



**Convention on the
Rights of the Child**

Distr.
GENERAL

CRC/C/46/3
22 April 2008

Original: ENGLISH

COMMITTEE ON THE RIGHTS OF THE CHILD
Forty-sixth session
17 September-5 October 2007

REPORT ON THE FORTY-SIXTH SESSION

(Geneva, 17 September-5 October 2007)

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I. ORGANIZATIONAL AND OTHER MATTERS

A. States parties to the Convention

1. As at 5 October 2007, the closing date of the forty-sixth session of the Committee on the Rights of the Child, there were 193 States parties to the Convention on the Rights of the Child. The Convention was adopted by the General Assembly in its resolution 44/25 of 20 November 1989 and opened for signature and ratification or accession in New York on 26 January 1990. It entered into force on 2 September 1990, in accordance with the provisions of its article 49. An updated list of States that have signed, ratified or acceded to the Convention is available at www.ohchr.org and <http://untreaty.un.org>.

2. As at the same date, the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict had been ratified or acceded to by 118 States parties and signed by 122 States. The Optional Protocol entered into force on 12 February 2002. Also as at the same date, the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography had been ratified or acceded to by 123 States parties and signed by 115 States. It entered into force on 18 January 2002. The two Optional Protocols to the Convention were adopted by the General Assembly in its resolution 54/263 of 25 May 2000 and opened for signature and ratification or accession in New York on 5 June 2000. A list of States that have signed, ratified or acceded to the two Optional Protocols is available on www.ohchr.org and <http://untreaty.un.org>.

B. Opening and duration of the session

3. The Committee on the Rights of the Child held its forty-sixth session at the United Nations Office at Geneva from 17 September to 5 October 2007. The Committee held 29 meetings. An account of the Committee's deliberations at its forty-sixth session is contained in the relevant summary records (see CRC/C/SR.1256 to SR.1284).

C. Membership and attendance

4. All the members of the Committee attended the forty-sixth session (with the exception of Ms. Joyce Aluoch and Ms. Alya Al Thani). A list of members, together with an indication of the duration of their terms of office, is provided in annex I to the present report.

5. At its 1256th meeting, the Committee formally approved the appointment by Qatar of Ms. Alya Al-Thani to replace Ms. Ghalia Al-Thani for the remainder of her term, following her resignation in May 2007.

6. During the opening meeting of the forty-sixth session (1256th meeting), the Committee nominated Ms. Agnes Akosua Aidoo as a Vice-Chairperson of the Bureau to replace Mr. Awich Pollar who stepped down from this position.

7. The following United Nations bodies were represented at the session: Office of the United Nations High Commissioner for Human Rights (OHCHR), United Nations Children's Fund (UNICEF), Office of the United Nations High Commissioner for Refugees (UNHCR).

8. The following specialized agencies were also represented at the session: International Labour Organization (ILO), World Health Organization (WHO), and United Nations Educational, Scientific and Cultural Organization (UNESCO).

9. Representatives of the following non-governmental organizations also attended the session:

General consultative status

International Council of Women, International Movement ATD Fourth World, International Save the Children Alliance, Zonta International;

Special consultative status

Amnesty International, Arab Organization for Human Rights, Coalition against Trafficking in Women, Defence for Children International, International Commission of Jurists, International Federation of Social Workers, International Federation of Women in Legal Careers, International Federation Terre des Hommes, International Service for Human Rights, World Federation of Methodist and Uniting Church Women, World Organization against Torture;

Others

NGO Group for the Convention on the Rights of the Child, Geneva Institute for Human Rights (GIHR), International Baby Food Action Network.

D. Agenda

10. At its 1256th meeting, on 17 September 2007, the Committee adopted the following agenda on the basis of the provisional agenda (CRC/C/46/1):

1. Adoption of the agenda.
2. Organizational matters.
3. Submission of reports by States parties.
4. Consideration of reports of States parties.
5. Cooperation with other United Nations bodies, specialized agencies and other competent bodies.
6. Methods of work of the Committee.
7. Day of General Discussion.

8. General comments.
9. Future meetings.
10. Other matters.

E. Pre-sessional working group

11. In accordance with a decision of the Committee at its first session, a pre-sessional working group met in Geneva from 11-15 June 2007. All members with the exception of Ms. Al Thani and Ms. Aluoch participated in the meeting. Representatives of OHCHR, ILO, UNICEF and UNHCR also participated. A representative of the NGO Group for the Convention on the Rights of the Child, as well as representatives of various national and international non-governmental organizations, also attended.

12. The purpose of the pre-sessional working group is to facilitate the Committee's work under articles 44 and 45 of the Convention, article 12 of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and article 8 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, primarily by reviewing State party reports and identifying in advance the main questions that would need to be discussed with the representatives of the reporting States. It also provides an opportunity to consider questions relating to technical assistance and international cooperation.

13. Ms. Yanghee Lee chaired the pre-sessional working group, which held nine meetings, at which it examined lists of issues put before it by members of the Committee relating to the second periodic reports of two countries (Sierra Leone and Venezuela), the initial reports submitted to the Committee on the Optional Protocol on the involvement of children in armed conflict (Croatia, Lithuania, Luxembourg, Qatar and Syrian Arab Republic) and on both Optional Protocols (Bulgaria, France and Spain). The lists of issues were transmitted to the Permanent Missions of the States concerned with a note requesting written answers to the issues raised in the list, if possible before 3 August 2007.

F. Organization of work

14. The Committee considered the organization of its work at its 1256th meeting, held on 17 September 2007. The Committee had before it the tentative programme of work for the forty-sixth session, prepared by the Secretary-General in consultation with the Chairperson of the Committee. Following the request of Sierra Leone to postpone the consideration of its second periodic report, the Committee decided to grant this request.

G. Future regular meetings

15. The Committee decided that its forty-seventh session would take place from 14 January to 1 February 2008 and that its pre-sessional working group for the forty-eighth session would meet from 4 to 8 February 2008.

II. REPORTS SUBMITTED BY STATES PARTIES

16. The Committee had before it the note by the Secretary-General on States parties to the Convention and status of the submission of reports (CRC/C/46/2).

17. The Committee was informed that between its forty-fifth and forty-sixth sessions, the Secretary-General had received the initial report of Serbia, the second periodic reports of Bulgaria, Chad and Eritrea (combined second and third for the latter), the third periodic report of the Netherlands and the combined third and fourth periodic reports of Bangladesh, France and the United Kingdom of Great Britain and Northern Ireland.

18. The Committee was also informed that the following initial reports under the Optional Protocol on the involvement of children in armed conflict had been received: the Maldives, Uganda, the United Kingdom of Great Britain and Northern Ireland and the United Republic of Tanzania.

19. It was also informed that the initial reports under the Optional Protocol on the sale of children, child prostitution and child pornography from Austria, Lithuania, the Maldives, Tunisia, Uganda and the United Republic of Tanzania have been received.

20. As at 17 September 2007, the Committee had received 193 initial reports, 109 second periodic reports, 25 third periodic reports and 3 fourth periodic reports. The Committee further received 32 initial reports under the Optional Protocol on the sale of children, child prostitution and child pornography and 41 under the Optional Protocol on the involvement of children in armed conflict. A total of 359 reports have been considered by the Committee. To date, the Committee has considered 28 initial reports under the Optional Protocol on the involvement of children in armed conflict and 21 initial reports under the Optional Protocol on the sale of children, child prostitution and child pornography.

21. At its forty-sixth session, the Committee examined one periodic report submitted by States parties under article 44 of the Convention. It also considered three initial reports under the Optional Protocol on the sale of children, child prostitution and child pornography and eight initial reports under the Optional Protocol on the involvement of children in armed conflict.

22. The following reports, listed in the order in which they were received by the Secretary-General, and by treaty, were before the Committee at its forty-sixth session: Venezuela (CRC/C/VEN/2); Spain (CRC/C/OPSC/ESP/1); France (CRC/C/OPSC/FRA/1); Bulgaria (CRC/C/OPSC/BGR/1); Qatar (CRC/C/OPAC/QAT/1); Lithuania (CRC/C/OPAC/LTU/1); Luxembourg (CRC/C/OPAC/LUX/1); Spain (CRC/C/OPAC/ESP/1); France (CRC/C/OPAC/FRA/1); Syrian Arab Republic (CRC/C/OPAC/SYR/1); Croatia (CRC/C/OPAC/HRV/1) and Bulgaria (CRC/C/OPAC/BGR/1).

23. In accordance with rule 68 of the provisional rules of procedure of the Committee, representatives of all the reporting States were invited to attend the meetings of the Committee at which their reports were examined. In accordance with the Committee's decision No. 8 related to the consideration of reports under the two Optional Protocols, adopted at its thirty-ninth session, the Committee conducted a technical review of the report of Luxembourg under the Optional Protocol on the involvement of children in armed conflict.

24. The following sections, arranged on a country-by-country basis according to the sequence followed by the Committee in its consideration of the reports, contain concluding observations reflecting the main points of discussion and indicating, where necessary, issues that require specific follow-up. More detailed information is contained in the reports submitted by the States parties and in the summary records of the relevant meetings of the Committee.

III. CONSIDERATION OF REPORTS OF STATES PARTIES

25. Croatia

(1) The Committee considered the initial report of Croatia under the Optional Protocol on the involvement of children in armed conflict (CRC/C/OPAC/HRV/1) at its 1258th meeting (CRC/C/SR.1258), held on 18 September 2007, and adopted at the 1284th meeting, on 5 October 2007, the following concluding observations.

Introduction

(2) The Committee welcomes the submission of the initial report of the State party under the Optional Protocol as well as the written replies (CRC/C/OPAC/HRV/Q/1/Add.1) to its list of issues.

(3) The Committee reminds the State party that these concluding observations should be read in conjunction with its previous concluding observations adopted on the second periodic report of the State party on 1 October 2004 (CRC/C/15/Add.243).

A. Positive aspects

(4) The Committee welcomes the declaration made by the State party upon the ratification of the Optional Protocol that Croatian legislation, and notably the Defence Law enacted in 2002, prevents persons under 18 from joining the Armed Forces of the Republic of Croatia in all circumstances (e.g. state of emergency).

(5) The Committee also reiterates its appreciation for the ratification by the State party of:

(a) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography on 13 May 2002;

(b) ILO Convention No. 182 (1999) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour on 17 July 2001;

(c) The Rome Statute of the International Criminal Court on 21 May 2001. B. Main areas of concern and recommendations

1. General measures of implementation

Legislation and jurisdiction

(6) The Committee welcomes the information that, according to the Constitution of the State party, international agreements ratified or adhered to by the State party, automatically become

part of the internal legal system. It also notes with appreciation that there are some provisions in the Penal Code, and notably its article 14, which allow the courts to exercise, in certain cases, conditional universal jurisdiction over anyone who commits a crime which Croatia is required to punish under international law. However, the Committee is concerned that:

(a) Some of the provisions of the Optional Protocol, and notably the criminalization of the acts prohibited therein, need specific provisions in the criminal legislation in order to be effectively applicable;

(b) While article 158, paragraph 1, of the Penal Code establishes that the recruitment of children under 18 or the use of them in hostilities in the national armed forces shall be punished by imprisonment for not less than five years or by long-term imprisonment, this provision is limited to the occurrence of these acts in times of war/conflict and does not apply to peacetime.

(7) In order to strengthen international measures for the prevention of the recruitment of children and the use of them in hostilities, the Committee recommends that the State party:

(a) Ensure that the violation of the provisions of the Optional Protocol regarding the recruitment and involvement of children in hostilities is explicitly criminalized in the legislation of the State party;

(b) Establish extraterritorial jurisdiction for these crimes when they are committed by or against a person who is a citizen of or has other links with the State party;

(c) Ensure that military codes, manuals and other military directives are in accordance with the provisions and the spirit of the Optional Protocol.

Dissemination and training

(8) The Committee notes that training activities related to the Optional Protocol at the national level are available not only to the armed forces and military personnel, but also extended to relevant civil servants.

(9) The Committee encourages the State party to continue providing training activities on the Optional Protocol to members of the armed forces and certain groups of professionals dealing with children, such as teachers, the media, authorities working for and with asylum-seeking and migrant children coming from countries affected by armed conflict, lawyers and judges, the armed forces, police and military personnel. Furthermore, it recommends that the State party make the Optional Protocol widely known to the public at large and in particular to children and their parents through, inter alia, school curricula and human rights education.

