	0.99	1.00	1.00	1.00
Completing primary education	0.80	0.90	0.96	0.97	0.97
Completing lower secondary education	0.49	0.71	0.79	0.87	0.94
Completing secondary education	0.29	0.50	0.56	0.67	0.78
Completing 16 years of education	0.20	0.37	0.40	0.58	0.66

Source: MEMFOD programme to modernize secondary education and teacher training (2004a) (cited in Llambí and Furtado, 2005).

305. Measures taken to counteract the problems in secondary education include the experiment with seventh, eighth and ninth grades in rural schools, which produced half the

repetition and dropout rates recorded in urban schools, and the "Plan 1996" lower-secondary education programme, which helped reduce the high dropout rates in schools in particularly deprived areas.

7.4.3 Education and youth labour

306. The combined dynamics of the labour market and the education system lead to a problem that has been mentioned in numerous studies (ANEP, 2002; Bucheli and Casacuberta, 2000): that of young persons who neither work nor study. This phenomenon is symptomatic of the difficulties in successfully integrating children from the most vulnerable segments of society into secondary education. The problem became increasingly pronounced in the mid-1990s and there has been little change since then. In recent years, the percentage of young persons who neither work nor study has decreased (Amarante and Arim, 2005).

307. A review of the integration of young people into the labour market and education in the 1990s reveals that the proportion of youngsters who do not work but do study increased considerably, especially during the last years of the economic crisis. The figure below further establishes a link between this issue and the underperformance of the labour market, insofar as youth unemployment is on the rise among both those who study and those who do not (Amarante and Arim, 2005b).

Figure XII

Percentage of young persons in employment and/or education

Source: Amarante and Arim (2005).

7.4.2 Discipline in secondary education

308. In connection with this issue, mention should be made of a judgement handed down by the administrative court. The case involved the decision on an *amparo* petition filed by secondary-school students against sanctions imposed by the National Public Education Administration. By decision RD NEP 076/96, the National Director of Public Education had suspended several students for occupying their schools in support of union demands and banned them from school premises for 150 days. The judgement granted the *amparo* petition filed by the students, ruling that, by imposing the disciplinary sanctions in question, the administration had overstepped the limits of the relevant constitutional, legal and regulatory provisions and thus undermined the due process of law. The regulation on behaviour, conduct and rules governing student discipline of 28 August 1989 regulates disciplinary proceedings in cases of grave misconduct such as incitement to unrest on school premises. It authorizes the head teacher to conduct an inquiry, notify the Educational Guidance Council and propose sanctions to the Secondary Education Council, which is competent to settle the issue. Only in such cases may the student be suspended pending a decision. The aforementioned judicial decision granted the students' petition and ordered the National Public Education Administration to revoke the measures with immediate effect.

7.5 Public spending on children's education[25]

309. In Uruguay, the bodies responsible for providing or regulating public education are:

(a) The National Public Education Administration, which is responsible for preschool, primary, secondary and technical education and teacher training;

(b) The University of the Republic, which provides public university education;

(c) The Ministry of Education and Culture, which is responsible for cultural and scientific policies and liaises between the Government and universities and higher-education institutions; and

(d) The Ministry of Defence, which is in charge of military education (see Llambí and Furtado, 2005).

310. In Uruguay, a relatively small proportion of GDP is spent on education, as compared with developed countries and other countries in Latin America.

311. Looking at the figures for an extended period of time, it can be seen that public spending on education was not low in the 1970s and 1980s, but in the five-year period between 1995 and 2000 Uruguay was outperformed by 13 countries in the region. This shows that Uruguay's underperformance is a recent phenomenon dating basically from the second half of the 1990s, as shown in the table below, taken from Llambí and Furtado (2005).

[25] This section is based on the work of Llambí and Furtado (2005) and Grau (2005).

Table XLVI

Public spending on education as a percentage of GDP

	1970-1974	1975-1979	1980-1984	1985-1989	1990-1994	1995-2000
Argentina	1.2	1.3	1.4	1.4	1.4	3.8
Bolivia	3.2	3.0	3.0	3.1	3.2	7.2
Brazil	1.2	1.2	1.2	1.1	1.1	4.8
Chile	4.7	4.7	4.5	4.3	4.3	3.3
Colombia	1.9	1.9	1.9	1.8	1.8	4.4
Costa Rica	4.7	5.1	5.3	5.4	5.6	5.1
Ecuador	1.6	1.6	1.5	1.5	1.5	3.5
El Salvador	3.2	3.3	3.2	3.2	3.2	2.3
Guatemala	1.9	1.8	1.7	1.6	1.5	1.6
Honduras	3.2	3.2	3.2	3.1	3.0	3.6
Mexico	1.9	2.0	2.3	2.6	2.8	5.6
Nicaragua	2.3	2.4	2.4	2.5	2.5	4.6
Panama	4.0	3.9	3.9	3.9	4.0	4.6
Paraguay	1.5	1.5	1.4	1.4	1.5	3.8
Peru	3.4	3.5	3.5	3.4	3.2	2.2
Dominican Republic	2.5	2.3	2.0	1.9	1.9	2.3
Uruguay	**3.0**	**2.7**	**2.7**	**2.7**	**2.6**	**3.1**
Venezuela	3.5	3.6	3.8	3.9	4.0	4.4

Source: Based on the Database on Social Statistics and Indicators (BADEINSO) produced by the Economic Commission for Latin America and the Caribbean (ECLAC) (taken from Llambí and Furtado, 2005).

Note: The grey fields indicate values that are higher than the equivalent value for Uruguay.

312. According to the Llambí and Furtado study, which is based on 2003 data from the Organization for Economic Cooperation and Development (OECD), Uruguay allocated 2.6 per cent of GDP to public education annually (Llambí and Furtado, 2005).

7.5.1 Expenditure per student

313. With regard to these indicators, Uruguay's position as compared to other countries in the region has improved, with average annual expenditure of US$ 2,057 per student.

7.5.2 Public spending on education within the National Public Education Administration (primary, secondary and technical education)

314. Between 1984 and 2003, the increase in public spending on education within the National Public Education Administration (ANEP) was greater than the economic growth rate, which resulted in an increase in its relative share of GDP: ANEP spending on public education increased from 1.7 per cent of GDP in 1984 to 2.7 per cent in 2003.

315. Although this trend applies to all three sectors served by ANEP, namely primary, secondary and technical education, certain differences can be observed: a growing proportion of ANEP budgetary resources is being allocated to secondary education, while a slightly smaller share goes to primary education and the proportion allocated to technical education has decreased noticeably (Llambí and Furtado, 2005).

