

# UNIVERSAL PERIODIC REVIEW – FOURTH CYCLE

## CONTRIBUTION TO THE REVIEW OF ARGENTINA

### Right to housing in urban areas

Civil society report prepared jointly by the Center for Legal and Social Studies (CELS),<sup>1</sup> the Civil Association for Equality and Justice (ACIJ),<sup>2</sup> and Inquilinos Agrupados<sup>3</sup>

#### I. Introduction: general data on the housing situation in Argentina

1. Argentina has a structural housing deficit. On the one hand, there is a need to build houses for the overcrowded population, the people who live in unrecoverable housing, and the homeless. On the other hand, there is a category of housing that needs building improvements and access to basic services. According to the latest analysis by the Housing Department (2017)<sup>4</sup>—currently the Ministry of Housing and Territorial Development— **the housing deficit is estimated at 3.5 million. There are 2.2 million substandard housing units; 1.1 million people live in overcrowding conditions and another 200,000 in critical overcrowding conditions.**
2. According to the latest statistics,<sup>5</sup> 89.7% of the 9.4 million households in Argentina have access to running water, 70.3% to natural gas, and 74.2% to sewers. However, 56.4% do not have access to any of these services. Regarding the quality of materials, 17.8% of households are deficient in at least one of the components (floors, walls, or ceilings).

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<sup>1</sup> The Center for Legal and Social Studies (CELS) is a non-governmental organization that has been working since 1979 to promote and protect human rights and strengthen the democratic system in Argentina. The organization's main objectives are to report human rights violations; influence the formulation of public policies based on respect for fundamental rights; promote legal and institutional reforms aimed at improving the quality of democratic institutions; and foster the greater exercise of these rights by the most vulnerable sectors of society.

<sup>2</sup> The Civil Association for Equality and Justice (Asociación Civil por la Igualdad y la Justicia—ACIJ) is a non-partisan, non-profit organization dedicated to the defense of the rights of vulnerable groups and the strengthening of democracy in Argentina. Founded in 2002, its objective is to defend the effective enforcement of the National Constitution and the principles of the rule of law, to promote compliance with laws that protect the most disadvantaged groups and the eradication of all discriminatory practices, and to contribute to the development of participatory and deliberative practices of democracy.

<sup>3</sup> Inquilinos Agrupados is a civil organization founded in 2015 that seeks to represent, protect and expand the interests of tenants.

<sup>4</sup> Taken from CIPPEC (2019), Working Paper No. 181, May 2019, “La política Habitacional en Argentina. Una Mirada a través de los Institutos Provinciales de Vivienda” [Housing Policy in Argentina. A look through the Provincial Housing Institutes]: <https://www.cippec.org/wp-content/uploads/2019/06/181-CDS-DT-La-pol%C3%ADtica-habitacional-en-Argentina-Granero-Bercovich-y-Barreda-junio-2016-2.pdf>

<sup>5</sup> From the Permanent Household Survey, third quarter of 2021.

3. In the framework of the last Universal Periodic Review (UPR), in 2017, the Argentine State was advised to implement a National Housing and Public Infrastructure Plan. The following year, the Committee on the Rights of the Child stated that the provision of housing and basic services needed improvement. It also called on the State to implement a legal and regulatory framework that guarantees people's rights to safe drinking water and sanitation. Contrary to what was recommended, to date, the coverage of access to drinking water has decreased. According to the Permanent Household Survey,<sup>6</sup> the provision of drinking water dropped from 89.9% to 88.7%. Access to gas also decreased, from 71.4% to 70.3%. The service that increased its coverage was the sewerage network, which rose from 70.1% to 74.2%. Access to housing also declined: overcrowding (where two to three people live per room) went from 14% of dwellings in 2017 to 17.6% of dwellings in 2021. Critical overcrowding (more than three people per room) increased from 2.6% of dwellings to 4.7%, in the same period.