Peace education

(10) The Committee notes that the Government has started human rights education in schools, but regrets that human rights and - in particular - peace education is not yet an element of the curricula of all schools on all levels (see CRC/C/15/Add.243, paragraph 58 (h)).

(11) The Committee recommends that the State party strengthen its efforts in human rights education and, in particular, peace education in the curricula of all schools and train teachers with respect to including these themes in children's education.

National human rights institutions

(12) The Committee welcomes the fact that the Ombudsperson for Children has competence to monitor violations of the individual rights of children, including violations of the Optional Protocol.

(13) The Committee, reiterating what it previously stated in its concluding observations on the second periodic report of State party (CRC/15/Add.243, para. 13), recommends that the State party continue and strengthen its political, human and financial support for the Office of the Children's Ombudsperson.

2. Measures adopted with regard to disarmament, demobilization and social reintegration

(14) The Committee commends the State party for including the protection, rehabilitation and social reintegration of children who have experienced war and armed conflict in the National Plan of Action as well as the fact that the Office of the United Nations High Commissioner for Refugees is involved in training activities for participants in peacekeeping operations. It also notes the information that there were no children recruited or used in hostilities seeking asylum in Croatia.

(15) The Committee recommends that the State party:

(a) Identify at the earliest possible stage refugee, asylum-seeking and migrant children within their jurisdiction who may have been recruited or used in hostilities abroad, if any; and provide them with immediate, culturally sensitive and multidisciplinary assistance for their physical and psychological recovery and their social reintegration in accordance with article 6, paragraph 3, of the Optional Protocol;

(b) Continue to take concrete action to implement the National Plan of Action for Children with respect to the protection, rehabilitation and social reintegration of children victims of war, including by providing specific budget allocations to this end.

3. International assistance and cooperation

Arms export

(16) The Committee welcomes that the State party adopted the principles of the European Union Code of Conduct on Arms Exports, but notes that - among these principles - there is no specific mention, as a criterion for excluding their sale, of the possible recruitment/use in hostilities of children in the country of final destination of the arms. In this respect, the Committee also notes the information provided by the delegation that there is no specific offence in the legislation of the State party prohibiting the sale of arms to countries where children could be recruited for or used in hostilities.

(17) The Committee recommends that the State party consider introducing a specific prohibition with respect to the sale of arms when the final destination is a country where children are known to be - or may potentially be - recruited for or used in hostilities.

(18) The Committee further recommends that the State party, in accordance with article 7 of the Optional Protocol, strengthen its cooperation in the implementation of the Optional Protocol, including in the prevention of any activity contrary thereto and in the rehabilitation and social reintegration of persons who are victims of acts contrary to the provisions of the Optional Protocol, including through technical cooperation and financial assistance.

4. Follow-up and dissemination

(19) The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, inter alia, by transmitting them to the members of the Parliamentary Assembly, the Council of Ministers, the Defence Ministry and local authorities, where applicable, for appropriate consideration and further action.

(20) The Committee recommends that the initial report submitted by the State party and the concluding observations adopted by the Committee be made widely available to the public at large in order to generate debate and awareness of the Optional Protocol, its implementation and monitoring.

5. Next report

(21) In accordance with article 8, paragraph 2, of the Optional Protocol, the Committee requests the State party to include further information on the implementation of the Optional Protocol in its consolidated third and fourth periodic report under the Convention on the Rights of the Child, in accordance with article 44 of the Convention.

26. Lithuania

(1) The Committee considered the initial report of Lithuania under the Optional Protocol on the involvement of children in armed conflict (CRC/C/OPAC/LTU/1) at its 1259th meeting (CRC/C/SR.1259) held on 18 September 2007. At its 1284th meeting (CRC/C/SR.1284) on 5 October 2007 the Committee adopted the following concluding observations.

Introduction

(2) The Committee welcomes the submission of the initial report of the State party under the Optional Protocol, which gives substantive information on the legislative, administrative, judicial and other measures applicable in Lithuania in respect of the rights guaranteed by the Protocol. The Committee further welcomes the written replies to the list of issues (CRC/C/OPAC/LTU/Q/1/Add.1).

(3) The Committee reminds the State party that these concluding observations should be read in conjunction with its previous concluding observations in respect of the second periodic report of the State party under the Convention on the Rights of the Child, adopted on 27 January 2006 (CRC/C/LTU/CO/2).

A. Positive aspects

(4) The Committee notes with appreciation:

(a) The declaration made by the State party upon the ratification of the Optional Protocol that under Lithuanian law citizens under 18 may not serve in the national armed forces; that the minimum age for voluntary recruitment into the active military service is 18, and for enlisting into the mandatory military service 19;

(b) The inclusion in the Criminal Code of the State party of concrete provisions criminalizing the recruitment of children or their use in hostilities and imposing severe penalties in this regard;

(c) The inclusion in the Criminal Code of the State party of criminal liability for conscripting or enlisting children under the age of 18 into the armed forces as crimes subject to extraterritorial jurisdiction.

(5) Furthermore, the Committee reiterates its appreciation for the ratification of or accession to a number of international human rights instruments, in particular:

(a) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, on 5 August 2004;

(b) The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children supplementing the United Nations Convention against Transnational Organized Crime, on 23 June 2003;

(c) ILO Convention No. 182 (1999) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, on 29 September 2003.

B. Main areas of concern and recommendations

1. General measures of implementation

Legislation

(6) The Committee notes that no compulsory active military service is required before the age of 19, but that registration of Lithuanian male citizens to enter military service starts at the age of 16, and that children between the ages of 12 and 18 can receive military training through the Riflemen's Union. The Committee is thus concerned about the fact that the State party could engage children under 18 in military activities.

The Committee requests more information and clarification, to be submitted in conjunction with the next State party report, on the purpose of the registration of male citizens from the age of 16, and on the military training provided to children between the ages of 12 and 18 within the Riflemen's Union, and their possible use in armed conflicts.

Dissemination and training

(7) The Committee notes that some information with respect to dissemination of information and training related to the issues covered by the Optional Protocol is provided in the report of the State party and in its written replies to the list of issues.

However, and in the light of article 6, paragraph 2, the Committee recommends that the State party ensure that the principles and provisions of the Optional Protocol are widely disseminated to the general public and State officials by appropriate means, including through the media. The Committee further recommends that the State party develop systematic awareness-raising, education and training programmes on the provisions of the Optional Protocol, addressed to all relevant groups working with children, in particular professionals working with asylum-seeking, refugee and migrant children entering Lithuania from countries affected by armed conflict, including medical professionals, social workers, police officers, teachers, media representatives, lawyers and judges.

Peace education

(8) The Committee notes the information on human rights education in the educational system provided during the dialogue with the State party, but regrets that peace education is not yet an element of the curricula of schools on all levels.

The Committee reiterates its recommendations made during the consideration of the report of the State party under the Convention on the Rights of the Child (CRC/C/LTU/CO/2, para. 57) that the State party, inter alia, establish adequate programmes and activities with a view to creating an environment of tolerance, peace and understanding; the Committee further encourages the State party to strengthen its efforts to introduce human rights education and, in particular, peace education into the curricula of all schools and to train teachers with respect to including these themes in children's education.

2. Measures adopted with regard to physical and psychological recovery and social reintegration

(9) The Committee takes note of the information provided with respect to the numbers of unaccompanied children arriving from countries affected by armed conflict, and the programmes and services available to these children.

The Committee encourages the State party to further strengthen its efforts, in particular to:

- (a) Identify at the earliest possible stage refugee, asylum-seeking and migrant children entering Lithuania who may have been recruited or used in hostilities abroad;**
- (b) Carefully assess the situation of these children and provide them with immediate culturally sensitive and multidisciplinary assistance for their physical and psychological recovery and their social reintegration, in accordance with article 6, paragraph 3, of the Optional Protocol;**
- (c) Undertake periodic evaluations of the existing physical and psychological recovery and social reintegration programmes and services;**
- (d) Take all necessary measures to ensure that the return of a child to the country of origin shall only be arranged when it is in the best interests of the child;**
- (e) Take into consideration the Committee's general comment No. 6 (2005) on treatment of unaccompanied and separated children outside their country of origin.**

3. Follow-up and dissemination

- (10) The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, inter alia, by transmitting them to the *Seimas* and the government offices concerned, in particular in the Ministry of National Defence, for appropriate consideration and further action.**
- (11) The Committee recommends that the initial report submitted by the State party and the concluding observations adopted by the Committee be made widely available to the public at large in order to generate debate and awareness of the Optional Protocol, its implementation and monitoring.**

4. Next report

- (12) In accordance with article 8, paragraph 2, the Committee requests the State party to include further information on the implementation of the Optional Protocol in its next periodic report under the Convention on the Rights of the Child, in accordance with article 44 of the Convention.**

27. Luxembourg

- (1) The Committee considered the initial report of Luxembourg under the Optional Protocol on the involvement of children in armed conflict (CRC/C/OPAC/LUX/1) at its 1262nd meeting (CRC/C/SR.1262), held on 20 September 2007, without the presence of a delegation of the State party which, in accordance with the Committee's decision No. 8, adopted at the thirty-ninth session, opted for a technical review of the report. It adopted, on 5 October 2007, at its 1284th meeting, the following concluding observations.**

Introduction

(2) The Committee welcomes the submission of the initial report of the State party under the Optional Protocol, as well as the written replies to its list of issues (CRC/C/OPAC/LUX/Q/1/Add.1).

(3) The Committee reminds the State party that these concluding observations should be read in conjunction with its previous concluding observations adopted on the second periodic report of the State party on 28 January 2005 (CRC/C/15/Add.250).

A. Positive aspects

(4) The Committee welcomes the fact that:

(a) Compulsory recruitment for military service was abolished in the State party in 1967;

(b) There is a ministerial directive instructing the armed forces Chief of Staff to select for voluntary participation in peacekeeping missions only candidates who are at least 18 years old;

(c) A draft revised military act currently before the legislature will raise the minimum age of voluntary enlistment in the army to 18.

(5) The Committee reiterates its appreciation for the ratification by the State party of:

(a) ILO Convention No. 182 (1999) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour on 21 March 2001;

(b) The Rome Statute of the International Criminal Court on 8 September 2000.

B. Main areas of concern and recommendations

1. General measures of implementation

Legislation and jurisdiction

(6) The Committee acknowledges that there is no compulsory military service in Luxembourg and that volunteers under the age of 18 cannot take part in military operations. It further notes that, according to the response of the State party, courts in Luxembourg would not be able to establish extraterritorial jurisdiction in case of acts of compulsory recruitment or involving of children in hostilities of a person under 18 if committed outside Luxembourg by or against a citizen of Luxembourg.

(7) In order to strengthen international measures for the prevention of the recruitment of children and their use in hostilities, the Committee recommends that the State party:

(a) Ensure that the violation of the provisions of the Optional Protocol regarding the recruitment and involvement of children in hostilities are explicitly criminalized in the legislation of the State party;

(b) Establish extraterritorial jurisdiction for these crimes when they are committed by or against a person who is a citizen of or has other links with the State party;

(c) Ensure that military codes, manuals and other military directives are in accordance with the provisions and the spirit of the Optional Protocol.

Dissemination and training

(8) The Committee notes the steps taken by the State party to disseminate information on relevant human rights instruments and the efforts undertaken to raise public awareness of issues related to the respect for and promotion of human rights.

(9) The Committee encourages the State party, in the light of article 6, paragraph 2, of the Optional Protocol, to make the principles and provisions of the Optional Protocol widely known and promoted by appropriate means, including through the media, to adults and children alike. The Committee recommends that the State party develop systematic awareness-raising education and training in the provisions of the Optional Protocol for all relevant professional groups, including those working with asylum-seeking, refugee and migrant children coming from countries affected by armed conflict, such as teachers, medical professionals, social workers, police officers, lawyers and judges.

2. Measures adopted with regard to disarmament, demobilization, physical and psychological recovery and social reintegration

Assistance for physical and psychological recovery

(10) The Committee welcomes the information on the measures taken for the identification, physical and psychological recovery and social reintegration of asylum-seekers and migrants, including those coming from countries affected by armed conflict.