316. The relative increase in the budget allocated to secondary education is due to an increase in funding for lower secondary education, which was targeted in particular by the reforms undertaken in the context of "Plan 1996". The reforms included an increase in classroom hours and teachers being paid for administrative and planning activities (Llambí and Furtado, 2005). In summary, Plan 1996 produced the following results: it increased the number of teaching modules; established a workload of 40 modules for the first and second year and 38 modules for the third year; and provided for planning hours and extracurricular activities for teachers (see Llambí and Furtado, 2005).

7.5.3 ANEP expenditure per student

317. In both primary and secondary education, expenditure per student increased as a whole in the period 1984-2003, with some fluctuations. Uruguay saw the end of the dictatorship in 1984, and as of 1985 the return to a democratic political system. The table below, taken from Llambí and Furtado (2005), shows the trends in total expenditure in tuition and per student for the period 1985-2003.

Table XLVII

Total expenditure, fees and expenditure per student for the different ANEP subsystems (cumulative annual variation, as a percentage)

	1985-1989	1990-1994	1995-1999	2000-2003	1985-2003
Total expenditure[a]					
Primary	8.1	-0.1	6.0	-3.4	2.9
Secondary	10.7	-1.1	7.7	1.8	4.8
Technical/vocational	8.1	-2.0	3.8	-5.2	1.4
Fees[b]					
Primary	0	-0.8	2.5	1.9	0.8
Secondary	6.3	0.5	3.1	5.8	3.5
Technical/vocational	0.3	1.9	-2.5	6.1	1.1
Cost per student					
Primary	8.2	0.6	3.3	-5.2	2.0
Secondary	5.4	-1.5	4.5	-3.8	1.3
Technical/vocational	7.8	-3.8	6.5	-10.7	0.2

[a] *Source*: ANEP (1998) and budgetary and financial balance sheets, 1996-2003. The total expenditure of each subsystem includes the share allocated for the Central Governing Council for Education (CODICEN).

[b] *Source*: Primary Education Council (CEP), Secondary Educational Council (CES) and Technical/Vocational Education Council (CETP) (taken from Llambí and Furtado, 2005).

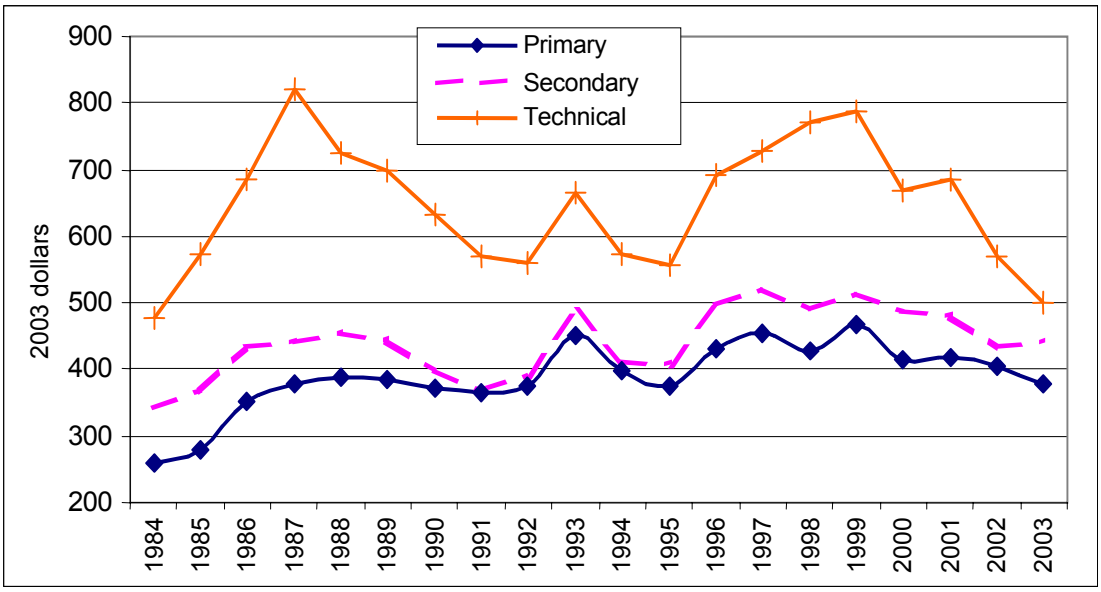
318. The primary and secondary education budget exceeded the funds needed to finance the increase in educational coverage, which meant an increase in real terms in expenditure per student. The above table shows that this was not the case for technical-vocational education, where expenditure per student in 2003 was only marginally higher than in 1984 (see Llambí and Furtado, 2005).

319. Still, expenditure per student in Uruguay continues to be lower than in other countries with similar levels of development, including in Latin America (op. cit.). For example, at between 0.76 and 0.82 (OECD, 2003), the ratio of average annual salary to GDP per capita for both primary and secondary teachers with 15 years' teaching experience in Uruguay is lower than elsewhere in the region.

320. The trends in education expenditure per student and by sector are reflected in the figure below (op. cit., p. 24).

Figure XIII

Trends in expenditure per student



Source: Llambí and Furtado (2005).

7.5.4 Cost of repetition at the primary level

321. One of the shortcomings of education in Uruguay is high repetition rates, especially in the first year of school, which cost the country $11.2 million; $4 million is spent on repetition of the first year alone. Eight per cent of the annual education budget is spent on repetition.

322. These figures are included in the table below, taken from Llambí and Furtado (2005).

Table XLVIII

Annual cost of repetition of the first year and total cost of primary education, 2003

	Fees 2003	No. of pupils repeating a year	Repetition rate in 2003 (%)	Annual cost per student (in 2003 US$)	Annual cost per student (in millions of 2003 US$)
First year	58 141	10 474	18.0	379	4.0
Total primary school	324 837	29 560	9.1	379	11.2

Source: Llambí and Furtado (2005).

7.6 Outstanding problems in education

323. Possibly one of the most striking problems in Uruguay is the widening wage gap between workers with different levels of education, which is exacerbated by Latin America's so-called "educational endogamy", or marriage among persons of equal levels of education, which is more widespread than in developed countries.

324. This has led to a concentration of income, which became more pronounced during the recent crisis when the likelihood of unemployment was lower among those with higher education levels (Bucheli, 2003, cited in Llambí and Furtado, 2005). Unless equality of access and equal opportunities for academic achievement and completion of education are guaranteed in the State sector, the segregation of the population by level of education will lead to greater societal divides and social exclusion.

8. SPECIAL PROTECTION MEASURES (arts. 22, 38-40, 37 (b)-(d) and 32-36)

8.1 Refugee children (art. 22)

325. The National Refugee Commission was established by Decree No. 411/03 of 21 October 2003. The Commission includes the Minister for Foreign Affairs and the Minister of the Interior. It receives assistance from a secretariat staffed by the Department of Human Rights and Humanitarian Law of the Ministry of Foreign Affairs, a delegate from the Department of Migration and a representative of the Office of the United Nations High Commissioner for Refugees.