## II. Informal and precarious settlements

4. In the last five years, advances in the regulatory framework have been made. There is also more information available regarding informal and precarious settlements in the country.
5. In 2017, a group of social organizations with a national presence,<sup>7</sup> in collaboration with the State, surveyed the informal and precarious settlements in all localities with more than 10,000 inhabitants, formed up to December 2016.<sup>8</sup> This information was systematized and published in the National Register of Informal Settlements in the Process of Urban Integration (RENABAP), created by Decree 358/2017.<sup>9</sup>
6. In 2022, following social organizations' persistent advocacy efforts and struggle, RENABAP incorporated new low-income neighborhoods, starting with their revamping and expansion, including those in localities with more than 2,000 inhabitants formed before December 31, 2018.<sup>10</sup> Thus, 1451 new neighborhoods were incorporated, half of which approximately arise from the expansion of the surveyed localities. In other words, **in the last five years, about 700 low-income neighborhoods have emerged in the country.**
7. According to the latest survey, there are 5,687 vulnerable neighborhoods in Argentina today, in which more than 3.5 million people live. This is equivalent to approximately 7% of the Argentine population. According to the 2017 survey, 70% of vulnerable neighborhoods did not have access to electricity, 90% did not have access to drinking water mains, and 98% did not have access to sewers. This information has not yet been processed for the 2022 survey.

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<sup>6</sup> Results for the fourth quarter of the years 2017 and 2021.

<sup>7</sup> CTEP, CCC, Barrios de Pie, Techo and Cáritas

<sup>8</sup> In the framework of the survey, popular neighborhoods are defined as those that were settled by means of different land occupation strategies, which present different degrees of precariousness and overcrowding, a deficit in formal access to basic services, and an irregular land tenure situation. It must be constituted by a minimum of EIGHT (8) grouped or adjacent families, where more than half do not have legal land rights, nor do they have reliable access to at least TWO (2) basic services (piped running water, electricity connected to a residential meter, and/or sewerage network).

<sup>9</sup> Full text of the decree available at:

[https://www.argentina.gob.ar/sites/default/files/decreto\\_358\\_2017.pdf](https://www.argentina.gob.ar/sites/default/files/decreto_358_2017.pdf)

<sup>10</sup> The result of this survey was made official through the legal resolution 483/2022.

<https://www.argentina.gob.ar/noticias/el-ministerio-amplio-el-registro-nacional-de-barrios-populares>

8. One year after concluding the first survey, the "Regime for socio-urban integration and land regularization" was approved.<sup>11</sup> Its objective is to raise the living conditions in popular neighborhoods to align them with the rest of the city in terms of access to goods and services. In legal terms, the objective is that the people who live there have the title to their homes. This law, agreed upon by the National Executive Branch and various social organizations, declared RENABAP to be of public interest. It also provided for the public utility and expropriation of the land on which the informal and precarious settlements that have been listed in this registry are located, as well as the suspension of evictions in these territories. In addition, the Family Housing Certificate was created to allow registered families to accredit their domicile before any authority so that they can request access to public services (running water, sewerage, electricity, natural gas). This certificate is sufficient grounds for establishing their domicile before any public or private authority.
9. Although the aforementioned law is an important political achievement, its concrete implementation is still a challenge. Many public utility companies do not recognize the certificates. Judges frequently order the eviction of neighborhoods, even though they form part of the RENABAP. The process of social and urban integration, as we will see below, is progressing with great difficulty. However, it is important to acknowledge that, by providing updated and quality information, this regulation has made informal and precarious settlements visible throughout the country.
10. The Socio-Urban Integration and Property Regularization Regime nonetheless lacks some fundamental definitions. There is no information about the terms, conditions, or modalities under which the widespread titling process will be carried out. Furthermore, once these lands are regularized and enter the urban land market, no measures have been considered to prevent a process of expulsion of the population due to market pressure. Finally, we consider that the law should contemplate instruments to enable land regularization as an alternative to expropriation, which is an expensive tool for the State as it implies the purchase of the land at market value. Examples include the lifelong right of usufruct for housing purposes, short usucaption (three or five years), collective usucaption, a special concession for the use of private State land, and expropriation sanctions.
11. The approval of the law creating the Socio-Urban Integration and Property Regularization Regime is in line with the recommendations made in 2018 by the Committee on Economic, Social, and Cultural Rights.<sup>12</sup> The State was then required to implement adequate solutions to meet the severity of the housing problem in Argentina and produce complete and updated public information on access to housing.
12. However, other recommendations of the Committee on Economic, Social, and Cultural Rights (CESCR) concerning the completion of a study on the impact of land speculation are still pending.<sup>13</sup> This would help to control land speculation and guarantee the affordability of housing for underprivileged sectors. This is extremely important since a massive process of land purchase by the State through the expropriation mechanism provided for in the Socio-Urban Integration and Property Regularization Regime could lead to the speculative valorization of land.