(11) The Committee recommends that the State party continue systematically identifying, at the earliest possible stage, refugee, asylum-seeking and migrant children entering Luxembourg who may have been recruited or used in hostilities abroad contrary to the Optional Protocol and providing them with immediate, culturally sensitive and multidisciplinary assistance for their physical and psychological recovery and their social reintegration in accordance with article 6, paragraph 3, of the Optional Protocol.

3. International assistance and cooperation

(12) The Committee welcomes the regular financing of projects for the protection and rehabilitation of children in armed conflicts as well as the regular contribution to non-governmental organizations working in this field. It also welcomes the substantial contribution to the budget of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) and the active participation of the State party, both through financing projects and participating in diplomatic forums, in multilateral activities aimed at combating the accumulation and proliferation of small arms.

(13) The Committee encourages the State party to continue its activities in the area of international cooperation, including the provision of financial and other support for action to protect children in armed conflict.

4. Follow-up and dissemination

(14) The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, inter alia, by transmitting them to the members of the Chambers of Deputies, the Council of State and the Defence Ministry for appropriate consideration and further action.

(15) The Committee recommends that the initial report submitted by the State party and concluding observations adopted by the Committee be made widely available to the public at large in order to generate debate and raise awareness of the Optional Protocol, its implementation and monitoring.

5. Next report

(16) In accordance with article 8, paragraph 2, of the Protocol the Committee requests the State party to include further information on the implementation of the Optional Protocol in its combined third and fourth periodic reports under the Convention on the Rights of the Child, in accordance with article 44 of the Convention.

28. Qatar

(1) The Committee considered the initial report of Qatar under the Optional Protocol on the involvement of children in armed conflict (CRC/C/OPAC/QAT/1) at its 1263rd meeting (CRC/C/SR.1263), held on 20 September 2007, and at its 1284th meeting (CRC/C/SR. 1284), held on 5 October 2007, adopted the following concluding observations.

Introduction

(2) The Committee welcomes the submission of the initial report of the State party under the Optional Protocol, as well as the submission of the written replies to its list of issues (CRC/C/OPAC/QAT/Q/1/Add.1), which provide additional information on the legislative, administrative, judicial and other measures applicable in Qatar in respect of the rights guaranteed by the Optional Protocol.

(3) The Committee reminds the State party that these concluding observations should be read in conjunction with its previous concluding observations on the initial report of the State party under the Convention (CRC/C/15/Add.163), adopted on 12 October 2001, and on its initial report under the Optional Protocol on the sale of children, child prostitution and child pornography (CRC/C/OPSC/QAT/CO/1), adopted on 2 June 2006.

A. Positive aspects

(4) The Committee welcomes the declaration made by the State party pursuant to paragraph 2 of article 3 of the Optional Protocol that recruitment into the armed forces and other regular forces is voluntary and is for those who have attained the age of 18 and that it takes account of

the safeguards set forth in paragraph 3 of the same article. The Committee also welcomes the affirmation by the State party that its national legislation makes no provision for any form of compulsory or coercive recruitment.

(5) While observing that the Constitution of the State party states that “defending the country is the duty of all citizens” (art. 53), the Committee notes with appreciation that military service is not compulsory and that no legal provision allows for compulsory recruitment even in a state of emergency.

(6) The Committee welcomes the accession of the State party, on 5 January 2005, to the 1977 Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II).

(7) The Committee notes with appreciation that the State party advocates a ban on the use of children under the age of 18 as soldiers and supports the universal ratification of the Optional Protocol.

B. Main areas of concern and recommendations

1. General measures of implementation

Legislation

(8) The Committee, while noting the information provided during the dialogue that the State party is considering acceding to the Rome Statute of the International Criminal Court, is concerned that there is no specific provision criminalizing the compulsory recruitment or involving in hostilities of a person under the age of 18, nor a specific provision providing extraterritorial jurisdiction in case of recruitment of a Qatari child outside the country, or recruitment of children by a Qatari citizen outside Qatar.

(9) In order to strengthen the national and international measures for the prevention of the recruitment of children by armed forces or armed groups and the use of them in hostilities, the Committee recommends that the State party:

(a) Ensure that violations of the provisions of the Optional Protocol regarding the recruitment and involvement of children in hostilities are explicitly criminalized in the legislation of the State party;

(b) Establish extraterritorial jurisdiction for these crimes when they are committed by or against a person who is a citizen of or has other links with the State party;

(c) Ensure that military codes, manuals and other military directives are in accordance with the provisions and the spirit of the Optional Protocol.

(10) Furthermore, given the important contribution it can provide for the prevention and elimination of conscripting or enlisting children into the national armed forces or using them to participate actively in hostilities, the Committee recommends that the State party accede to the Rome Statute of the International Criminal Court.

Reservations

(11) The Committee notes with appreciation the oral information provided by the State party delegation during the dialogue, that the State party on 20 September 2007, withdrew its reservations to the Convention.

(12) The Committee invites the State party to notify the Secretary-General of the withdrawal of its reservation at the earliest opportunity.

National plan of action

(13) The Committee, while noting the formulation of a national strategy on childhood, notes with concern the absence of a component of the obligations of the State party under the Optional Protocol.

(14) The Committee invites the State party to incorporate in its national strategy consideration of the provisions of the Optional Protocol on the involvement of children in armed conflict.

Dissemination and training

(15) The Committee, while welcoming initiatives to promote human rights education in the school curricula, regrets the inadequate measures taken to disseminate the Optional Protocol to the public at large.

(16) The Committee recommends that the State party continue providing its armed forces, including personnel to be deployed in international operations, with training on the provisions of the Optional Protocol. It further recommends that the State party develop systematic awareness-raising and education on the Optional Protocol for children and adults in accordance with article 6, paragraph 2. The State party should also conduct training programmes on the provisions of the Optional Protocol for all relevant professional groups working with and for children who have been victims of acts contrary to the Optional Protocol, or professionals who may come into contact with them, such as health personnel, social workers, teachers, lawyers, judges and media professionals as well as authorities working for and with asylum-seeking, refugee and migrant children.

2. Recruitment of children

Voluntary military youth activities

(17) The Committee, while noting the information provided by the State party that curricula for cadets includes human rights education, stresses the need to include components on the Convention on the Rights of the Child and the Optional Protocol.

3. Measures adopted with regard to disarmament, demobilization and social reintegration

Measures of social reintegration

(18) The Committee welcomes the statement during the dialogue that the State party intends to accede to the Convention relating to the Status of Refugees. However, in light of the fact that countries in the Middle East continue to receive a large number of refugee, asylum-seeking and migrant children from countries experiencing conflict or in post-conflict situations, the Committee is concerned at the State party's lack of preparedness to identify children who may have been recruited or used in hostilities prior to their arrival in Qatar and to provide them with multidisciplinary assistance for their physical and psychological recovery and their social reintegration.

(19) **The Committee recommends that the State party:**

(a) Develop mechanisms to identify at the earliest possible stage refugee, asylum-seeking and migrant children entering Qatar who may have been recruited or used in hostilities;

(b) Carefully examine the situation of refugee, asylum-seeking and migrant children who have been recruited or used in hostilities and provide them with immediate multidisciplinary assistance for their physical and psychological recovery and their social reintegration in accordance with article 6, paragraph 3, of the Optional Protocol;

(c) Accede to the 1951 Convention relating to the Status of Refugees in order to improve the protection of refugee children who may have been recruited and involved in armed conflict;

(d) Take all necessary measures to ensure that the return of a child to the country of origin shall only be conducted when the return is in the best interests of the child.

(20) **The Committee also recommends that the State party systematically collect disaggregated data on refugee, asylum-seeking and migrant children within its jurisdiction who may have been involved in hostilities abroad. In this regard the Committee recommends that the State party take note of the Committee's general comment No. 6 (2005) on treatment of unaccompanied and separated children outside their country of origin.**

4. International assistance and cooperation

Financial and other assistance

(21) The Committee welcomes the financial and other assistance given by the State party for the education, health and social integration of children affected by armed conflict in other countries.

(22) The Committee encourages the State party to continue to provide financial support as well as other assistance to improve the implementation of the Optional Protocol, including its multilateral and bilateral cooperation with other countries in order to address the issue

of involvement of children in armed conflict, with a particular focus on preventive measures as well as on physical and psychological recovery and social reintegration of children who are victims of acts contrary to the Optional Protocol.

(23) The Committee while noting with appreciation the contribution of Qatar to United Nations peacekeeping operations, invites the State party to ensure that its personnel are fully aware of the rights of children involved in or affected by armed conflicts; and that military contingents are aware of their responsibility to ensure that these rights are not violated.

5. Follow-up and dissemination

Follow-up

(24) The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, inter alia, by transmitting them to the members of the Cabinet and the Advisory Council (*Majlis al-Shura*), the Ministry of Defence and to municipalities (*baladiyat*), when applicable, for appropriate consideration and further action.

Dissemination

(25) The Committee recommends that the initial report submitted by the State party and the concluding observations adopted by the Committee be made available to children and their parents through, inter alia, school curricula and human rights education. It also recommends that the State party make the concluding observations widely known to the public at large in order to generate debate and awareness of the Optional Protocol, its implementation and monitoring.

6. Next report

(26) In accordance with article 8, paragraph 2, of the Optional Protocol, the Committee requests the State party to include further information on the implementation of the Optional Protocol in its second periodic report under the Convention on the Rights of the Child, in accordance with article 44 of the Convention.

29. Bulgaria

(1) The Committee considered the initial report of Bulgaria under the Optional Protocol on the involvement of children in armed conflict (CRC/C/OPAC/BGR/1) at its 1266th meeting, held on 24 September 2007, and adopted at its 1284th meeting held on 5 October 2007, the following concluding observations.

Introduction

(2) The Committee welcomes the submission of the initial report of the State party and the written replies to its list of issues (CRC/C/OPAC/BGR/Q/1/Add.1) as well as the constructive dialogue with the multisectoral delegation. However, the Committee regrets that the report

and the written replies contain insufficient information on the legislative, administrative, judicial and other measures applicable in Bulgaria regarding the rights contained in the Optional Protocol.

(3) The Committee reminds the State party that these concluding observations should be read in conjunction with its previous concluding observations adopted on the initial report of the State party on 8 January 1997 (CRC/C/15/Add.66).

A. Positive aspects

(4) The Committee notes with appreciation the direct application and precedence of the Optional Protocol over domestic legislation and the efforts undertaken in order to bring domestic legislation in conformity with the Optional Protocol.

(5) The Committee further commends the ratification by the State party of:

(a) The Rome Statute of the International Criminal Court on 11 April 2002;

(b) ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour on 28 July 2000.

B. Main areas of concern and recommendations

1. General measures of implementation

Legislation

(6) The Committee is concerned that there is no specific provision criminalizing the recruitment and involvement of children in hostilities; nor is there any specific provision providing extraterritorial jurisdiction in case of recruitment of a child of Bulgarian nationality outside the country, or recruitment of children abroad by a Bulgarian citizen or any person that has other links with the State party.

(7) The Committee recommends that the State party, in order to strengthen the national and international measures for the prevention of the recruitment of children for armed forces or armed groups and the use of them in hostilities:

(a) Explicitly criminalize violations of the provisions of the Optional Protocol regarding the recruitment and involvement of children in hostilities in the legislation of the State party;

(b) Ensure extraterritorial jurisdiction for these crimes when they are committed by or against a person who is a citizen of or has other links with the State party;

(c) Ensure that military codes, manuals and other military directives are in accordance with the provisions and the spirit of the Protocol.

Arms export

(8) The Committee welcomes the regulation over the licences of exporters and the review by authorities of the transactions. Furthermore, the Committee welcomes the adoption of the principles of the European Union Code of Conduct on Arms Exports, but notes that - among these principles - there is no specific mention, as a criterion for excluding their sale, of the possible recruitment/use in hostilities of children in the country of final destination of the arms. In this respect, the Committee also notes the information provided by the delegation that there is no specific offence in the legislation of the State party prohibiting the sale of arms to countries where children could be recruited or used in hostilities.

(9) The Committee recommends that the State party consider introducing a specific prohibition with respect to the sale of arms when the final destination is a country where children are known to be - or may potentially be - recruited for or used in hostilities.

Dissemination and training

(10) The Committee regrets that no information with respect to dissemination of information and training related to the issues covered by the Optional Protocol is provided in the report of the State party or in its written replies to the list of issues.