326. The commission is responsible for determining applicants' eligibility for refugee status and whether legal protection should be granted, denied or ended. Applicants who are granted refugee status have access to free public education at primary, secondary and university level. In addition, refugees with no income are guaranteed medical, hospital and pharmaceutical care.

8.2 Children in armed conflicts (art. 38), including physical and psychological recovery and social reintegration (art. 39)

327. Uruguay ratified the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict by Act No. 17483 on 8 May 2005. In line with the reservation entered by Uruguay at the time it ratified the Convention, recruitment into the armed forces is only possible from the age of 18. Uruguay is traditionally a peaceful country and it has not been directly or indirectly involved in any international or domestic armed conflict since the nineteenth century. It has, nonetheless, ratified the four Geneva Conventions of 1949 and the Additional Protocols thereto of 1977. Moreover, at the domestic level, since 1992 an inter-ministerial commission has been working to incorporate the norms of international humanitarian law into domestic law and to disseminate information and provide training on that subject.

328. One of the most significant achievements has been the inclusion in primary, secondary and university (law school) curricula of States' obligations under international humanitarian law.

329. Article 13 of the new children's code specifically provides that children and young people cannot participate in hostilities in armed conflicts or be trained for that purpose.

8.3 Children involved with the system of administration of juvenile justice

8.3.1 The administration of juvenile justice (art. 40)

330. The draft children and adolescents code includes a list of the rights and procedural safeguards applicable to juvenile offenders, that is, those under the age of 18 who commit a criminal offence.

8.4 Children deprived of their liberty, including any form of detention, imprisonment or placement in custodial settings (art. 37 (b)-(d))

331. Uruguayan law provides for the following situations.

8.4.1 Probation with assistance

332. This allows young people to be at liberty and stay in their family and social environment. The judge specifies how long the young person will be on probation. The probation can be interrupted, revoked or replaced at any time by or at the request of the relevant authorities, subject to the intervention of the public prosecutor and the public defender.

8.4.2 Probation with supervision

333. This type of probation allows the young person to remain in the community under the permanent supervision of a social worker for a period specified by the judge.

8.4.3 Socio-educational custodial measures

334. These are implemented only when an enforceable judgement rules that a young person is responsible for a very serious crime that justifies such measures in the opinion of the judge.

These measures are also applicable when an enforceable judgement has ruled that a young person is guilty of repeated offences and has failed to comply with the measures decided by the judge. In this case the deprivation of liberty will last no longer than 60 days.

335. As far as the judge is concerned, custodial measures are not mandatory. They are used in cases when the legal requirements for such measures are met and when non-custodial measures would be inappropriate. The judge must give reasons for not applying alternative measures. The right of the young person to live with his or her family will be taken into account, as will the right to maintain contact with family, a partner, friends, loved ones and others, should the separation go ahead, as long as such contact is not detrimental to the young person (Children and Adolescents Code, art. 45).

336. The custodial measures available are: (a) detention in institutions that are completely separate from adults' prisons; (b) detention in those institutions, with the possibility of semi-liberty (Children and Adolescents Code, art. 46).

8.4.4 Deprivation of liberty

337. The deprivation of liberty regime involves detaining young people in institutions they cannot leave, but without infringing the rights enshrined in the code, constitutional and legal norms, and international instruments (Children and Adolescents Code, art. 48).

338. Deprivation of liberty can be imposed for a maximum of five years. Under no circumstances will a young person who reaches the age of 18 while in detention serve the remainder of the sentence in an adults' prison (art. 49). The State has exclusive, non-transferable and non-delegable responsibility for enforcing custodial sentences. The sentences are served in special centres until they are purged, with due account taken of age, physical build, the seriousness of the offence and the individual's suitability for communal living. Under no circumstances can these sentences be served in institutions for adults. Special care is taken when young people require medical treatment, in which case they are held in centres appropriate to their needs (art. 50).

339. Juvenile offenders who suffer from alcohol or drug dependency attend guidance programmes and receive appropriate treatment (art. 51). The measure is deemed to be over at any point when there is evidence on file that its social and educational aims have been met. All requests for alternative measures, changes or cessation of these measures are processed in hearings. A reasoned decision must be reached, following submission of the relevant technical reports in the presence of the young person, his or her legal representatives, the defence and the public prosecutor.

340. Such hearings must take place within 10 days of the request being made (art. 52). Detention of young people outside the jurisdiction of their home is kept to a minimum, bearing in mind the circumstances of the case. When courts rule that juvenile offenders should be detained outside their jurisdiction, they decline jurisdiction in favour of the judge in the place of detention. A certified copy of the file must be sent in a sealed envelope with the young person and delivered to the judge on duty in the place of detention by the public servant in charge of transferring the young person; this act is considered a solemn professional duty (art. 53).

8.4.5 Semi-liberty regime

341. The semi-liberty regime involves ensuring that young people who have been sentenced to deprivation of liberty in an institution are granted permission to visit their families or carry out some activities outside the institution for eight hours, for their own personal benefit, under the control of the authorities in their place of detention. This regime is followed, if the young person agrees, for the duration of the custodial sentence, unless it is temporarily or permanently suspended owing to non-observance of the rules of behaviour (art. 48).

8.4.6 Protection of identity

342. In accordance with the new code, the media are prohibited from identifying any young offender, although they may report the facts of the case. Civil servants who pass such information to the press, in violation of this prohibition, are subject to a suspension of 10 days without pay for a first offence, and a month for a second. A third offence is cause for dismissal. The institution the person works for will automatically be informed of the offence, and a transcript of the rules will be sent to it. Similarly, any media that violate the prohibition are liable to a fine of between 20 and UR 200, at the judge's discretion (art. 56).

8.4.7 Remedial measures

343. Young people who commit an offence are subject to remedial measures, with all the guarantees of due process accorded to offenders. The measures are carried out in appropriate establishments where the young offenders are separated from people over the age of 18. It is up to the directors of these establishments and any experts appointed by the judge to decide on the appropriate treatment (art. 64).

8.4.8 Monitoring the enforcement of measures ordered by judges

344. Specialist juvenile judges have the same authority as other judges (art. 100) and are responsible for: (a) monitoring cases in which enforceable judgements have ruled that educational measures be taken, until the sentence has been served; (b) hearing young people's complaints during the period of their custodial or other sentence, in the presence of the public defender and public prosecutor; and (c) visiting detention centres at least every three months and recording on the relevant files the findings of the visits. Notwithstanding this, juvenile judges may carry out inspections at any time they deem them appropriate. In both cases, they must act in the best interests of the young person and report any serious irregularities to the Supreme Court of Justice. As for the monitoring administrative authority, article 101 provides that the National Minors' Institute or the detention centre authorities must report to the judge every three months on the enforcement of the sentence and on the young person's progress.