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<sup>11</sup> Full text of the law available at: <https://www.argentina.gob.ar/normativa/nacional/ley-27453-315739>

<sup>12</sup> Concluding remarks on the fourth periodic report of Argentina: E/C.12/ARG/CO/4.

<sup>13</sup> E/C.12/ARG/CO/4 Recommendation No. 48, c)

13. On the other hand, the socio-urban integration policy has suffered severe budget cuts. This is the case of the two programs aimed at the integration of RENABAP neighborhoods in the budget approved for 2022. The activity of the Integrated Approach to Vulnerable Neighborhoods has been reduced by 27% and actions related to the Socio-Urban Integration program in these neighborhoods (BID N° 4804/OC-AR) have been reduced by 34%. Meanwhile, the goals set for 2022 are insufficient to address the serious housing deficit in popular neighborhoods. Although 3.5 million people live in these neighborhoods, the 2022 target for the number of people to benefit from integration policies for popular neighborhoods is only 32,059. In other words, less than 1% of the total number of people living in these neighborhoods would be reached.
14. During the COVID 19 pandemic, the first widespread infections occurred in the popular neighborhoods of the City of Buenos Aires. This can be explained by the socio-urban characteristics of these neighborhoods: the lack of basic services such as water, overcrowding, and the lack of cleaning and disinfection elements made it practically impossible to comply with infection prevention measures. In addition, the impossibility of earning an income forced many people to wait in long lines at community canteens to eat. In turn, because of deficient housing and environmental conditions, those who live in informal and precarious settlements tend to have worse health indicators than those who live in neighborhoods with higher purchasing power.
15. At the beginning of the COVID-19 health emergency, the Ministry of Social Development and the National Ministry of Health issued Joint Resolution No. 2/2020,<sup>14</sup> through which they established the "Recommendations and specific measures to prevent the spread of COVID-19 in popular neighborhoods and elderly care." These recommendations establish a set of strategies that were to be organized at the local/territorial level to try to minimize the circulation of COVID-19 in vulnerable neighborhoods with high levels of overcrowding, with the understanding that this requires the coordination of all levels of government with civil society institutions.
16. However, this decree was not mandatory. It was merely an indicative framework for action. In the City of Buenos Aires, there were no clear and effective intervention mechanisms nor action protocols that took into account the differential characteristics of these neighborhoods. Responses began to appear once the COVID-19 situation had already reached the stage of accelerated contagion.
17. The Government of the City of Buenos Aires moved forward with the approval and implementation of a specific protocol only after civil society organizations initiated a legal action demanding it,<sup>15</sup> and the Court of First Instance ordered it to do so. The lack of a differential intervention resulted in **a much higher rate of contagion in informal and precarious settlements than in the rest of the city**. The general measures of preventive and compulsory social isolation were insufficient to manage the epidemic in these areas.

### III. Rental housing

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<sup>14</sup> Full text of the law available at:

<http://servicios.infoleg.gob.ar/infolegInternet/anexos/335000-339999/336468/norma.htm>

<sup>15</sup> Find full document at:

[https://acij.org.ar/wp-content/uploads/2020/05/Recomendaciones-para-un-protocolo-de-actuaci%C3%B3n-frente-al-COVID-en-villas-y-asentamientos\\_preliminar.pdf](https://acij.org.ar/wp-content/uploads/2020/05/Recomendaciones-para-un-protocolo-de-actuaci%C3%B3n-frente-al-COVID-en-villas-y-asentamientos_preliminar.pdf)