(11) The Committee notes the information, provided by the State party during the dialogue, on human rights education in the regular school curricula; however it regrets that human rights education/peace education may not be an element of the curricula of all schools at all levels.

(12) The Committee recommends that the State party, in the light of article 6, paragraph 2, of the Optional Protocol ensure that the principles and provisions of the Optional Protocol are included in the curricula of military schools and widely disseminated to the general public and State officials by appropriate means.

(13) The Committee further recommends that the State party develop systematic awareness-raising, education and training programmes on the provisions of the Optional Protocol addressed to all relevant groups working with children (asylum-seeking, refugee and migrant children that may have been recruited or used in hostilities), notably teachers, journalists, medical professionals, social workers, police officers, lawyers and judges. The State party is invited to provide information in that respect in its next report.

(14) The Committee recommends that the State party strengthen its efforts to provide human rights education and, in particular, peace education for all children in all schools and train teachers with respect to including these themes in children's education.

2. Measures adopted with regard to disarmament, demobilization, physical and psychological recovery and social reintegration

Measures of recovery and social reintegration

(15) The Committee notes the information provided on the numbers of unaccompanied children entering Bulgaria and that there were no cases of children who had been recruited or used in hostilities seeking asylum. However, the Committee, given the geographic proximity of the

country to regions experiencing armed conflict, regrets that no measures with regard to the physical and psychological recovery and social reintegration of unaccompanied asylum-seeking, refugee and migrant children coming to Bulgaria from areas affected by armed conflict, are available.

(16) The Committee encourages the State party to provide protection for asylum-seeking, refugee and migrant children living in Bulgaria who may have been recruited or used in hostilities abroad by taking, inter alia, the following measures:

(a) Continuing to systematically collect data on refugee, asylum-seeking and migrant children and identifying at the earliest possible stage those who may have been recruited or used in hostilities. In this regard, the Committee recommends that the State party take note of the Committee's general comment No. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin;

(b) Carefully assessing the situation of these children and providing them with immediate, culturally sensitive and multidisciplinary assistance for their social reintegration in accordance with article 6, paragraph 3, of the Optional Protocol;

(c) Including information on measures adopted in this regard in its next report.

3. Follow-up and dissemination

(17) The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, inter alia, by transmitting them to relevant government ministries, the *Narodno Sobranie* and local authorities, for appropriate consideration and further action.

(18) The Committee recommends that the initial report submitted by the State party and the concluding observations adopted by the Committee be made widely available to the public at large, and to children in particular, in order to generate debate and awareness of the Optional Protocol, its implementation and monitoring.

4. Next report

(19) In accordance with article 8, paragraph 2, of the Optional Protocol the Committee requests the State party to include further information on the implementation of the Optional Protocol in its next report under the Convention on the Rights of the Child, in accordance with article 44 of the Convention.

30. Bulgaria

(1) The Committee considered the initial report of Bulgaria under the Optional Protocol on the sale of children, child prostitution and child pornography (CRC/C/OPSC/BGR/1) at its 1266th and 1267th meetings, held on 24 September 2007, and adopted at its 1284th meeting, held on 5 October 2007, the following concluding observations.

Introduction

(2) The Committee welcomes the submission of the initial report of the State party, which provided detailed information on legislative, administrative, judicial and other measures applicable in Bulgaria regarding the rights guaranteed by the Optional Protocol. The Committee also appreciates the written replies to its list of issues (CRC/C/OPSC/BGR/Q/1/Add.1) as well as the constructive dialogue with the delegation.

1. General guidelines

(3) The Committee reminds the State party that these concluding observations should be read in conjunction with its previous concluding observations adopted on initial report of the State party under the Convention on the Rights of the Child on 8 January 1997 (CRC/C/15/Add.66).

A. Positive aspects

(4) The Committee notes with appreciation:

(a) The amendments made to the Penal Code in 2002;

(b) The adoption of the Combating of Trafficking of Persons Act in 2003.

(5) The Committee also notes with appreciation the ratification by the State party of:

(a) The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime in 2001;

(b) The Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime in 2001;

(c) ILO Convention No. 182 (1999) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour in 2000;

(d) The Council of Europe Convention on Action against Trafficking in Human Beings in 2007;

(e) The Council of Europe Convention on Cybercrime in 2005.

B. General principles of the Convention on the Rights of the Child (arts. 2, 3, 6 and 12 of the Convention)

(6) The Committee is concerned that the general principles of the Convention on the Rights of the Child have not sufficiently been taken into account in the measures of implementation adopted by the State party under the Optional Protocol. The Committee is particularly concerned at societal attitudes faced by Roma children which affect their protection and prevent their full enjoyment of the rights enshrined in the Optional Protocol.

(7) The Committee recommends that the general principles of the Convention on the Rights of the Child, in particular the principle of non-discrimination, be included in all measures taken by the State party to implement the provisions of the Optional Protocol, including judicial or administrative proceedings.

2. Data

(8) While noting that data is primarily collected by the National Statistics Institute and additionally by various institutions, the Committee regrets the lack of reliable data, disaggregated by age, sex and ethnic or social origin, and the lack of research on the areas covered by the Optional Protocol.

(9) The Committee recommends that the State party ensure that in-depth studies are undertaken into issues covered by the Optional Protocol and that a uniform information system is established in order to ensure that data, disaggregated inter alia by age, sex and ethnic or social origin are systematically collected and analysed as they provide essential tools for assessment, policy development and implementation.

3. General measures of implementation

National Plan of Action

(10) The Committee welcomes the development of a ten-year National Strategy for Children as well as various sectoral national and regional strategies and programmes for child protection. However, it is not clear whether these strategies and programmes provide for the implementation of the Optional Protocol.

(11) The Committee recommends that the State party incorporate the implementation of the specific obligations arising from the Optional Protocol in its national strategies and programmes, in consultation and cooperation with relevant stakeholders, by taking into account the Declaration and Agenda for Action (A/51/385) and the Global Commitment (A/S-27/12) adopted respectively at the First and Second World Congresses against Commercial Sexual Exploitation of Children (Stockholm 1996; Yokohama 2001).

Coordination and evaluation

(12) The Committee takes note of the information that the State Agency for Child Protection and various other bodies are involved in implementing the Optional Protocol. However, the Committee is concerned at the lack of a specific governmental body coordinating the activities and evaluating the implementation of the Optional Protocol.

(13) The Committee encourages the State party to strengthen existing coordination and to establish a specific mechanism for coordination, periodic evaluation and implementation of the areas covered by the Optional Protocol. In this regard, the Committee recommends that the State party provide this mechanism with specific and sufficient, human and financial resources to enable it to be fully operational.

Independent institutions

(14) The Committee welcomes the establishment of the Office of the Ombudsman in 2004 and the election of the Ombudsman in 2005. However, the mandate and powers of the Ombudsman do not include the monitoring and promotion of international human rights instruments such as the Convention on the Rights of the Child and its Optional Protocols.

(15) The Committee recommends that the State party, in accordance with the Paris Principles and by taking into consideration the Committee's general comment No. 2 (2002) on National Human Rights Institutions, expand the mandate of the Ombudsman to include the monitoring and promotion of international human rights instruments. The Committee also recommends that an Ombudsman for Children or a Deputy Ombudsman specialized in children's issues be appointed and allocated with sufficient human and financial resources.

Dissemination and training

(16) The Committee appreciates the numerous training and dissemination activities, provided by the State party in collaboration with international intergovernmental and non-governmental organizations, such as those regarding civic education, human rights education and raising awareness of the measures set forth in the Optional Protocol. However, the Committee remains concerned that efforts to raise awareness of the Optional Protocol among relevant professional categories and the public at large and to provide adequate training for judges, prosecutors and social workers who are working with and for children, are not systematic and do not include all areas covered by the Optional Protocol.

(17) The Committee recommends that the State party continue and strengthen its training and dissemination activities and allocate adequate and earmarked resources for the development of training materials and courses on all areas covered by the Optional Protocol for all relevant professionals, including police officers, public prosecutors, judges, medical staff, media and other professionals involved in its implementation. The Committee also recommends, in the light of article 9, paragraph 2, of the Optional Protocol, that the State party make the provisions of the Optional Protocol widely known, particularly to children and their families, through, inter alia, school curricula, long-term awareness-raising campaigns and training in the preventive measures and harmful effects of all offences referred to in the Optional Protocol, including by encouraging participation of the community and, in particular, children and child victims, civil society organizations and organizations in the travel and tourism industry.

4. Prevention of the sale of children, child prostitution and child pornography

Measures adopted to prevent offences referred to in the Optional Protocol

(18) The Committee notes the efforts undertaken by State and municipal authorities in order to prevent offences referred to in the Optional Protocol. However, the Committee is concerned that targeted preventive measures against the exploitation of children, including prostitution, pornography and engagement of the child in forced labour, as well as measures to identify the causes and extent of the problem remain limited.

(19) **The Committee encourages the State party to:**

(a) **Adopt specific legislation on the obligations of Internet service providers in relation to child pornography on the Internet;**

(b) **Undertake research on the effects of the previous actions taken and on the nature and extent of the exploitation of children, including prostitution and pornography, in order to identify children at risk and the extent of the problem;**

(c) **Seek, for the purpose of more effective prevention in the areas covered by the Optional Protocol, technical assistance from inter alia, UNICEF and other international organizations and agencies;**

(d) **Undertake targeted preventive measures and cooperate with international intergovernmental and non-governmental organizations concerning the implementation of awareness-raising campaigns on all areas covered by the Optional Protocol.**

(20) The Committee is deeply concerned at the difficult situation of certain groups of children, such as Roma children, street children and children with disabilities, who are particularly vulnerable to all forms of exploitation.

(21) **The Committee urges the State party to pay increased attention to the situation of vulnerable groups of children who are at particular risk of being victims of offences referred to in the Optional Protocol. In this respect it recommends that the State party allocate adequate human and financial resources for the implementation of targeted programmes for the prevention of violations of the rights of particularly vulnerable children, with special attention to their education and health care. More attention should also be devoted to raising awareness of their rights among these children.**

Helpline

(22) **The Committee welcomes the planned establishment of the child helpline in collaboration with UNICEF and non-governmental organizations and recommends that the State party ensure that the helpline is granted a 3-digit, 24-hour, toll-free number to assist child victims. In this regard, it also recommends that the State party ensure that children are aware of and can access the helpline. Furthermore, the State party is encouraged to facilitate the collaboration of the helpline with child-focused non-governmental organizations and the police, as well as health and social workers.**

5. Prohibition of the sale of children, child pornography and child prostitution

Existing criminal or penal laws and regulations

(23) While commending the amendments made to the Penal Code to bring it into conformity with the Optional Protocol, the Committee remains concerned that all legislation is not yet in conformity with the Optional Protocol, such as the lack of a clear definition of child prostitution and child pornography in accordance with article 2 (b) and (c) of the Optional Protocol.

(24) The Committee recommends that the State party review its legislation with a view to bringing it into full conformity with the Optional Protocol, including introducing definitions of child prostitution and child pornography, which will enable it to prosecute the perpetrators of these offences. Furthermore, the Committee encourages the State party to amend criminal law provisions so as to fully include all the offences regarding child prostitution and child pornography in accordance with article 3 (b) and (c) of the Optional Protocol.

Legal aspects of adoption

(25) The Committee, while welcoming the ratification of the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption in 2002, and the significant efforts of the State party to counter illegal adoptions, remains concerned that illegal and exploitative practices continue to exist in Bulgaria, especially concerning intercountry adoption.

(26) The Committee recommends that the State party take urgent measures, including anti-corruption measures, in order to continue to combat the sale of children for adoption by taking into account article 3 of the Optional Protocol, article 21 of the Convention on the Rights of the Child and the provisions of the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption.

6. Protection of the rights of child victims

Measures adopted to protect the rights and interests of child victims of offences prohibited under the Protocol

(27) The Committee notes with appreciation the reform of the Criminal Procedure Code of 2005, which establishes the new status of the victim, in particular the child victim. However, the Committee is concerned that the State party does not have a separate specialized judiciary unit which can deal with child victims of crimes related to the Optional Protocol. Furthermore, the Committee regrets that the professionals are not sufficiently trained and the lack of child psychiatrists as well as the lack of information on concrete programmes of rehabilitation for the child victim and data on financial compensation to victims.