345. The National Minors' Institute regulates the functioning of the establishments in which young people serve custodial sentences.

8.5 The sentencing of children, with particular reference to the prohibition of capital punishment and life imprisonment (art. 37 (a))

346. Both penalties are prohibited in Uruguay.

8.6 Economic exploitation of children, including child labour (art. 32)

347. The Committee on the Rights of the Child, in its concluding observations on Uruguay's initial report under article 44 of the Convention, had the following to say: "The Committee notes with concern that child labour remains a problem in Uruguay and that measures taken to prevent it are insufficient. The Committee also notes with concern that the minimum age for employment in Uruguayan law is lower than the minimum age provided for in applicable international conventions, although Uruguay has ratified ILO Convention No. 138."

348. Since child labour is of particular concern, information on several aspects of the problem is given below. This information is taken from studies and research produced in Uruguay by, among others, UNICEF (2003), Santesteban (2005), Santesteban et al. (2003) and the National Committee for the Elimination of Child Labour - ILO (2004).

8.6.1 Creating a dedicated institutional framework: the National Committee for the Elimination of Child Labour in Uruguay

349. The debate on child labour in Uruguay began in 1998, initially as an informal exchange between trade unions, children's non-governmental organizations and the public sector, including the Ministry of Labour and Social Security and the National Minors' Institute. The debate was subsequently put on a formal footing by Executive Decree No. 367/2000 of 8 December 2000, establishing the National Committee for the Elimination of Child Labour (CETI). This committee is chaired by the Ministry of Labour and Social Security. The National Minors' Institute provides the secretariat. The other members of the committee are the Ministry of Health, the Ministry of the Interior, the Ministry of Education and Culture, the National Public Education Administration, the Inter-Union Assembly of Workers - National Convention of Workers (PIT-CNT), Acción Sindical Uruguaya (ASU), the National Chamber of Commerce, the Chamber of Industries of Uruguay, the National Association of Non-Governmental Organizations (ANONG) and the Network for Children and Adolescents from Disadvantaged Neighbourhoods (Santesteban, 2005).

350. It was also agreed that a representative of UNICEF and a representative of the Inter-American Children's Institute would act as permanent advisers to the committee. They were subsequently joined by a representative of the ILO International Programme on the Elimination of Child Labour (IPEC). Article 3 of the decree establishing the committee sets out the following objectives: (a) to advise on, coordinate and propose policies and programmes to eliminate child labour; (b) to draft and present a national action plan for the progressive elimination of child labour and the protection of adolescent workers; (c) to strengthen cooperation between public and private, national and international children's organizations, with a view to developing new ways and strategies to reduce or eliminate the underlying causes of child labour, and ensuring that the legislation on the minimum age for employment is applied; and (d) to encourage decentralized initiatives, thereby fostering local support for the committee's objectives.

8.6.2 Uruguay's legislation on child labour: progress and challenges

351. According to Santestevan (2005), the adoption of the Children and Adolescents Code has led to some progress on labour regulation, although there remain some outstanding challenges:

(a) The code brings national legislation on child labour into line with the international labour conventions ratified by Uruguay;

(b) The new code places an obligation on the State to promote comprehensive support programmes to discourage and eliminate child labour. This ties in with efforts to safeguard children's right to education.

352. Specialized studies such as the one by Santestevan (2005) have identified the following outstanding problems:

(a) The Uruguayan Institute for Children and Adolescents (INAU) has excessive discretion to grant exceptions to regulations on the minimum age for admission to employment, the working day, hours of work, night work, etc.;

(b) There remains an overlap between the Uruguayan Institute for Children and Adolescents and the Ministry of Labour and Social Security as regards responsibility for enforcing child labour regulations;

(c) Jurisdiction over disputes involving minors lies largely with the family courts, despite the fact that, under the Constitution, issues such as legal challenges to penalties imposed by a State monitoring body should be heard by the administrative courts;

(d) In cases of accidents at work or industrial diseases, adolescent workers are at a disadvantage as compared with their adult counterparts. The employer can avoid liability for gross misconduct by establishing that the young person was present at the scene of the accident by chance and without the knowledge of the person responsible for granting access to that location;

(e) The new code does not refer to child labour in the informal sector, where the exploitation of children and ignorance of children's rights are most widespread;

(f) Social actors, in particular employers' and employees' organizations, are not routinely involved in solving problems in labour relations which affect children. In particular, they do not participate in the National Advisory Council on the Rights of the Child and Adolescent.

353. Finally, the National Committee for the Elimination of Child Labour has called for ad hoc amendments to, or possibly a redrafting of, chapter XII of the code, which deals with labour issues.

8.6.3 Problems with the available information on child labour in Uruguay[26]

(a) Attitudes to employment and data collection

354. Data collection is heavily dependent on the general perception of what constitutes employment. As a result, the worst forms of child labour go unrecorded. Moreover, there is a tendency to focus on the formal sector, which leads to a dearth of information-gathering on the informal sector, where the likelihood of child labour is greater (cf. Information and Research Centre of Uruguay (CIESU), ILO, 2004.

(b) Limitations of data collection

355. Very few data are available on child labour in rural areas. The only available data are from 1996 and point to a high level of employment among 12- to 14-year-olds in rural areas. Thirty per cent of 12- and 13-year-olds reported employment in the primary sector. This figure has probably risen as a result of intensive afforestation. The experts consulted had some evidence that this is the case, but no reliable data are available. Moreover, unionization, which is potentially a very important monitoring tool, is virtually non-existent in these sectors.

356. According to the authors of the CETI/ILO/CIESU report (2004): "The latest survey (1999) revealed that 9,300 children aged 5-14 were working (illegally). This figure can be broken down into two groups: the 5-11 age group, in which 1 per cent of children are working or seeking work, and the 12-14 age group, in which 5.1 per cent of youngsters are working or seeking work. For the 15-17 age group, the figure rises to 21 per cent. The apparent significance of these figures may be deceptive, since, depending on the particular age group, the percentage of children living in poverty can be over 40 per cent. While children from low-income households are more likely to be in employment, it may be that the figures for various forms of child labour reflect cultural rather than economic factors. These findings may be only the tip of the iceberg, with the true scale of the problem hidden behind statistics on poverty, education and employment. It is generally agreed that the worsening economic crisis must have led to an increase in child labour, linked to family survival strategies. This phenomenon is not reflected in the research that has been carried out in Uruguay." (CETI/ILO/CIESU, 2005, p. 110.)