18. Rental housing as a way to access housing is one of the options that has grown the most. According to the analysis of the Permanent Household Survey, from 2003 to the third quarter of 2021, there was an estimated growth of more than 7%, rising from 11.1% in 2003 to 18.6% nowadays. This growth is even more pronounced in large urban areas like the City of Buenos Aires (from 20.2% to 31.8%) or Río Cuarto (18.5% to 33.8%).
19. In March 2020, at the beginning of the pandemic, the National Government issued specific measures for tenants within the context of enforcing the isolation measures. DNU 320/20—which was extended for four months and then for two more months—prohibited evictions for non-payment and automatically extended rental contracts. In addition, payment by bank transfer was made mandatory—to avoid people moving around—and moves were prohibited for three months.
20. These measures were in line with the UN Special Rapporteur on Adequate Housing's recommendations made during the pandemic. The Rapporteur called on States to "Enact rent caps and subsidies for tenants and small-scale homeowners, consistent with their needs and to ensure housing market stability during the pandemic so that a global health emergency does not become a housing emergency."<sup>16</sup>
21. Despite the exceptional context caused by the pandemic, real estate income was not compromised. The aforementioned decree allowed tenants to guarantee their housing but at the cost of heavy indebtedness. According to the results of the survey conducted in December 2020 by CELS and the Interdisciplinary School of Higher Social Studies on renter households in the Buenos Aires Metropolitan Area, **more than 65% of renter households had suffered a restriction on their income and had had to take on debt. Eighty percent had taken on debt to pay for daily expenses.**<sup>17</sup>
22. In addition, actions taken by the National Government to achieve effective compliance with this Decree were scarce or late. After the first months of the enactment of the emergency decree, conflicts between tenants and property owners increased due to non-payment. A recent study showed that tenants had to endure harassment<sup>18</sup> and sign contracts with abusive and illegal clauses to maintain their housing.
23. Unfortunately, there has been no progress since the 2018 general comments of the CESCR Committee on expanding the production of public information regarding evictions.<sup>19</sup> On March 30, 2021, Minister of Territorial Development and Habitat

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<sup>16</sup> Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context, Mr. Balakrishnan Rajagopal, submitted in accordance with Human Rights Council resolution 43/14. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N20/195/69/PDF/N2019569.pdf?OpenElement>

<sup>17</sup> See full document at: <https://www.cels.org.ar/web/publicaciones/deuda-y-alquiler-la-situacion-de-los-hogares-inquilinos-en-el-amba/>

<sup>18</sup> Vera Belli (2021) "Rental housing regulations in times of pandemic COVID 19. A reflection from the voice of the tenants". Report made based on interviews carried out at the civil organization Inquilinos Agrupados, during the months of July, August and September 2020. Available at: <https://publicaciones.sociales.uba.ar/index.php/argumentos/article/view/6982/5835>

<sup>19</sup> See paragraph 48, in [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fAR.G%2fCO%2f4&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fAR.G%2fCO%2f4&Lang=en)



(MDTyH) Jorge Ferraresi announced that the suspension of evictions established during the pandemic would not be extended. He considered that the State had the necessary tools to be able to control the situation. However, according to several sources of information, we discovered that the MDTyH had almost no information regarding eviction processes in Argentina. The social organization Inquilinos Agrupados filed a collective motion requesting the suspension of evictions until solutions can be offered to renter households at risk of losing their homes. In the appeal, the organization included the requests for information that it filed jointly with CELS before the Supreme Court of Justice of the Province of Buenos Aires, the General Attorney's Office of the Supreme Court of Justice of the Province of Buenos Aires, the National Ministry of Health, the National Ministry of Habitat and Territorial Development, and the National Chamber of Appeals in Civil Matters. The only agency that responded was the National Chamber, which confirmed **the increase in eviction cases during the pandemic: in August and September 2020 alone, 1475 eviction lawsuits had been filed, half as many filed in the entire year before (2019)**. Moreover, the MDTyH had not consulted any organization in regard to the situation of evictions.