(28) The Committee recommends that the State party:

(a) Continue to strengthen, in the light of article 8, paragraph 1, of the Optional Protocol, its measures to protect the rights and interests of child victims and witnesses of the offences prohibited under the Optional Protocol at all stages of the criminal justice process, by taking into account the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (Economic and Social Council resolution 2005/20);

(b) Establish a separate specialized juvenile judiciary unit dealing with child victims, such as a separate juvenile justice system, in conformity with international standards (see also CRC/C/15/Add.66, para. 34);

(c) Continue developing specialized medical and psychological care services for child victims, and, in the light of article 9 of the Protocol, take measures with the aim of ensuring all appropriate assistance to child victims, including their social reintegration and physical and psychological recovery, including by ensuring access to and availability of professionals working with child victims throughout the country;

(d) Take measures to ensure appropriate training, particularly legal and psychological, for persons working with child victims of the offences prohibited under the Optional Protocol, in accordance with article 8, paragraph 4, of the Optional Protocol;

(e) Continue and strengthen the collaboration with non-governmental organizations and the International Organization for Migration in order to ensure that adequate services are available for child victims;

(f) Ensure that all child victims have access to adequate procedures to seek, without discrimination, compensation for damages from those legally responsible, in accordance with article 9, paragraph 4, of the Optional Protocol.

(29) The Committee is concerned that child victims of crimes covered by the Optional Protocol may be stigmatized and socially marginalized, and that they may be held responsible, tried and placed in detention.

(30) The Committee urges the State party to take all possible measures to avoid stigmatization and social marginalization of child victims of the offences covered by the Optional Protocol and to ensure that these children are neither criminalized nor penalized.

7. International assistance and cooperation

Law enforcement

(31) The Committee encourages the State party to continue establishing legal and practical cooperation with other States in order to prevent crimes and prosecute offenders and sanction those responsible. The Committee recommends that the State party strengthen its regional and international judicial, police and victim-oriented cooperation activities with other States and international organizations with a view to preventing and combating the sale of children, child prostitution and child pornography and to assisting the return of child victims to their country of origin, but only when it is in the best interests of the child. In this respect, the Committee draws the attention of the State party to its general comment No. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin.

8. Follow-up and dissemination

Follow-up

(32) The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, inter alia, by transmitting them to relevant government ministries, the Narodno Sobranie and to local authorities, for appropriate consideration and further action.

Dissemination

(33) The Committee recommends that the report and written replies submitted by the State party and the concluding observations adopted by the Committee be made widely available, including through the Internet (but not exclusively), to the public at large, civil society organizations, youth groups, professional groups, and children, in order to generate debate and awareness of the Optional Protocol, its implementation and monitoring.

9. Next report

(34) In accordance with article 12, paragraph 2, the Committee requests the State party to include further information on the implementation of the Optional Protocol in its next periodic report under the Convention on the Rights of the Child, in accordance with article 44 of the Convention.

31. France

(1) The Committee considered the initial report of France under the Optional Protocol on the involvement of children in armed conflict (CRC/C/OPAC/FRA/1) at its 1270th meeting, held on 26 September 2007, and adopted at its 1284th meeting, held on 5 October 2007, the following concluding observations.

Introduction

(2) The Committee welcomes the submission of the comprehensive initial report of the State party; however, it regrets that it does not contain information on the Overseas Departments and Territories. The Committee also welcomes the written replies (CRC/C/OPAC/FRA/Q/1/Add.1) to the list of issues and appreciates the constructive dialogue held with the multisectoral delegation of the State party.

(3) The Committee reminds the State party that these concluding observations should be read in conjunction with its previous concluding observations adopted on the second periodic report of the State party, on 4 June 2004 (CRC/C/15/Add.240).

A. Positive aspects

(4) The Committee welcomes the active international involvement of the State party in addressing the issue of children in armed conflict:

(a) The technical assistance provided to the Special Representative of the Secretary-General for children and armed conflict;

(b) The financial support to non-governmental organizations active in the implementation of the Optional Protocol;

(c) The active engagement of the State party as Chair of the working group of the Security Council on children in armed conflict since its establishment in November 2005.

B. Main areas of concern and recommendations

1. General measures of implementation

Legislation

(5) The Committee notes with appreciation the signature of a memorandum by the Ministry of Defence to amend the Defence Code in order to ensure that all children under the age of 18 do not take part in hostilities, in accordance with article 1 of the Optional Protocol.

(6) In order to strengthen international measures for the prevention of the recruitment of children into armed forces or armed groups and their use in hostilities, the Committee recommends that the State party:

(a) Ensure that the violation of the provisions of the Optional Protocol regarding the recruitment and involvement of children in hostilities be explicitly criminalized in its legislation;

(b) Establish extraterritorial jurisdiction for these crimes when they are committed by or against a person who is a citizen of or has other links with the State party;

(c) Ensure that military codes, manuals and other military directives are in accordance with the provisions and the spirit of the Optional Protocol.

(7) The Committee notes that the age of recruitment of volunteers at 17 is valid only with the consent of their legal representatives. It also notes that the Foreign Legion does not currently number any minors within its ranks, despite the legal possibility of recruitment from the age of 17.

(8) The Committee encourages the State party to raise the minimum age for recruitment into the armed forces and Foreign Legion to 18 in order to fully comply with the spirit of the Optional Protocol and provide full protection to children. The Committee also encourages the State party to provide by law for a special status, different from that of the military, for children aged from 16 to below 18 who are enrolled in military schools, and for those in the Foreign Legion.

Arms export

(9) The Committee welcomes the adoption by the State party of the principles of the European Union Code of Conduct on Arms Exports, but notes that - among these principles - there is no specific mention, as a criterion for excluding their sale, of the possible recruitment/use in hostilities of children in the country of final destination of the arms. In this respect, the Committee also notes the information provided by the delegation that there is no specific offence in the legislation of the State party prohibiting the sale of arms to countries where children could be recruited or used in hostilities.

(10) The Committee recommends that the State party consider introducing a specific prohibition with respect to the sale of arms when the final destination is a country where children are known to be - or may potentially be - recruited or used in hostilities.

Dissemination of the Protocol and training

(11) The Committee regrets that little information on the dissemination of information and training related to the issues covered by the Optional Protocol is provided in the report of the State party and its written replies to the list of issues.

(12) The Committee recommends, in the light of article 6, paragraph 2, of the Optional Protocol, that the State party ensure that the principles and provisions of the Protocol are widely disseminated to the general public and State officials. The Committee also recommends that the State party develop systematic awareness-raising, education and training programmes on the provisions of the Optional Protocol for all relevant professional groups working with children (asylum-seeking, refugee and migrant children that may have been recruited or used in hostilities), notably teachers, journalists, medical professionals, social workers, police officers, lawyers and judges. The State party is invited to provide information in that respect in its next report.

(13) The Committee recommends that the State party strengthen its efforts to provide human rights education and, in particular, peace education for all children in all schools, including military ones, and train teachers with a view to including these themes in children's education.

2. International assistance and cooperation

Financial and other assistance

(14) The Committee welcomes the various initiatives of the State party relating to the protection of children in armed conflict such as the organization of the Paris Conference of Government Ministers to "Free children from war" on 5 and 6 February 2007. However, the Committee regrets that such efforts have not sufficiently taken into consideration the Optional Protocol or the work of the Committee in this regard.

(15) The Committee recommends that the State party continue to contribute to preventive action as well as physical and psychological recovery and social reintegration of children who are victims of acts contrary to the Optional Protocol. Furthermore, the Committee recommends that the State party, as Chair of the working group of the Security Council on children in armed conflict, encourage strengthened coordination within the United Nations system. The Committee invites the State party, in its capacity as Chair of the working group, to promote synergy and coordination of United Nations initiatives related to the Optional Protocol and to strengthen coordination with the Committee.

(16) The Committee, while noting with appreciation the active contribution of the State party to United Nations peacekeeping operations, invites the State party to ensure that its personnel are fully aware of the rights of children involved in armed conflicts; and that military contingents are aware of their responsibility to ensure that these rights are not violated and that perpetrators are brought to justice.

3. Measures adopted with regard to disarmament, demobilization and social reintegration

Assistance for physical and psychological recovery

(17) While noting that the State party is a country of destination for asylum-seeking and migrant children and that some of them may be arriving from countries affected by armed conflict, the Committee regrets that the information provided by the State party in its written replies does not contain any specific data concerning refugee, asylum-seeking or migrant children entering France who may have been involved in armed conflict abroad. In this regard the Committee also regrets the lack of information regarding measures adopted for the identification and measures concerning the physical and psychological recovery and the social reintegration of unaccompanied asylum-seeking, refugee and migrant children coming to France who were involved in hostilities abroad.

(18) The Committee recommends that the State party provide protection to asylum-seeking, refugee and migrant children arriving to France who may have been recruited or used in hostilities abroad by taking, inter alia, the following measures:

(a) Systematically collect data on refugee, asylum-seeking and migrant children entering France and identify at the earliest possible stage those who may have been recruited or used in hostilities;

(b) Carefully assess the situation of these children and provide them with immediate, culturally and child-sensitive and multidisciplinary assistance for their physical and psychological recovery and their social reintegration in accordance with article 6, paragraph 3, of the Optional Protocol;

(c) Take all necessary measures to ensure that the best interest of the child is taken into consideration if he/she has to be removed from the host country. In this regard, the Committee recommends that the State party take note of its general comment No. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin;

(d) Include information on measures adopted in this regard in its next report.

4. Follow-up and dissemination

(19) The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, inter alia, by transmitting

them to the relevant government ministries, the Assemblée nationale and the Sénat, and to the authorities of the regions and departments, including the Overseas Departments and Territories, for appropriate consideration and further action.

(20) The Committee recommends that the initial report submitted by the State party and the concluding observations adopted by the Committee be made widely available to the public at large, and to children in particular, in order to generate debate and raise awareness of the Optional Protocol, its implementation and monitoring.

5. Next report

(21) In accordance with article 8, paragraph 2, of the Optional Protocol the Committee requests the State party to include further information on the implementation of the Optional Protocol in its next report under the Convention on the Rights of the Child, in accordance with article 44 of the Convention. The report should contain information on the implementation of the Optional Protocol in the French Overseas Departments and Territories.

32. France

(1) The Committee considered the initial report of France on the Optional Protocol on the sale of children, child prostitution and child pornography (CRC/C/OPSC/FRA/1) at its 1270th and 1271st meetings, held on 26 September 2007, and adopted at its 1284th meeting, held on 5 October 2007, the following concluding observations.

Introduction

(2) The Committee welcomes the submission of the comprehensive initial report of the State party; however, it regrets that it does not contain information on the Overseas Departments and Territories. The Committee also welcomes the written replies of the State party to the list of issues (CRC/C/OPSC/FRA/Q/1/Add.1) and appreciates the constructive dialogue held with the multisectoral delegation.

(3) The Committee reminds the State party that these concluding observations should be read in conjunction with its previous concluding observations adopted on the second periodic report of the State party on 4 June 2004 (CRC/C/15/Add.240).

A. Positive aspects

(4) The Committee welcomes the adoption by the State party of numerous laws and regulations related to the Optional Protocol including:

(a) Act No. 2004-1 of 2 January 2004 on the care and protection of children establishing the National Monitoring Centre for At-risk Children (Observatoire national de l'enfance en danger-ONED);

(b) Act No. 2004 575 of 21 June 2004, revising certain provisions of the Penal Code related to child pornography;

(c) Act No. 2005-744 of 4 July 2005 reforming adoption and establishing the French Adoption Agency;

(d) Act No. 2006-399 of 4 April 2006, transposing the European Council Framework Decision 2004/68/JAI on combating sexual exploitation of children and child pornography;

(e) Act No. 2007-291 of 5 March 2007 related to interviewing child victims of sexual offences;

(f) Act No. 2007-293 of 5 March 2007 related to the reform of child protection.

(5) The Committee notes with appreciation the ratification by the State party of international and regional instruments related to the Optional Protocol including:

(a) ILO Convention No. 182 (1999) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, in September 2001;

(b) The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, in October 2002;

(c) The Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, in October 2002;

(d) The Council of Europe Convention on Action against Trafficking in Human Beings, in May 2007.