(c) Cultural dimension

357. In Uruguay, child labour is often looked upon favourably. Some measure of the extent to which child labour is seen as normal can be gleaned from the fact that 9,300 children aged 5-14 admitted, through their parents or in front of them, to taking part in an illegal activity. While the worst forms of child labour are generally viewed as problematic, they are not regarded as being associated with employment but rather with ill-treatment, marginalization or crime (cf. CETI/ILO/CIESU, 2004).

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[26] This section is based on publications by UNICEF (2003) and CETI/ILO/CIESU (2004).

8.6.4 Characteristics of child labour in Uruguay

358. The only source of information on the prevalence of child labour in the 12-14 age group is the 1996 census, which includes data for the whole population aged over 11. From this, it is possible to estimate the proportion of work done by children aged 12-14. Data on labour performed by youngsters in the 15-17 age group are regularly collected in the Continuous Household Survey (National Statistical Institute).

359. To make good the lack of information on child labour among the under-14s in Uruguay, a special section was included in the National Statistical Institute's Continuous Household Survey in the second half of 1999. For the first time, a more accurate estimate of the scale of child labour was possible (UNICEF, 2003). However, while this represents progress in itself, since 1999 no further assessments have been carried out.[27]

360. The analysis of the 1999 data produced by UNICEF in 2003 is set out below. Table XLIX shows that in 1999 UNICEF found that there were approximately 34,000 child and adolescent workers in urban areas, of whom 10,100 lived in Montevideo, 6,900 in the Montevideo metropolitan area and 17,000 in the rest of the country. It appears from the data collected that 7.9 per cent of child and adolescent workers (2,700 children) were in the 5-11 age group (UNICEF, 2003).

Table XLIX

Employment among children aged 5-17, by age and urban area, 1999

Urban area	Aged 5-11	Aged 12-17	Total aged 5-17
Montevideo	1 100	9 000	10 100
Outskirts of Montevideo	400	6 500	6 900
Urban areas in the interior	1 200	15 800	17 900
Total for urban areas	2 700	31 300	34 000

Source: National Statistical Institute - UNICEF, child labour module of the Continuous Household Survey.

361. Table L shows that about 1 per cent of children in the 5-11 age group were in employment, the exact figure being 0.97 per cent. On the outskirts of Montevideo the figure was as high as 1.16 per cent. Although these figures are relatively low, from a rights-based perspective it is significant that in 1999, at the beginning of the recession, approximately 2,700 children aged under 12 and living in urban areas were in some form of employment (UNICEF, 2003).

[27] Some methodological concerns relating to the 1999 data are described in the previous section.

Table L

Employment status of children aged 5-17, by age and urban area, 1999 (as a percentage of the total population in each age group, with absolute figures in brackets)

Urban Area	Aged 5-11			Aged 12-17			Total aged 5-17		
	Percentage employed	Percentage not employed	Total population	Percentage employed	Percentage not employed	Total population	Percentage employed	Percentage not employed	Total population
Montevideo	0.89	99.11	100 (123 900)	8.4	91.6	100 (107 100)	4.4	95.6	100 (231 000)
Outskirts of Montevideo	1.16	98.84	100 (34 600)	20.1	79.9	100 (32 300)	10.3	89.7	100 (66 900)
Urban areas in the interior	0.99	99.01	100 (120 900)	14.6	85.4	100 (108 000)	7.4	92.6	100 (228 900)
Total for urban areas	0.97	99.03	100 (279 400)	12.7	87.3	100 (247 400)	6.5	93.5	100 (526 800)

Source: National Statistical Institute - UNICEF, child labour module of the Continuous Household Survey.

8.6.5 Child labour and poverty[28]

362. According to Santestevan, Donno and Filgueira (2003), child labour is highly concentrated in Uruguay's poorest households. As the table below shows, they found that the percentage of children in employment is generally above average in the poorest quintiles of the population.

Table LI

Child labour by age and household poverty

Age		Percentage of children in employment
Up to 10 years old	Quintile 1	1.37
	Quintile 2	0.51
	Total	0.73
11-13 years	Quintile 1	6.46
	Quintile 2	4.75
	Total	3.19

Source: National Statistical Institute, special module of the Continuous Household Survey, cited in Santestevan et al. (2003).

363. The authors note that in the youngest age group, child labour is above average only in the first quintile. However, in the pre-teen group, the figure is above average in the two poorest quintiles. This is where child labour is most prevalent and it is perhaps here that child labour in Uruguay is most harmful to children, although this does not mean child labour in other

[28] This section is based on the work of Santesteban, Dono and Filgueira (2003).

sectors of the population should be disregarded. The link between poverty, exclusion and child labour is most apparent in the poorest sectors of the population (cf. Santestevan, Donno and Filgueira, 2003).

8.6.6 Child labour and education in urban and rural areas[29]

364. One of the most significant features of child labour is its impact on school attendance. The figures in table LII are alarming: for the year 1999-2000, 2.6 per cent of children aged 5-11 were not attending any educational establishment. In absolute terms this means that approximately 7,400 children were outside the education system. Of children aged 12-14, 7.8 per cent were not attending any educational establishment (cf. UNICEF, 2003).

365. From the information provided, it appears that 30.3 per cent of child workers aged 12-14 were not attending an educational establishment (table LII). Thus for the 12-14 age group, working children were almost five times less likely to be attending school than children who were not working. This demonstrates the impact of child labour on school dropout levels.

Table LII

School attendance of children aged 5-14, in urban areas, by age and employment status, 1999

(Percentages and absolute figures)

	Aged 5-11			Aged 12-14		
	Employed	Not employed	Total	Employed	Not employed	Total
Currently attending school	100 (2 700)	97.3 (269 300)	97.4 (272 000)	69.7 (4 600)	93.4 (114 500)	92.2 (119 100)
Not attending school	- ---	2.7 (7 400)	2.6 (7 400)	30.3 (2 000)	6.6 (8 100)	7.8 (10 100)
Total	100 (2 700)	100 (276 700)	100 (279 400)	100 (6 600)	100 (122 600)	100 (129 200)

Source: National Statistical Institute - UNICEF, child labour module of the Continuous Household Survey.

366. Studies carried out by the MEMFOD programme to modernize secondary education and teacher training have revealed very high school dropout levels and low rates of timely school completion across the adolescent population. An average working day of 5-7 hours almost inevitably constitutes a serious obstacle to remaining in and completing secondary education (UNICEF, 2003).

[29] This section is based on the work of UNICEF (2003).

367. The assumption of an adult role which accompanies early entry into the labour market can constrain the exercise of young people's basic rights. The proportion of adolescents in work increases significantly with age. Table LIII shows that, in the two-year period 2000-2001, 4 per cent of 14-year-olds and 21 per cent of 17-year-olds were working, and that it is very difficult to combine acquiring an education (study) with joining in the labour market (work). Furthermore, the level of employment among youngsters is especially high among those aged over 15 (UNICEF, 2003).