24. The decision of the Ministry of Territorial Development and Habitat was the creation of an Early Eviction Notice Protocol.<sup>20</sup> This is a tool for systematizing information and classifying households undergoing eviction processes in mediation or judicial proceedings. Based on this information, the Ministry would intervene by providing a housing solution to those who were evicted. However, this tool was completely ineffective. First, **the Protocol excluded all tenant-landlord relationships without a formal written contract. According to information from the survey of tenants in the Buenos Aires Metropolitan area conducted by CELS and IDAES, only 50% said they had a written contract**. Furthermore, this tool failed due to the lack of information regarding eviction sentences and dialogue between the judiciary and executive branches. The lack of official data about the situation of tenants and their economic situation is also a structural problem that prevents the promotion of an effective public policy of intervention in the functioning of the rental market.
25. In 2017, the City of Buenos Aires passed Law No. 5859, under which property owners are exclusively responsible for paying real-estate commissions. This regulation, supported by social and tenant organizations, improved the conditions of access to contracts for tenants as it implied a decrease in entry costs. Despite claims made by property owners that the law would lead to a massive withdrawal of the supply of rental units, nothing of the sort happened.
26. On the other hand, in June 2020, the National Congress approved a new Rental Law,<sup>21</sup> with the strong support of tenants' organizations. This bill broadened the rights of this population with substantial improvements. They include the extension of the minimum duration of the contract from two to three years; regulated annual increases stipulated within the contract based on an official index that averages inflation and wages;<sup>22</sup> tenants can opt to present multiple guarantees; reduced entry costs; and enhanced stability in regard to property repairs. Moreover, under the law, the Ministry of Territorial Development and Habitat must devise specific

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<sup>20</sup> <https://www.argentina.gob.ar/habitat/desarrollo-territorial/alquileres>

<sup>21</sup> Details on the law: <https://www.argentina.gob.ar/justicia/derechofacil/leysimple/alquileres>

<sup>22</sup> This index attempts to compensate property owners and tenants by incorporating both dimensions: inflation and wages. For at least four years, Argentina has been suffering a high inflationary process with values above 50%. By 2022, estimates foresee that it will exceed 70%. Official information available at: <https://www.indec.gob.ar/indec/web/Nivel4-Tema-3-5-31>

policies to improve access to rental housing in terms of expanding the supply of units, develop subsidies, and create policies for specific population groups.

27. Even though the law improves tenants' rights, the National Government has not made any progress in its implementation. It has not launched an awareness campaign to disseminate its contents, nor has it implemented mechanisms to ensure that the new contractual conditions are respected. The role of the State is especially important in an asymmetric contractual relationship such as the one between property owners and tenants, where one of the parties is looking for rental income and the other needs to resolve their housing situation.
28. The National Chamber of Deputies is currently debating amendments to the law. In the name of greater liberalization of the rental market, pro-market political sectors are calling for its repeal, arguing that the regulation is detrimental to tenants. The pro-government bloc, on the other hand, seeks not only to maintain the basic rights achieved under the law but also is working to establish additional measures to benefit tenants, such as the creation of a public system of guarantees or a mandate that property owners accept electronic rent payments. Civil society organizations have actively participated in the parliamentary debate to avoid a setback in the acquired rights and defense of the right to housing.<sup>23</sup> While the debate continues, the Ministry of Territorial Development and Habitat is not taking any action to enforce the law, despite being the lead entity according to the text of the law itself.

#### **IV. The Unsheltered**

29. Another important problem with regard to access to housing is the increase in the number of unsheltered or unhoused people. This population is especially visible in the City of Buenos Aires, one of the largest cities in the region.
30. The City of Buenos Aires carries out annual surveys of unsheltered people but its methodology is deficient and not suitable for working with people living on the streets. As a result, we do not know how many people are in this situation, nor do we know their qualitative characteristics. The surveys are carried out in a single night (when people wander around to be safer from the risks of attacks and robberies) and only record what they observe. In other words, the census taker decides who to count as unsheltered or unhoused, which is usually based on physical appearance (as if there were physical identifiers that could define them). The census does not include an interview that would make it possible to design policies that address the reality experienced by people living—and suffering—on the streets.
31. To obtain an accurate measurement, organizations working on the issue decided to carry out their own surveys employing the appropriate methodology. The differences were significant. For the last three years, official data<sup>24</sup> indicated that the population living on the street remained stable at around 1,000 people.<sup>25</sup>

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<sup>23</sup> As a result of the debate, tenants were able to stop the advance of measures to deregulate the rental market:

<https://www.cels.org.ar/web/2022/05/acuerdo-para-frenar-la-avanzada-inmobiliaria-y-profundizar-los-derechos-de-les-inquilines/>