B. General principles of the Convention on the Rights of the Child (arts. 2, 3, 6 and 12 of the Convention)

(6) The Committee is concerned that the general principles of the Convention on the Rights of the Child have not sufficiently been taken into account in the measures of implementation adopted by the State party under the Optional Protocol. The Committee is particularly concerned over methods dealing with asylum seekers and unaccompanied children in the waiting zones of airports.

(7) The Committee recommends that the general principles of the Convention on the Rights of the Child, in particular the principle of non-discrimination, be included in all measures of the State party to implement the provisions of the Optional Protocol, including judicial or administrative proceedings.

1. Data

(8) The Committee notes that the National Monitoring Centre for At-risk Children (ONED) aims to collect, analyse, assess and disseminate data, studies, research as well as prevention and

intervention practices relating to child protection. However, the Committee is concerned at the scarcity of both data and information on research in the report of the State party on the areas covered by the Optional Protocol.

(9) The Committee recommends that the State party ensure that data, disaggregated, inter alia, by age, sex and ethnic or social origin are systematically collected and analysed as they provide essential tools for policy formulation and implementation. In this regard, the Committee encourages the State party to undertake in-depth studies into issues covered by the Protocol, including sale, prostitution, pornography and sex tourism, in order to get a clear overview of the relevant issues, identify the root causes and develop effective policies to prevent and combat them.

2. General measures of implementation

Coordination and evaluation of the implementation of the Optional Protocol

(10) The Committee takes note of the role of various Ministries and Interministerial Commissions in the implementation of the Optional Protocol and the responsibility of the regional councils and the participation of civil society in this regard. However, the Committee is concerned at the lack of a specific body mandated with the coordination and evaluation of the implementation of the Optional Protocol.

(11) The Committee recommends that the State party mandate a specific body with the coordination and evaluation of the implementation of the Optional Protocol. It urges the State party to ensure, through this body, the effective coordination of the implementation of the Optional Protocol between national and regional levels, as well as with the Overseas Departments and Territories.

Dissemination and training

(12) The Committee notes with appreciation the efforts made by the State party to raise awareness of the areas covered by the Optional Protocol, and in particular the campaigns against the sexual exploitation of children in tourism.

(13) The Committee encourages the State party to continue its awareness raising campaigns in the field of sexual exploitation of children in tourism and to ensure regular follow-up. Furthermore, the Committee recommends that adequate resources be earmarked and allocated to public awareness-raising campaigns and to the development of training materials and courses for professionals working with and for children, in particular law enforcement officials, as well as parliamentarians, judges, lawyers, health and local government personnel, media professionals, social workers, teachers, school administrators and others, as required, who are responsible for the implementation of the Optional Protocol.

Budget allocations

(14) While noting the action taken by the various Ministries concerned with the implementation of the Optional Protocol to allocate resources to related activities including the budget devoted to

the hotline and to the National Monitoring Centre for At-risk Children (ONED), the Committee regrets that no information is available as to whether or not these resources are sufficient to implement the Optional Protocol.

(15) The Committee encourages the State party to provide more information on the budget allocations for activities related to the implementation of the Optional Protocol. Particular attention should be paid to allocating resources, for example through earmarked budgetary funds, to prevention, timely investigation and effective prosecution of the crimes covered by the Optional Protocol as well as protection, care and social reintegration of child victims.

3. Prevention of the sale of children, child prostitution and child pornography

Measures adopted to prevent offences prohibited under the Optional Protocol

(16) The Committee welcomes the efforts of the State party, in collaboration with professionals, non-governmental organizations and civil society, to prevent offences referred to in the Optional Protocol. However, the Committee regrets the lack of systematic and comprehensive strategy to target the problem of child pornography.

(17) The Committee recommends that the State party:

(a) Implement concrete measures based on the recommendations in the report entitled *Children of the Internet - II: Child Pornography and Paedophilia on the Internet (Les enfants du Net - II: pédo-pornographie et pédophilie sur l'internet)*, published in 2005;

(b) Develop a comprehensive programme to combat child pornography and address the risks associated with the Internet, which would include information and training for relevant partners, namely children;

(c) Implement campaigns and specialized educational programmes to address the issue of demand for children for purposes of sexual exploitation as observed in the increase in the circulation of images portraying children.

4. Prohibition of the sale of children, child prostitution and child pornography and related matters

Existing criminal or penal laws and regulations

(18) While noting the efforts made by the State party to criminalize the sale of children, child prostitution and child pornography, the Committee is concerned that irregular intercountry adoption may not be criminalized as an act of sale of children.

(19) The Committee recommends that the State party take all necessary measures to ensure that the national legislation complies with articles 2 and 3 of the Optional Protocol, in particular the definitions of sale (article 2 (a)) and improperly inducing consent in cases of adoption (article 3, paragraph 1 (a)(ii)) as stipulated in the Optional Protocol are incorporated in the legislation.

Jurisdiction over the offences referred to in article 3, paragraph 1, of the Optional Protocol

(20) The Committee welcomes the fact that offences related to child prostitution and child pornography are subjected to extraterritorial jurisdiction. However, the Committee is concerned that extraterritorial jurisdiction does not cover all cases mentioned in article 4 of the Optional Protocol.

(21) The Committee recommends that the State party take all necessary measures to establish its jurisdiction over all the offences referred to in the Optional Protocol, in conformity with article 4.

5. Protection of the rights of child victims

Measures adopted to protect the rights and interests of child victims of offences prohibited under the Optional Protocol

(22) The Committee regrets that no information on the number of child victims provided with recovery assistance and compensation as defined in article 9, paragraphs 3 and 4, of the Optional Protocol is available.

(23) The Committee recommends that the State party:

(a) Systematically collect disaggregated data, including by sex, age, and geographical locations (including the Overseas Departments and Territories), on the number of victims provided with recovery assistance and compensation;

(b) Collaborate with non-governmental organizations to ensure that adequate services are available for child victims, including physical and psychological recovery and social reintegration, in accordance with article 9, paragraph 3, of the Optional Protocol;

(c) Establish systematic and continuing trainings for all actors dealing with the protection of child victims;

(d) Ensure that all child victims have access to adequate procedures to seek, without discrimination, compensation for damages from those legally responsible, in accordance with article 9, paragraph 4, of the Optional Protocol, and allocate adequate funds to programmes and measures necessary for the rehabilitation of child victims;

(e) Take into account the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (Economic and Social Council resolution 2005/20).

(24) The Committee is deeply concerned at the situation facing unaccompanied children placed in the waiting zones of French airports and that the decision of placement cannot be challenged, that the legal requirement of the appointment of an ad hoc administrator is not systematically applied and that there is no psychological assistance available for these children who are particularly vulnerable to exploitation. The Committee is also concerned that children are often returned, without a proper assessment of the conditions, to countries where they face risk of exploitation.

(25) **The Committee urges the State party to take measures to provide for a procedure to allow the decision of placement in the waiting zones to be challenged, to fully implement its domestic law with regard to the appointment of an ad hoc administrator, to fulfil its obligation to ensure the availability of adequate psychological assistance to unaccompanied children and to provide for the protection of children from exploitation within the waiting zones, particularly through strict surveillance of access. Furthermore, the Committee recommends that the State party ensure, with due consideration to the best interests of the child, that children in need of international protection and who are at risk of being re-trafficked are not returned to the country where this danger exists. In this regard it recommends that the State party be guided by the Committee's general comment No. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin.**

6. International assistance and cooperation

Law enforcement

(26) The Committee notes with appreciation the various bilateral agreements and memoranda of understanding signed by the State party in the domain of judicial and security cooperation.

(27) **The Committee encourages the State party to continue and to strengthen its bilateral, regional and multilateral cooperation for the prevention, detection, investigation, prosecution and punishment of those responsible for acts involving the sale of children, child prostitution and child pornography, particularly with law enforcement agencies of States facing problems in this area.**

Financial and other assistance

(28) The Committee notes with appreciation the support provided by the State party to numerous initiatives in the framework of international cooperation and in its bilateral relations with developing countries.

(29) **The Committee recommends that the State party continue and strengthen its efforts to promote the implementation of the Optional Protocol at the international level.**

7. Follow-up and dissemination

Follow-up

(30) **The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, inter alia, by transmitting them to relevant government ministries, the Assemblée nationale and the Sénat, and to the authorities of the regions and departments, including the Overseas Departments and Territories, for appropriate consideration and further action.**

Dissemination

(31) The Committee recommends that the report and written replies submitted by the State party and the concluding observations adopted by the Committee be made widely available, including through the Internet (but not exclusively), to the public at large, civil society organizations, youth groups, professional groups, and children in order to generate debate and raise awareness of the Optional Protocol, its implementation and monitoring.

8. Next report

(32) In accordance with article 12, paragraph 2, the Committee requests the State party to include further information on the implementation of the Optional Protocol in its next periodic report under the Convention on the Rights of the Child in accordance with article 44 of the Convention. The report should contain information on the implementation of the Protocol in the French Overseas Departments and Territories.

33. Venezuela (Bolivarian Republic of)

(1) The Committee considered the second periodic report of the Bolivarian Republic of Venezuela (CRC/C/VEN/2) at its 1274th and 1275th meetings (see CRC/C/SR.1274 and CRC/C/SR.1275), held on 28 September 2007, and adopted at its 1284th meeting, held on 5 October 2007 the following concluding observations.

Introduction

(2) The Committee welcomes the submission of the second periodic report of the State party, despite the considerable delay, as well as the detailed written replies to its list of issues (CRC/C/VEN/Q/2/Add.1) submitted in a timely manner, and regrets the technical problems with ensuring that the replies were translated on time. The Committee appreciated the dialogue with the high-level, multisectoral delegation. The Committee notes that the report of the State party did not fully comply with the guidelines for the submission of the reports.

A. Follow-up measures undertaken and progress achieved by the State party

(3) The Committee notes with appreciation the adoption of many legislative (and programmatic) measures taken with a view to implementing the Convention, including:

- (a) Articles 75, 76, 78 (1999) of the Constitution recognizing children as subjects of rights;
- (b) The Child and Adolescent Protection Act (LOPNA) (2000);
- (c) The Special Computer Crime Law (2001);
- (d) The Organized Crime Act (2005);
- (e) The Law for the Protection of Children and Adolescents in Places for Internet, Videogames and other Multimedia Uses (2006);

- (f) The Community Council Law (2006);
 - (g) The Right of Women to a Life Free of Violence Act (2006);
 - (h) The Organic Law for Handicapped People or Persons with Special Needs (2007).
- (4) The Committee also wishes to welcome the ratification of or accession to:
- (a) The Rome Statute of the International Criminal Court on 7 June 2000;
 - (b) The Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography on 8 May 2002;
 - (c) The Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict on 23 September 2003;
 - (d) The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime on 13 May 2002;
 - (e) ILO Convention No. 182 (1999) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour on 26 October 2005.

B. Main subjects of concern and recommendations

1. General measures of implementation (arts. 4, 42 and 44, para. 6, of the Convention)

The previous recommendations of the Committee

(5) The Committee notes that several concerns and recommendations made upon consideration of the initial report of the State party (CRC/C/15/Add.109) have been addressed. However, it regrets that some of its concerns and recommendations have been insufficiently or only partly addressed, including those related to discrimination, definition of the child, data collection and cooperation with non-governmental organizations.

(6) The Committee urges the State party to take all necessary measures to address those recommendations from the concluding observations of the initial report that have not yet been implemented or sufficiently implemented, particularly in relation to discrimination, definition of the child, data collection and cooperation with non-governmental organizations, and to provide adequate follow-up to the recommendations contained in the present concluding observations on the second periodic report.

Legislation and implementation

(7) The Committee welcomes the adoption of the Child and Adolescent Protection Act (LOPNA) in 2000 and the establishment of the National Council for the Rights of Children and Adolescents (CNDNA), but is seriously concerned that the current reform of the LOPNA might

prove incompatible with the principles and provisions of the Convention and that strengthening the competence of the federal states could weaken the system of protection as a result of increased centralization.

(8) The Committee urges the State party to adopt a revised LOPNA as soon as possible, to ensure that it complies with the Convention taking into account, in particular, its general comment No. 5 (2003) on general measures of implementation of the Convention, and to use the opportunity of reform to strengthen protection and participation for children.