Table LIII

Education and employment status of young persons aged 13-18 in urban areas, by age (%)*

	Age 14	Age 15	Age 16	Age 17
In education	89.6	83.0	75.1	67.0
In education, not employed, not seeking employment	86.3	77.4	64.9	50.1
In education, economically active	3.3	5.6	10.2	16.9
• Studying, not employed but seeking employment (unemployed)	0.9	3.0	5.9	9.4
• Studying and employed	2.4	2.6	4.3	7.5
Not in education	10.4	17.0	24.8	33.1
Not in education, not employed, not seeking employment	7.2	9.3	10.5	10.9
Not in education, economically active	3.2	7.7	14.3	22.2
• Employed, not in education	2.0	4.1	8.1	13.3
• Not employed, not in education but seeking employment (unemployed)	1.2	3.6	6.2	8.9

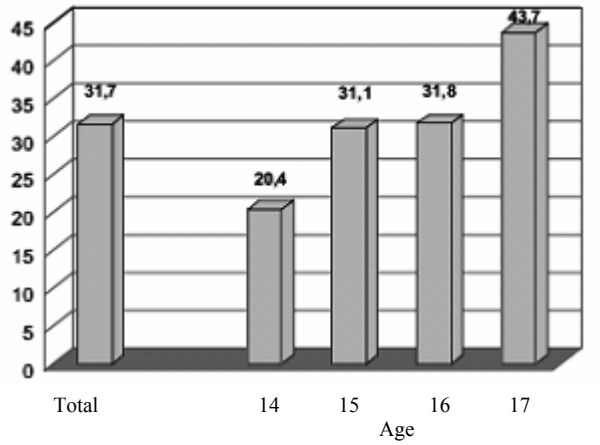
Source: Derived from data from the INE Continuous Household Survey.

* Figures may not add up to 100 due to rounding errors.

368. Similar figures apply in rural areas and small towns, where one in five 14-year-olds is in work. In rural areas the proportion of children working starts at a higher level, and although the figure increases with age, the increase is not as marked as in urban areas. In rural areas and small towns the percentage in employment doubles between the ages of 14 and 17, while in larger towns there is a five-fold increase (UNICEF, 2003).

Figure XIV

Percentage of children aged 13-18 working in rural areas and towns of under 5,000 inhabitants, by age



Source: Derived from the October 1999-January 2000 rural survey conducted by the Agricultural Planning and Policy Office of the Ministry of Livestock, Agriculture and Fisheries.

Source: UNICEF (2003).

369. Despite the limitations of the statistics on child labour, it is possible to draw some conclusions:[30]

(a) Adding together children aged 5-17 employed in urban areas and young people aged 14-17 employed in rural areas, 47,900 children were employed throughout Uruguay in the second semester of 1999. It is estimated that an additional 1,800 children aged 5-13 are employed in towns with a population under 5,000. This is based on the assumption that the proportion of children in employment in small towns does not differ significantly from the proportion in urban areas, i.e., 1 per cent of 5- to 11-year-olds and 5 per cent of 11- to 14-year-olds;

(b) The highest number of young people in education and not in employment is found in urban areas;

(c) Age is a key variable in understanding youth labour. In urban areas there are significant age-related differences in the level of employment. The rate of employment rises from 4.4 per cent of 14-year-olds to 6.7 per cent of 15-year-olds and 20.8 per cent of 17-year-olds. However, in rural areas the rate of employment starts at the higher level of 20.4 per cent, and rises to 43.7 per cent of 17-year-olds;

[30] Conclusions from UNICEF, *El Trabajo Infantil en el Uruguay* (UNICEF, 2003).

(d) Gender differences are significant. Over the past decade the proportion of adolescent boys in employment was double that of girls, while the proportion of girls in education was higher than the proportion of boys. There was a particularly significant gender difference between the proportions of boys and girls who were in education and not employed;

(e) The socio-economic characteristics of the household have a strong impact on youth employment and school attendance. The employment rate for youngsters from the poorest households is 55 per cent higher than that for youngsters from households on middle or high incomes, and the proportion of youngsters attending school increases with household income;

(f) Factors affecting adult employment also affect youth employment. Rising unemployment among those aged over 18 correlates almost exactly with a fall in the number of young people below that age who are working;

(g) It is difficult to combine school attendance with entry into the labour market (op. cit., p. 39).

8.7 Drug abuse (art. 33)

370. The use, import and cultivation of narcotic drugs and psychotropic substances have been regulated in Uruguay since 1974.[31] The 1974 legislation established the National Commission against Drug Addiction within the Ministry of Health. The commission's main tasks are: (a) to develop plans and programmes for the treatment and prevention of drug abuse; (b) to encourage the foundation of specialized clinics and treatment and rehabilitation centres; (c) to provide free, confidential treatment to any patient who requests it; and (d) to coordinate with the Ministry of the Interior, the Ministry of Education and Culture, the Uruguayan Institute for Children and Adolescents and the National Customs Department.

(a) Prevention

371. School principals are required to report cases of drug use or drug dealing on their premises. Failure to do so constitutes gross misconduct and can lead to the dismissal of the school principal concerned.

(b) Sanctions

372. The maximum prison sentence for the manufacture, import, distribution or financing of drugs is increased by up to 15 years if the recipient is aged under 21 years or has diminished mental capacity. A higher maximum sentence applies if the offence causes death or permanent injury to a minor, or is committed within or in the vicinity of an educational establishment, hospital, prison, or cultural or sporting association.

[31] Act No. 14294 of 31 October 1974.

(c) Rehabilitation

373. Persons caught in the act of consuming drugs are brought before the appropriate judge, who will order a medical examination by a doctor specializing in drug addiction. If the examination indicates that the person concerned is a drug addict, the person will be required to undergo medical treatment at a public or private out-patient clinic.

(d) Harmful habits

374. The Ministry of Health's Harmful Habits Programme is targeted at teenagers and adolescents. It focuses on awareness-raising through workshops and educational materials. The programme has been developed with a non-governmental organization with acknowledged experience in this field.[32]

8.7.1 Programme of assistance for drug addicts

375. The department dealing with drug addiction focuses on drug users who have voluntarily sought help or who have been referred by primary health-care services. Assistance is provided on a decentralized basis through local general hospitals, emergency services, specialized out-patient services[33] and hospital wards for inpatients. Assistance is available to any resident of Uruguay aged over 14. The service provided includes an initial interview, individual psychotherapy, psychiatric assessment, family assistance and community health campaigns.