<sup>24</sup> Data available in the article:

<https://elgritodelsur.com.ar/2022/05/para-el-gobierno-porteno-hay-menos-gente-en-situacion-de-calle-que-el-ano-pasado.html>

<sup>25</sup> In 2020, due to the pandemic, the census did not take place. It was done in 2022 but the results have not yet been published:

<https://www.buenosaires.gob.ar/desarrollohumanoyhabitat/desarrollohumanoyhabitat/inclusion-social->

However, the First Popular Street Census conducted in 2017 concluded that 4,413 people were living on the street. The second census, conducted in 2019, counted 7,251. Of these, 52% were on the street for the first time, which can be assumed as a direct consequence of the economic crisis. Between 2017 and 2019, the number of people living on the street rose by 64%.<sup>26</sup>

32. On October 27, 2021, Law No. 27.564/21 was passed.<sup>27</sup> This law seeks to guarantee the human rights of people living on the streets and provides for a national census of the unsheltered, which was carried out on the same day as the National Census. This census, however, was carried out in the City of Buenos Aires with the official methodology described above, which social organizations have objected to.
33. Regarding the solutions provided, the City of Buenos Aires has an assistance system for unsheltered people. Buenos Aires Presente (BAP) is a street assistance program that can transfer people to different types of Social Integration Centers (SIC). These low-barrier homeless shelters receive people that need to sleep, eat and clean themselves with minimal entry obstacles. There are also permanent homes where vacancies have a higher level of stability. These resources were designed (and some of them were inaugurated) by the "Integrating Program for Homeless, Homeless Families, and Individuals on the Street," in 1997.
34. In addition to the SIC, where the city government provides homes and shelters, the government has a program called Care for Families in Street Situation (CFSS), which provides a housing subsidy. It was initially intended exclusively for families but was expanded in 2006 to include single adults. However, the form of admission is discretionary: the city government decides who can access it; there is no registry to apply for it. Finally, the amount granted makes it difficult to pay for a room in a boarding house.
35. All these programs lack a rights-based perspective and operate on the basis that people remain in the shelters for a limited period. However, when people leave (either voluntarily or after being kicked out), they leave a vacancy, but if they want to come back, their return will be subject to availability (and to the evaluation of the BAP, which now manages the admission to the shelters). In the homes, vacancies last six months and can be renewed but the individual must sleep in the home "without absences" while demonstrating a certain behavior or they risk losing the vacancy. Neither the complexity of the situation of those living on the street nor their health condition, addictions, possible access to employment, etc. are taken into account.
36. Over time, the AFSC updated the amount and duration of the subsidy under different decrees. However, the article indicates that the program's application

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<sup>26</sup> First PSC Popular Street Census (2017) "Presentation of the Report" can be downloaded from <https://www.facebook.com/events/tacuar%C3%AD-124-1071-ciudad-de-buenos-aires-argentina/presentaci%C3%B3n-del-informe-1%C2%BA-cppsc/107894159865673/> and the Second PSC Popular Census (2019) "Informe Ejecutivo" [Executive Summary] at <https://acij.org.ar/wp-content/uploads/2019/07/416580426-Informe-Ejecutivo-CPPSC-2019.pdf>

<sup>27</sup> Full text available at:

<https://www.argentina.gob.ar/justicia/derechofacil/leysimple/justicia-derechos-humanos/situacion-de-calle-y-familias-sin-techo#:~:text=La%20Ley%2027.654%20busca%20garantizar,27.654%20es%20de%20orden%20p%C3%BAblic>.



authority will be the one to decide on the documentation required to approve admission and permanence in the program remains. This implies a discretionary implementation that excludes a rights perspective, by personalizing the admission or exclusion in each situation. Currently, an estimated 25,000 subsidies have been granted. Of these, 30% are in the courts, either to enter the program, remain in it over time, or obtain a higher amount.