(9) The Committee recommends that the State party ensure, through adequate legal provisions and regulations, that all children victims and or witnesses of crimes, e.g. children victims of abuse, domestic violence, sexual and economic exploitation, abduction, and trafficking as well as witnesses of such crimes, are provided with the protection required by the Convention, and take fully into account the United Nations Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (annexed to Economic and Social Council resolution 2005/20).

National Plan of Action

(10) The Committee regrets that there is no comprehensive plan of action specifically dedicated to children and the implementation of the Convention.

(11) The Committee encourages the State party to elaborate a comprehensive National Plan of Action for children in consultation with civil society representatives specialized in the area of children's rights, children's organizations and all other sectors involved in the promotion and protection of children's rights. Such a plan should have effective mechanisms for monitoring and evaluation as well as the necessary resources for its implementation. The Committee recommends that the State party include in the National Plan of Action the principles and provisions of the Convention as well as the outcome document of the twenty-seventh special session of the General Assembly in May 2002 entitled "A World Fit For Children" (resolution S-27/2) and link the National Plan of Action to sectoral plans that deal with children.

(12) The Committee notes that progress has been made in the field of social well-being for citizens through a variety of social reform programmes, including the missions, but is concerned that the missions establish parallel policies and structures and that their constructive experiences are not transferred to the existing structures.

(13) The Committee encourages the State party to bring successful social missions in line with the institutional framework of children's rights in order to strengthen the implementation of the provisions of the Convention and enhance evaluation and transparency.

Coordination

(14) The Committee notes that the State party has an advanced system of protection of children's and adolescents' rights, legislation generally in conformity with the Convention, as

well as institutions for children's rights at different levels. However, the Committee regrets the lack of an adequate coordination mechanism to enable effective linkages between its various governmental and non-governmental institutions at the different levels.

(15) The Committee recommends that the State party ensure that an adequate mechanism of coordination is established to link all the efforts by the various sectors of the Sistema Rector para la Protección Integral para la Infancia y la Adolescencia as a whole and at all levels.

Independent monitoring

(16) The Committee notes that the State party has established la Defensoría del Pueblo (Ombudsman's Office) with a Special Directorate for Children's and Adolescents' Rights, but regrets its lack of presence across the country. While recognizing the services of the Defensorías Municipales, the Committee emphasizes that there is a lack of information about the coordination of these services with the Ombudsman's Office.

(17) The Committee encourages the Defensoría del Pueblo to ensure its presence in every municipality in coordination with the services of Defensorías Municipales in order to ensure that all children have effective and accessible remedies in case of violations of their rights. The Committee recommends that the State party ensure the independence of the Ombudsman, in line with the principles relating to the status and functioning of national institutions for the protection and promotion of human rights (the Paris Principles).

Allocation of resources

(18) The Committee observes with satisfaction that resources are allocated as established by the legal framework of LOPNA targeting children and that these are distributed through the Funds for the Protection of Children and Adolescents at the national, state and municipal levels. The Committee notes that a significant increase of budget to social policies through public sector investments and social missions has taken place, but regrets that it remains difficult to disaggregate the precise spending on children in the total public expenditures.

(19) The Committee recommends that the State party, in accordance with article 4 of the Convention, develop its general budget, including the budgets of different missions, in a more systematic manner so that resources and investments for children are more transparent, making it easier to monitor spending.

Data collection

(20) The Committee notes the efforts and actions in the area of children's rights, including by the National Council for the Rights of Children and Adolescents and the National Statistics Institute, aimed at increasing the visibility of children in national indicators and statistics. It also takes note of the delegation's acknowledgement of the need to improve the national statistical information system in relation to children's and adolescents' rights, both in the production of

data and in public access. The Committee remains concerned, however, at the lack of disaggregated data and indicators which would allow for efficient monitoring of plans and actions, including the monitoring of budgetary allocations and expenditures.

(21) The Committee recommends that the State party continue and strengthen its efforts to develop a comprehensive system of collection of data on the implementation of the Convention. The data should cover all rights for all children under 18. It should also be disaggregated by sex, age, ethnic group, indigenous children and children of Afro-descendants as well as those groups of children in need of special protection, such as children in detention, children requiring mental health assistance, children with disabilities, children in street situations, working children and refugee children. The Committee encourages the State party to further its cooperation with UNICEF and other agencies in this regard.

Dissemination and training

(22) The Committee recognizes the measures undertaken to disseminate information about the content of the Convention, but remains concerned at the lack of awareness of the Convention in the public in general, and amongst children and professionals in particular.

(23) The Committee recommends that the State party strengthen its efforts to disseminate the Convention throughout the country and to raise public awareness, in particular among children themselves, parents, teachers and authorities, of its principles and provisions. Cooperation with civil society organizations, such as academic centres, media and non-governmental organizations should be strengthened for this purpose.

(24) Furthermore, the Committee encourages the State party to strengthen its efforts to provide adequate and systematic training and/or sensitization on children's rights to professional groups working with and for children, in particular law enforcement officials, as well as parliamentarians, judges, lawyers, health personnel, teachers, school administrators and others as required. The Committee encourages the State party to continue to seek technical assistance from UNICEF and the Inter-American Institute of the Child for the training of professionals.

Cooperation with civil society

(25) The Committee acknowledges the numerous initiatives and contributions of organizations of civil society in the development of the Sistema de Protección Integral para la Infancia y la Adolescencia while noting that such cooperation is decreasing. It is concerned by the lack of participation of non-governmental organizations, children's organizations and all other relevant partners in the reporting process and that the reform of LOPNA might narrow the operating space for non-governmental organizations specialized on children's rights.

(26) The Committee recommends that the State party encourage dialogue and cooperation with all civil society organizations, including the Consejos Sociales Municipales, children's organizations and all other relevant partners active and systematically involved with children's rights. The Committee recommends that the

State party encourage their active participation in the follow-up of the concluding observations of the Committee, in the preparation of its next reports and in the evaluation of the National Plan of Action.

2. Definition of the child (art. 1 of the Convention)

(27) The Committee is concerned that the minimum age of marriage for girls is too low and that there is a difference between the ages for girls (14) and boys (16).

(28) The Committee recommends that the State party establish a minimum age of marriage which is the same for girls and boys and consider raising the age to 18. Furthermore, it is encouraged to undertake sensitivity campaigns regarding the possible negative effects of teenage marriages.

(29) The Committee notes that the age of consumption of alcohol is not specified.

(30) The Committee recommends that the State party establish a minimum age for consumption of alcohol.

3. General principles (arts. 2, 3, 6 and 12 of the Convention)

Non-discrimination

(31) The Committee notes that the State party has made significant improvements in the area of non-discrimination but wishes to point out that the report of the State party does not provide sufficient information on plans, programmes and projects aimed at preventing and reducing discrimination due to ethnicity, sex, disabilities, political affiliation, religion or social or economic status of parents.

(32) The Committee requests that specific information be included in the next periodic report on the measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party to provide special protection to excluded categories of the population and to follow up on the Declaration and Programme of Action adopted at the 2001 World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance, also taking into account the Committee's general comment No. 1 (2001) on the aims of education.

Best interests of the child

(33) The Committee notes that the State party has included the principle of the best interests of the child as one of the components of the law and has established guidelines to be adhered to by all relevant actors, in particular in the administration, but regrets that the understanding of this principle is not well reflected in practice.

(34) The Committee recommends that the State party fully incorporate the principle of the best interests of the child into all of its programmes, policies, legislative, judicial and administrative procedures and promote its application.

Right to life, survival and development

(35) The Committee notes the existence of the Inter-Institutional Plan of Action against Violence (2006-2007) but regrets the lack of information regarding its outcomes. The Committee notes the investigations conducted by the State party into cases of violations of the right to life but is deeply concerned at reports of extrajudicial killings of children at the hands of law enforcement officials and deaths of children in police custody.

(36) The Committee urges the State party to ensure that its law enforcement officers are held fully responsible for any violation of the right to life, that all such cases are immediately investigated by an independent body, and that those responsible are held accountable. The Committee invites the State party to provide information on the outcome of the Inter-institutional Plan of Action in its next report.

Respect for the views of the child

(37) The Committee welcomes the fact that young adolescents can vote at the municipal level at the age of 15 following the Community Council Act as well as other initiatives such as the Youth Municipal Government and the Youth Councils, and appreciates the general practice that children are heard in judicial and administrative proceedings. Nevertheless, the Committee remains concerned that the creation of spaces for children to be heard is not stimulated sufficiently and is primarily left up to non-governmental organizations.

(38) The Committee reiterates its recommendation that the State party strengthen its efforts to further promote, facilitate and implement - within the family and in school, the community and institutions as well as in judicial and administrative proceedings - the principle of respect for the views of the child while taking into account the recommendations adopted by the Committee after the Day of General Discussion on the right of the child to be heard, held in 2006.

4. Civil rights and freedoms (arts. 7, 8, 13-17 and 37(a) of the Convention)

Birth registration

(39) The Committee welcomes the various initiatives and achievements made in facilitating registration of children at birth, such as the National Plan for Identity “Yo Soy” which set up hospital birth units to ensure every child was registered immediately following birth. However, the Committee is concerned about the negative impact in this regard of Decree No. 2819 of 30 September 1998 providing that parents must be duly documented in order to register their children born within the territory of the State party.

(40) The Committee encourages the State party, in partnership with UNICEF, to continue its efforts to ensure that all children within its territory are registered at birth, including children of undocumented foreigners and those belonging to indigenous groups and immigrant families.

Access to appropriate information

(41) The Committee notes that the normative framework guarantees the right to information but is concerned about the quality of the TV and radio programmes and their compatibility with a child rights approach. The Committee is also concerned that indigenous children and children of Afro-descendants do not receive sufficient information relevant to their needs.

(42) The Committee encourages the State party to ensure that public programmes are consistent with children's rights in all sectors of the population.

Torture and degrading treatment

(43) The Committee notes programmes on violence against children but is concerned about allegations of ill-treatment and reported sub-standard conditions of prisons throughout the country; it remains concerned about the fact that children continue to be kept in extremely poor prison conditions and about reports of children dying in custody.

(44) The Committee recommends that the State party strengthen its efforts to improve prison conditions and take measures to ensure that children are not subjected to torture and inhuman, degrading treatment or punishment; it further urges the State party to take all steps to investigate alleged violations and punish those responsible.

5. Family environment and alternative care (arts. 5; 9-11; 18 (paras. 1-2); 19-21; 25; 27 (para. 4); and 39 of the Convention)

Family support

(45) The Committee notes that the legislative framework established the principle of protection of children and their families but that very little information has been made available to the Committee on its practice, apart from that received from the missions.

(46) The Committee recommends that the State party continue existing programmes and strengthen support to families in order to prevent separation of children, e.g. by counselling, parenting advice and financial allowances, and calls on the State party to provide further information in its next report.

Alternative care

(47) The Committee welcomes the fact that the State party has legislated that poverty is not a sufficient cause for separating a child from his/her parents and that significant progress has been made in removing children from institutions. The Committee notes that the State party favours placing children with a substitute family or placing them up for adoption. The Committee is nevertheless concerned that placing children in institutions remains a prevalent practice.

(48) The Committee recommends that the State party continue its efforts to provide programmes and adequate care, give priority to family solutions for children and adolescents deprived of a family environment, and continue to promote foster care as a form of alternative care. The Committee suggests that institutionalization be used only as a last resort, taking into account the best interests of the child. Furthermore, the Committee

recommends adequate resource allocation, functioning and monitoring of care institutions, including those managed by non-governmental organizations, foster care programmes, as well as periodic reviews of placement in conformity with article 25 of the Convention and the recommendations issued after the Day of General Discussion on children without parental care, held in 2005.

Adoption

(49) The Committee welcomes the establishment of a National Bureau and several State offices for the purpose of facilitating adoption, and notes that the State party has amended its legislation relating to intercountry adoption in accordance with the obligations established under the 1993 Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (“the Hague Adoption Convention”). Notwithstanding, it remains concerned at the unjustified delays and procedural obstacles to the adoption process.

(50) The Committee recommends that the State party take measures in order to avoid unjustifiable delays in adoption procedures by:

(a) Strengthening the multidisciplinary teams with trained professionals and necessary resources;

(b) Encouraging the Ombudsman to regularly review the adoption system so that it complies with article 21 of the Convention and the Hague Adoption Convention and to ensure that the State party processes adoptions in a timely manner.