8.7.2 Drug addiction in Uruguay

(a) Drug use in Uruguay[34]

376. After the establishment of the National Drugs Council by Executive Decree No. 463/988, research was conducted into the prevalence of drug use so that policies could be targeted to reduce psychoactive substance abuse. The National Drugs Council, which reports to the President of the Republic, and the National Drugs Secretariat use the National Drugs Observatory to gather, compile and analyse drug-related information on an interdisciplinary basis. The findings are used to guide policy formation in line with the objectives set out in Uruguay's national plan.

377. Some of the National Drugs Council's findings are outlined below.

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[32] "El Abrojo".

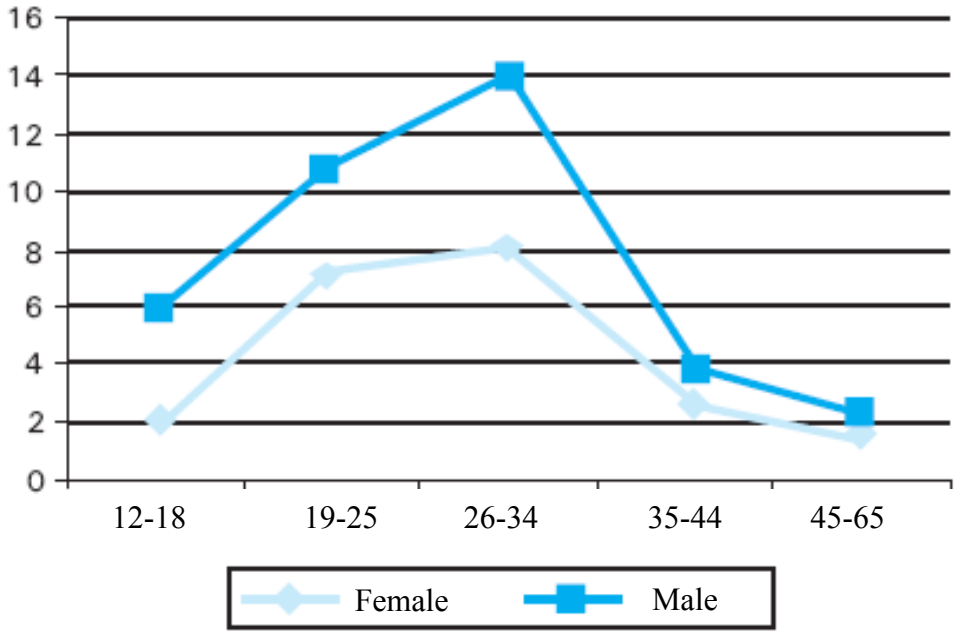
[33] Maciel hospital.

[34] Data from the Child Rights Observatory (UNICEF, 2004b).

378. A national survey on drug use conducted in Uruguay showed that the average age of first use of alcohol in Uruguay is 16.9 years. The most common age of first use is 15. The average age of first use by males is 16.11, and by females, 17.82. Alcohol is the most commonly consumed drug in Uruguay. Eight out of 10 individuals aged 12-65 have drunk alcohol at some point in their life. Almost 70 per cent of those surveyed had consumed alcohol in the last 12 months and 51.2 per cent had consumed alcohol in the last 30 days. The percentage of men who consume alcohol rises with age, up to the age of 35. Among women, the highest levels of alcohol consumption are found in the 19-25 age group. Heavy consumption of alcohol is also most prevalent in the 19-25 age group. Tobacco is the second most popular drug in Uruguay. The average age of first use is 16.34 years. The average age of first use for males is 15.42 years, and for females, 17.68 years. Some 52.2 per cent of individuals aged 12-65 have tried smoking tobacco at least once in their life. Marijuana is the most popular illegal drug in Uruguay. One hundred thousand Uruguayans, or approximately 5.3 per cent of the population aged 12-65, have experimented with marijuana. The average age of first use of marijuana is 20. Cocaine is the second most popular illegal drug. Some 25,000 individuals - 1.4 per cent of the population aged 12-65 - claim to have taken cocaine at some point in their lives. Consumption is concentrated mainly among the under-30s. The average age when cocaine is first consumed is 21, and is lower for men than for women (cf. UNICEF, 2004b). This information is illustrated below in figures taken from UNICEF (2004b).

Figure XV

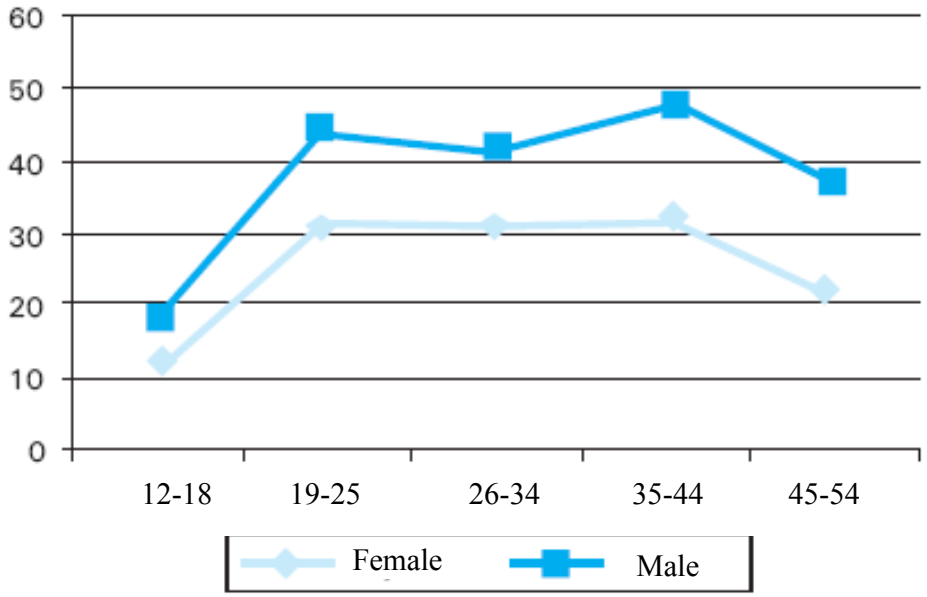
Experimention with marijuana, by age and sex



Source: UNICEF (2004b).

