

UA 39/19

AI Index: AMR 13/0119/2019 of 26 March 2019

ARGENTINA

MOTHER DEPORTED, CHILDREN LEFT BEHIND

On 4 February, authorities deported Vanessa Gómez Cueva, a Peruvian citizen with residence status in Argentina for over 15 years, along with her two-year-old Argentinian son. She was forced to leave behind her two other children (aged 5 and 14), who are also Argentinian. She was not allowed to say goodbye. The deportation order was based on a criminal conviction, for which Vanessa had served a sentence in 2014. The National Migrations Office must reverse this order which violates the rights of the children under national and international law and reunite Vanessa and her children.

On 1 February police officers showed up at Vanessa Gómez Cueva's house and asked her to accompany them to their offices to "sign a notification". Vanessa took her 2-year-old son with her and left her other two children at home. Police officers transferred Vanessa and her baby to a cell without light or water. Later that day, they were both moved to Ezeiza Airport in Buenos Aires, where they were held by migration authorities. On 4 February, she was deported from the country with her infant son, who is still breastfeeding. She was not able to say goodbye to her other two children, who are being cared for by relatives.

Vanessa is 33 years old and arrived in Argentina from Peru more than 15 years ago. In 2013, she was sentenced to four years in prison for the sale of narcotics in an expedited trial. After serving her sentence, she sought to reintegrate herself into Argentine society and obtained a nursing qualification, while balancing her work and studies. After the conviction, in 2015, the National Migrations Office ordered her deportation without taking into proper consideration her current situation or the existence of her Argentine children.

Three months after the deportation order was issued, Vanessa filed an administrative appeal that was rejected. However, she said she was never notified of the decision to deny her appeal and was therefore prevented from filing an appeal to that decision. In October 2018, the National Migrations Office requested a judicial order to detain Vanessa in order to execute the deportation order. Due to administrative errors, Vanessa never received a notification of this order and therefore could not challenge it. She was held with her baby on 1 February 2019 and both were expelled from the country three days later. Her deportation violates the right to family life, family unity and the best interest of the child, which are all protected by national law and international treaties, including regional standards, ratified by Argentina.

Please send a message to the Director of the National Migrations Office.

* Urge him to immediately reverse Vanessa's deportation.

* Call on him to guarantee her return to Argentina with her baby and allow family reunification with her two other children.

Write to

Horacio José García
Director of the National Migrations Office
Av. Antártida Argentina 1355
Ciudad de Buenos Aires, C1104ACA
Argentina
Email: hgarcia@migraciones.gov.ar
Twitter: @HoracioGarciaOK or @migraciones_AR
Salutation: Dear Director García

Please copy

His Excellency Eugenio María Curia
Ambassador for the Argentine Republic
81 Metcalfe Street, 7th floor
Ottawa, Ontario K1P 6K7
Fax: (613) 235-2659
Email: ecana@mrecic.gov.ar
Via website: www.ecana.mrecic.gob.ar/contact/68

Rogelio Frigerio
Minister of the Interior, Public Works and Housing
25 de Mayo 101
Ciudad de Buenos Aires, C1002ABC
Argentina
Email: secprivada@mininterior.gob.ar
Social media: <https://twitter.com/frigeriorogelio>
<https://www.facebook.com/frigeriorogelio/>
<https://www.instagram.com/rogeliofrigerio/>

Additional information

In recent years, Argentina has been implementing a shift in its migration policy. Through policy and practice, the government is taking measures that restrict the rights of migrants, as well as refugees and asylum seekers, and encourage discrimination and xenophobia.

In January 2017, the national government adopted the Necessity and Urgency Order 70/2017 that modifies the Migration Law 25,871 and its Regulatory Decree 616/2010. This change to the migratory legislation – implemented using an exceptional legal mechanism, without parliamentary debate and using biased data – resulted in a huge normative setback on the rights of migrants. Specifically, it expands the reasons for preventing or canceling migrants' legal stay in Argentina, violates due

process and access to justice for migrants, violates the right to family and family unity and criminalizes migrants.

More recently, on 6 February 2019, the provincial government of Chubut adopted Decree 136/2019 that allows for the expulsion and prohibition of entry into the province of all migrants with a criminal record. These concrete measures are accompanied by xenophobic speeches by authorities and public officials, as well as communication strategies from public authorities and mass media outlets that stigmatize migrants and link migration with crime, increasing persecution towards migrant communities. See joint [statement](#): “Warning of the Retreat of Migration Policies”.

In recent weeks, these changes reached a point of extreme gravity. Amnesty International and other civil society organizations are receiving reports of expulsions that separate migrants from children, even when these are Argentinian citizens. The case of Vanessa is one of the most serious cases. In addition, the government has introduced various measures that greatly impede the regularization of migration: it has expanded the requirement to prove criminal records going back ten years, a 1000% increase in fees for regularization, the closure of programs of territorial approach and the creation of a new and complex digital system that limits access for low-income migrants.

The Decree of Necessity and Urgency 70/2017 and other regressive measures adopted by the government fail to comply with the international obligations of Argentina. In this regard, various international human rights organizations have criticized Argentina in recent years, including the Inter-American Commission on Human Rights, Working Group on Arbitrary Detention, Special Rapporteur against Racism, Committee against Torture, Committee on Migrant Workers, Committee on the Rights of the Child, Committee on Social, Economic and Cultural Rights, and the Working Group of Experts on Afro-Descendants.

Having previously been a country recognized by specialized international organizations as a model to follow in terms of migration policies, the regression represented by the regulatory reforms and public discourse being promoted by public officials is extremely concerning. Vanessa's case exemplifies this grave scenario in which the right to family life, family unit and the best interest of the child can be violated.