## V. Evictions

37. In 2018, the ESCR Committee advised Argentina to adopt protocols for public intervention in eviction situations and to produce data on them.<sup>28</sup> Progress on the first point has been limited and on the second point, null. There are still eviction operations that do not comply with the minimum protection criteria: the presence of women and children is not considered and previous instances of conversation between the parties to find a consensual solution that responds to the underlying housing problem have not been exhausted.
38. There are instruments that establish frameworks of action for eviction procedures, guaranteeing protections for affected persons and taking into account their housing situation. These instruments, however, are deficient in their scope and implementation. In both the Province of Buenos Aires and the City of Buenos Aires, the instruments that do exist apply only to eviction proceedings carried out in the criminal arena. Moreover, the judges and prosecutors in charge of implementing them often decide to omit them.
39. In 2019, the Supreme Court of the Province of Buenos Aires approved the "Protocol for judicial action against occupations of real estate by large groups of people in vulnerable situations,"<sup>29</sup> which provides human rights guidelines to judicial officials on how to proceed in situations of occupations and evictions. It also provides for specific measures to protect women, children, persons with disabilities, the elderly, and other particularly vulnerable persons in eviction situations and establishes that a census must be carried out to determine the number of persons participating in the occupation and to identify those in vulnerable situations. Furthermore, it recommends a dialogue instance to try to find a solution to the conflict as an alternative to eviction. The eviction cannot proceed without first having exhausted these prior negotiation instances. Finally, it establishes certain guarantees during the eviction procedure, such as the presence of protection agencies and the obligation of strict compliance with international human rights law. This is a valuable tool to guide the actions of justice. However, the judicial officials in the province tend to omit these steps.
40. A good example is the eviction of a massive occupation in the town of Guernica, on the outskirts of the Buenos Aires Metropolitan Area, during the pandemic. In July 2020, during the strictest months of confinement, about 2,000 families moved into a large vacant lot in a district on the outskirts of the Buenos Aires Metropolitan Area. The vast majority were tenants from vulnerable neighborhoods who had been evicted because they could no longer afford to pay the rent. There were also women who had left their homes to escape situations of domestic violence that had gotten worse in the context of the isolation measures. As a result of a complaint filed by the property's owners, the occupation was quickly prosecuted in the criminal courts. Then, as stipulated in the "Protocol for judicial action against occupations of real estate by large groups of people in vulnerable situations," a census was carried out on the population of the occupation. The information

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<sup>28</sup> See E/C.12/ARG/CO/4 (paragraph 48)

<sup>29</sup> See [https://www.scba.gov.ar/\\_paginas.asp?id=42163](https://www.scba.gov.ar/_paginas.asp?id=42163)

gathered, however, was used to criminalize the people participating in the occupation. Those who responded were criminally charged. Two months after the occupation began, the Ministry of Community Development of the Province of Buenos Aires opened a negotiation table to find a consensual and non-violent solution to the conflict. For approximately one month, the provincial government had enormous difficulties in offering the families a sustainable solution to their housing problem. Neither the municipality nor the province had available land, close to the site of the conflict, to offer to the families. This is partly explained by the decision not to implement land management policies that would guarantee urban income distribution and land availability for middle and low-income sectors.<sup>30</sup> In this context, a new census was carried out which showed that almost 80% of the families had come to the occupation because they had lost their jobs or were unable to pay rent.<sup>31</sup> The existence of an ongoing criminal process and the constant threat of possible imminent eviction made the dialogue difficult. When an agreement was close to being reached, the prosecutor pressed to proceed with the eviction within the time limit set by the judge, and the provincial government decided not to ask for more time. On October 28 at dawn, an operation of more than 4,000 police officers violently evicted the more than 2,500 families occupying the land, setting fire to the precarious buildings that the families had erected during those months.

41. This type of practice violates the principle of reasonableness and proportionality established by the Committee on ESC rights in its General Comment No.7<sup>32</sup> referenced in the action protocol of the Supreme Court of the province. In the months following the eviction, the provincial government finally succeeded in getting the owners of the land that had been occupied to cede a portion of their land for a subdivision for the families that had been part of the occupation. Almost two years later, the housing situation of the evicted families has not been resolved. They have not yet received their lots. Moreover, there is no guarantee that they will receive them shortly.
42. In the City of Buenos Aires, the existing frameworks for action are equally ineffective in guaranteeing rights in the context of eviction proceedings. On September 30, 2021, the City of Buenos Aires police evicted a land occupation in Villa 31, a historic vulnerable neighborhood. Over 100 families and 175 children were living on the occupied land. Most of them were households supported by women who, in the context of economic crisis, had not been able to pay rent. Faced with this situation, a group of women decided to clear a tract of public land, which had been a garbage dump, and to settle there in precarious shacks. The women who took the land called the occupation "La Fuerza de las Mujeres" (Women's Strength). The city government denounced the occupation and, in the framework of the case, refused to create the round table requested by the families to find a solution to the conflict. After the eviction, the city government offered the women who had participated in the occupation the possibility of spending the night in a shelter and a housing subsidy of 13,000 pesos, an amount that is not even