Figure XVI

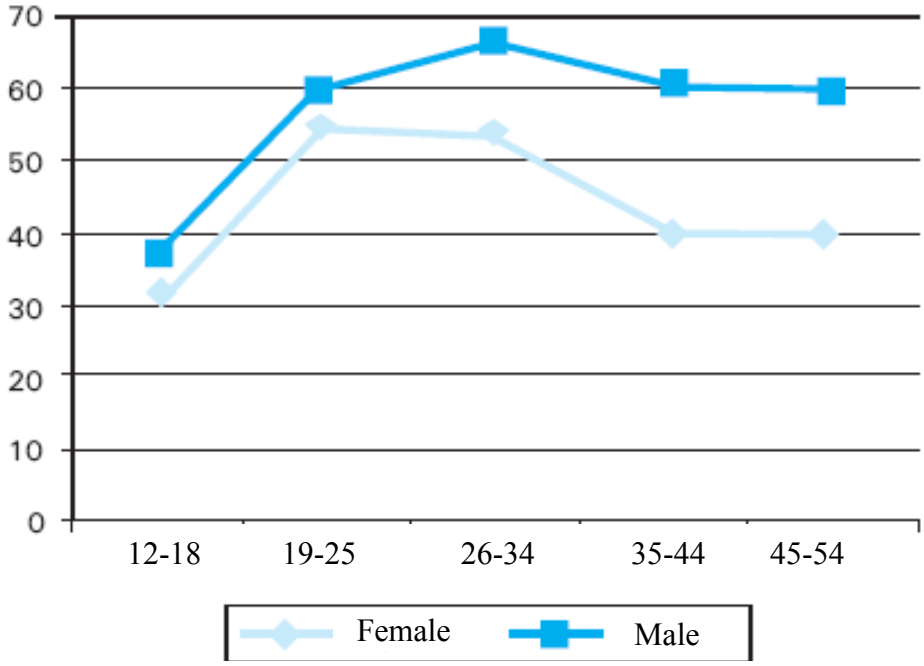
Percentage of smokers, by age and sex



Source: UNICEF (2004b).

Figure XVII

Percentage of drinkers of alcohol, by age and sex



Source: UNICEF (2004b).

(b) Drug use among pupils in secondary education

379. Uruguay's National Drugs Council decided to carry out a number of national surveys on drug use among secondary-school pupils in Montevideo. The results of this research, shown below, were made available in May 2004 (National Drugs Council, 2004).

Table I

Prevalence of drug use, 2001-2003 (%)

	At least once		Last 12 months		Last 30 days		Age of first use	
	2001	2003	2001	2003	2001	2003	2001	2003
Tobacco	55.7	61.6*	41.2	45.8*	32.3	34.8*	13.2	13.8
Alcohol	78.3	84.7*	66.3	72.5*	50.9	55.2*	12.7	12.59
Tranquilizers	15.4	13.2*	8.0	8.3	4.1	4.0	13.57	13.38
Marijuana	11.9	17.7*	7.0	13.0*	3.3	6.6*	14.7	14.98
Stimulants	5.9	8.9*	3.8	5.8*	2.2	3.0	14.04	14.00
Solvents	1.6	3.0*	0.6	1.6*	0.2	0.5*	13.2	13.91
Hashish	1.0	1.4	0.6	0.5	0.2	0.2	15.2	15.16
Hallucinogenics	1.4	2.1*	0.6	0.6	0.0	0.2*	15.1	15.07
Heroin	0.5	0.5	0.3	0.1	0.2	0.1	13.9	13.83
Opium	0.3	0.9*	0.2	0.3	0.1	0	13.88	14.00
Morphine	0.2	0.7*	0.1	0.3	0.1	0.1	12.7	14.11
Cocaine	2.4	4.7*	1.6	2.7*	0.5	1.2*	15.05	14.82
Coca paste	0.2	2.0*	0.2	1.2*	0.1	0.3*	14.8	15.38
Crack	0.3	1.1*	0.2	0.5*	0.1	0.3*	14.5	14.33
Other drugs	1.3	5.3*	0.9	3.4*	0.4	2.4*	14.0	12.85

Source: National Drugs Council (2004).

Base: Total samples, 2001-2003.

* Indicates a statistically significant difference.

380. The table above shows a significant increase in experimentation with all drugs, except for heroin and hashish. Habitual drug use (use in the last 30 days) has also risen slightly in the case of legal drugs, i.e. alcohol and tobacco, while the number of habitual users of marijuana has doubled (National Drugs Council, 2004).

381. Although the consumption of cocaine and coca paste remains low, in each case there has been a significant increase. The age of first use of legal drugs has fallen, due to the impact of a new cohort of users experimenting at an early age in 2002-2003. However, the age of first use of marijuana has remained stable, in line with the trend observed in 2001.

382. The National Drugs Council research produced some interesting statistics:

- The rise in habitual tobacco use is largely due to a higher percentage of female users, perhaps reflecting the feminization of alcohol consumption. The number of individuals experimenting with tobacco is increasing in both sexes, with the largest increase among pupils studying for their high-school diploma;

- Habitual alcohol use is on the increase in both sexes, with the largest increase in habitual use among pupils in the first year of their high-school diploma studies;

- Experimentation with marijuana has increased significantly (by about 50 per cent) in both sexes, the increase being slightly higher among women;

- The strongest increase was in habitual marijuana consumption, in the case of both males and females. As with experimentation, this trend is apparent from the first year of high-school diploma studies;

- There is an increased prevalence of some risk factors for marijuana consumption, including opportunities to experiment, having friends who drink alcohol to excess and having friends who take illegal drugs;

- The perceived risk attached to substance abuse has fallen significantly with regard to tobacco and occasional marijuana use. In 2003, a lower percentage of pupils than in 2001 saw binge drinking as a serious or very serious risk. The percentages for frequent use of marijuana and cocaine have remained stable.

383. The table below summarizes this information.

Table II

Tobacco consumption, 2001-2003

	Experimentation with tobacco		Habitual use of tobacco	
	2001	2003	2001	2003
Male	49.0	58.3	27.0	27.8
Female	61.2	64.8	35.6	41.0
Second year, secondary education	44.5	52.4	23.4	26.0
First year, high-school diploma studies	67.2	70.4	42.8	42.7
Third year, high-school diploma studies	72	69.1	42.7	43.0

Source: National Drugs Council (2004).

384. The research reaches the following conclusions (National Drugs Council, 2004):

(a) Secondary education is a formative environment for legal drug use. The most worrying statistics are those which reveal high levels of alcohol and tobacco consumption, in particular the high percentage of habitual users, and the high level of experimentation with marijuana. The occasional or habitual consumption of legal drugs seems increasingly well-established, which presages the legitimization of legal drug use (National Drugs Council, 2004);

(b) Regarding the consumption of illegal drugs, the slippery slope theory is borne out. There is a progression from alcohol and tobacco consumption to the use of illegal drugs - as a rule, marijuana. Forty per cent of pupils in secondary education are considered at risk in terms of illegal drug use because they are habitual consumers of legal drugs (National Drugs Council, 2004, p. 24);

(c) In terms of prevention, the research broadly suggests that the design of drug-use prevention strategies should be premised on recognition of "a diversity of attitudes and behaviours among young people, and of contexts [for drug use]" (National Drugs Council, 2004, p. 32).

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