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<sup>30</sup> See

<https://www.cels.org.ar/web/2020/10/herramientas-para-dar-respuestas-a-los-reclamos-urgentes-por-l-a-tierra/>

<sup>31</sup> Results available at:

[https://www.gba.gob.ar/desarrollo\\_de\\_la\\_comunidad/noticias/resultados\\_del\\_censo\\_de\\_guernica](https://www.gba.gob.ar/desarrollo_de_la_comunidad/noticias/resultados_del_censo_de_guernica)

<sup>32</sup>

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCESCR%2fGEC%2f6430&Lang=es](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCESCR%2fGEC%2f6430&Lang=es)

enough to rent a room. This implies a direct dismissal of their substandard housing situation.

43. The police operation was violent and excessive. It happened in the early morning when the women had left for work or were taking their children to school. The police did not give them the time or opportunity to remove essential items—on the contrary, they destroyed them. The police prioritized the element of surprise and a quick operation, instead of guaranteeing minimum care protocols for a group of people who were in a situation of extreme vulnerability in the face of police intervention. The operation violated the provisions of the Protocol of Action in Cases of Encroachment of the Public Prosecutor's Office of the City of Buenos Aires, approved in 2008.<sup>33</sup> The provisions of this instrument, moreover, are very limited. Unlike the protocol of the Supreme Court of the Province of Buenos Aires, for example, this protocol does not establish the obligation to create prior negotiation instances. Furthermore, for example, it only establishes that during the eviction procedure, the agency for the protection of children's rights must be present when the children are not under the protection of a responsible adult.

## **Recommendations**

Within the framework of the integration process of the vulnerable neighborhoods listed in the RENABAP:

1. Find solutions that respond to the needs of the inhabitants of the informal and precarious settlements regardless of their ability to pay, with the understanding that the focus of the law should be the socio-urban integration of the vulnerable neighborhoods and the recognition of the right of their inhabitants to remain in them.
2. In the provinces: implement health and safety protocols sanctioned by law with action frameworks for the prevention of widespread contagion in informal and precarious settlements, taking into account the specificities of the urban fabric, the housing situation, and the socio-economic situation of the inhabitants of these neighborhoods.
3. Establish mechanisms to guarantee compliance with the new conditions of the contractual relationship established by the Rent Law (27551) and implement the Social Rent Program.
4. Ensure the production of data on the functioning of the rental housing market: prices, the composition of renter households, characteristics of the rental housing stock, contract conditions, etc.
5. Enact provincial laws to regulate professional real estate activity and ensure that owners—not tenants—pay real-estate commissions.
6. Generate mechanisms to have systematized and updated information on evictions at the federal and provincial levels.
7. In the City of Buenos Aires and the Province of Buenos Aires, expand the scope of the protocols for action in cases of evictions and complement them with mechanisms that guarantee the implementation of these instruments.

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<sup>33</sup> Available at: <https://mpfciudad.gob.ar/storage/archivos/9097f973c0946b3b14a44eac0a395df8.pdf>

8. Consider the metropolitan dimension of the problems of access to housing, especially for the unsheltered population where issues related to the housing market, health, and family relations end up influencing housing decisions.
9. When surveying unsheltered people, the City of Buenos Aires should apply a methodology that guarantees reliable quantitative and qualitative information.
10. That the City of Buenos Aires modify the operation of housing subsidies so that they are automatically updated based on increases in the cost of living index.
11. Generate policies to address the situation of people living on the streets from a rights perspective and approach the problem structurally and comprehensively, i.e., taking into account the different dimensions that are part of the problem.