Abuse and neglect

(51) The Committee takes notes of various programmes on violence against children but is concerned about allegations of neglect, domestic violence and sexual abuse. It is also concerned at the difficulties of children in accessing free helplines.

(52) The Committee recommends inter alia that the State party ensure that a three digit, toll-free, 24-hour helpline for children is accessible throughout the country.

Follow-up to the United Nations Study on Violence against Children

(53) With reference to the United Nations Study on Violence against Children (A/61/299), the Committee recommends that the State party:

(a) Take all necessary measures to implement the recommendations of the United Nations Study on Violence against Children, taking into account the outcome and recommendations of the regional consultation for Latin America, held in Argentina between 30 May and 1 June 2005. In particular, the Committee recommends that the State party pay particular attention to the following recommendations:

- (i) Prohibit all violence against children, including corporal punishment in all places;**
- (ii) Prioritize prevention, including interfamily violence;**

- (iii) Ensure accountability and end impunity;**
- (iv) Develop and implement systematic national data collection and research.**

(b) Use the recommendations of the Study as a tool for action in partnership with civil society and, in particular, with the involvement of children to ensure that all children are protected from all forms of physical, sexual and psychological violence and to gain momentum for concrete and time-bound actions to prevent and respond to such violence and abuse;

(c) Seek technical cooperation in this respect from OHCHR, UNICEF and WHO and other relevant agencies, inter alia ILO, UNESCO, UNHCR, the United Nations Office on Drugs and Crime (UNODC) as well as non-governmental organizations.

Corporal punishment

(54) The Committee welcomes the information provided by the delegation that corporal punishment will be prohibited but is concerned that corporal punishment is still lawful. Furthermore, the Committee is concerned that abuse and ill-treatment of children are underreported.

(55) The Committee urges the State party to adopt and implement new laws explicitly prohibiting corporal punishment in all settings, including in the home, to conduct awareness-raising and public education campaigns against corporal punishment, and to promote non-violent, participatory methods of child-rearing and education while taking due account of the Committee's general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment as well as the recommendation in the United Nations Study on Violence against Children that all corporal punishment of children be prohibited by 2009.

6. Basic health and welfare (arts. 6; 18 (para. 3); 23; 24; 26; 27 (paras. 1-3) of the Convention)

Children with disabilities

(56) The Committee welcomes the recently adopted Handicapped and Persons with Special Needs Act (2007) but is not sure how this instrument will affect children specifically. The Committee is concerned at the lack of data on the number of children with disabilities who are currently receiving educational services in the regular educational system. Furthermore, the Committee is concerned that current categories do not cover all categories of disability.

(57) The Committee recommends that the State party, taking into account general comment No. 9 (2006) on the rights of children with disabilities:

(a) Ensure that all children with disabilities receive education and encourage the inclusion of children with disabilities in regular schools;

(b) Implement the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96);

(c) Undertake an in-depth study on the prevention of disabilities;

(d) Make greater efforts to provide the necessary professional (i.e. disability) specialists and financial resources, especially at the local level, and to promote and expand community-based rehabilitation programmes, including parent support groups;

(e) Sign and ratify the Convention on the Rights of Persons with Disabilities and its Optional Protocol (General Assembly resolution 61/106, annex).

Health and health services

(58) The Committee welcomes the variety of social programmes for the promotion of a healthy life and the health and integral development of children through increased investments in primary health care and the social missions, which have resulted inter alia in a drop in child mortality. Nevertheless, the Committee remains concerned at the high rates of neonatal and maternal mortality and declining vaccination coverage. The Committee is also concerned about the parallel nature of the health missions.

(59) The Committee recommends that the State party:

(a) Strengthen its efforts to reduce neonatal and maternal mortality throughout the country by the provision of quality care and facilities;

(b) Continue to address the problem of malnutrition and low vaccination rates, with special emphasis on rural and remote areas and among refugees and the indigenous populations;

(c) Adopt and enforce the International Code of Marketing of Breastmilk Substitutes;

(d) Integrate the Barrio Adentro health mission and the public health network so they complement each other, especially regarding hospital infrastructure, supply of medicines and technological equipment, qualified personnel, and quality of care and attention provided.

Adolescent health

(60) The Committee welcomes the nationwide awareness-raising programmes regarding contraception but is concerned that maternal mortality of adolescents continues to be a significant health problem and that many girls die due to unsafe abortions.

(61) The Committee recommends that the State party continue to strengthen its awareness-raising programmes involving adolescents and families regarding sexual relations and ensure compliance with resolution 1762 of the Ministry of Education (1996) whereby pregnant teenagers have the right to continue with their studies in all the schools of the country and the State party must do its utmost to strengthen policies and programmes aimed at avoiding harmful consequences and/or the death of teenagers due to unsafe abortions.

HIV/AIDS

(62) The Committee notes that there is free access to retroviral medication for persons living with HIV/AIDS but is concerned at reports of discrimination against children and adolescents living with HIV/AIDS and the lack of adequate treatment for pregnant women to prevent mother-to-child transmission. The Committee is further concerned about underreporting and the lack of rules governing the transfer of children to other regions for treatment.

(63) The Committee recommends that the State party ensure that discrimination and other forms of irregularities against children living with HIV/AIDS are corrected and provide adequate medical services for pregnant women in order to prevent mother-to-child transmission.

Standard of living

(64) The Committee welcomes the efforts made by the State party to reduce poverty through its social programmes, especially via the missions, but remains concerned that children continue to be most affected by poverty and that measures to protect children are not sufficient.

(65) The Committee recommends that the State party: (a) strengthen its efforts to combat poverty, and in particular evaluate the measures applied to protect children against poverty and its impact on their development and well-being, and (b) reduce the extreme social and economic inequalities among families and children, in accordance with article 27 of the Convention.

7. Education, leisure and cultural activities (arts. 28, 29 and 31 of the Convention)

Education, including vocational training and guidance

(66) The Committee welcomes the fact that children's education is a top priority in terms of government policy and that progress is evident with regard to children's enrolment and expanded provisions for disadvantaged children in school. However, the Committee remains concerned that:

- (a) Enrolment rates are still not satisfactory, in particular in preschools and secondary schools;
- (b) The dropout rate is high after the first grade and in upper grades;
- (c) Enrolment rates for indigenous children, Afro-descendants and children living in rural areas are low;
- (d) Bureaucratic obstacles make it hard for refugee and asylum-seeking children to continue their education;
- (e) The quality of education is unsatisfactory.

(67) The Committee recommends that the State party:

(a) Strengthen its efforts to increase enrolment in preschool care and education facilities and in the higher grades of primary schools, as well as in secondary schools, in particular in the rural and remote border areas and with respect to indigenous children;

(b) Facilitate the enrolment of refugee and asylum-seeking children by removing administrative obstacles to their inclusion in the educational system at an adequate grade level and ensure full implementation of their right to education;

(c) Strengthen early childhood development programmes for all children up to the age of 8;

(d) Effectively reduce dropout rates of children beginning their education in schools and of children in the higher grades, and provide opportunities for children who have dropped out to re-enter educational institutions;

(e) Promote the quality of education via the reform of curricula and the introduction of instruction and learning methods which stimulate the active participation of children, and train teachers in teacher training colleges as well as those in service accordingly;

(f) Include human rights education in the curriculum on all levels with a focus on the right of children to voice their view and to find respect for their views in all matters affecting them in the organization of learning and social life in schools;

(g) Provide vocational education and training, enabling all children to enter the labour market with basic preparation as well as, according to capacity and motivation, specific skills training which facilitates a sound occupational life perspective.

8. Special protection measures (arts. 22; 30; 32-36; 37 (b-d); 38;39; 40 of the Convention)

Refugee children

(68) The Committee takes note of the establishment of the National Commission for Refugees and its four decentralized technical secretariats and notes the recognition that refugee children and asylum-seekers should enjoy respect and have their human rights guaranteed at all times. However, it is concerned that the refugee status determination procedure is seriously hampered due to lack of shared responsibility between the National Commission for Refugees and child protection institutions.

(69) The Committee recommends that the State party establish institutional agreements between the National Commission for Refugees and child protection institutions, especially the Consejo Estatal de Derechos del Niño y del Adolescente (CEDNA) centres. The Committee further recommends that the State party ensure rapid access to age-sensitive refugee status determination procedures and subsequent assistance for unaccompanied and separated children. Finally, the Committee recommends that the State party take note of

its general comment No. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

Economic exploitation, including child labour

(70) The Committee notes the establishment of the National Programme of Protection of Child Workers (PRONAT) and the resources that have been allocated to prevention of the economic exploitation of children, but regrets the lack of information about the reality and extent of children engaged in labour and is concerned at allegations that children are involved in the worst forms of child labour in slavery-like conditions.

(71) The Committee recommends that the State party undertake an evaluation of PRONAT, determine the numbers and categories of children working informally or formally in the economy, and take all necessary measures to protect children from economic exploitation. The Committee recommends that the State party give special attention to the worst forms of child labour in accordance with ILO Convention No. 182 (1999) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

Children in street situations

(72) The Committee welcomes the establishment of the pilot action plan for children living on the streets. However, the Committee is concerned at the inadequate living conditions of these children and at the allegations of discrimination and violence by law enforcement officials.

(73) The Committee recommends that the State party:

(a) Extend the pilot action plan for children living on the streets to all parts of the country to prevent and address the problems of street children;

(b) Ensure that street children are provided with adequate nutrition and shelter as well as with health care and educational opportunities in order to support their full development, and provide them with adequate protection and assistance, taking into account article 12 of the Convention.

Sexual exploitation, trafficking and sale of children

(74) The Committee notes that a Plan of Action against Sexual Abuse and Exploitation has been adopted and that general guidelines have been developed for the protection of victims of trafficking. The Committee regrets the lack of information and data on the sexual exploitation and sale of children as well as the impact of the Plan of Action.

(75) The Committee recommends that the State party establish mechanisms to facilitate the implementation and monitoring of the plans and programmes of Government and non-governmental organizations on the subjects of trafficking, sexual exploitation and sale of children. The Committee invites the State party to include comprehensive information regarding these issues and the impact of the Plan of Action in its next report with reference to the Optional Protocol.

Administration of juvenile justice

(76) The Committee welcomes the clear status afforded to young offenders with regard to procedural rights but notes that the system of juvenile justice is not fully in compliance with the Convention and international standards. In particular, it has not been clearly demonstrated that specialized justice is available to children or that they are systematically separated from adults in prisons.

(77) The Committee recommends that the State party ensure that all juvenile justice standards are fully implemented, in particular articles 37 (b), 40 and 39 of the Convention, as well as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules). In particular the Committee recommends that the State party, while taking into account its general comment No. 10 (2007) on the administration of juvenile justice:

(a) Take all necessary measures, including the adoption of a permanent policy of alternative sanctions for juvenile offenders, and continue to ensure that children are held in detention only as a last resort and for as short a time as possible and that the deprivation of liberty is reviewed on a regular basis;

(b) Take all necessary measures to ensure that when detention is carried out, it is done in compliance with the law and respects the rights of the child as set out under the Convention and that children are held separately from adults both in pre-trial detention and after sentencing for the entire period of deprivation of liberty;

(c) Take all necessary measures to ensure that children are not ill-treated in detention, that conditions in detention facilities are not contrary to the child's development, that their rights, including visitation rights, are not violated, and that cases involving juveniles are brought to trial as quickly as possible;

(d) Consider raising the age of criminal responsibility;

(e) Seek technical assistance and other cooperation from the Interagency Panel on Juvenile Justice, which includes UNODC, UNICEF, OHCHR, and non-governmental organizations.

Children belonging to minorities and indigenous peoples

(78) The Committee notes that the State party has created a new Ministry to deal with indigenous issues but is concerned that, despite the efforts made, insufficient progress has been made with regard to the protection of indigenous peoples. The Committee regrets that mortality rates due to preventable diseases continue to run high amongst the indigenous population and is concerned at reports of deaths due to malnutrition. The Committee is also concerned that indigenous girls are at higher risk for sexual exploitation and that there is a tendency not to report complaints.

(79) The Committee recommends that the State party enhance the situation of indigenous children, inter alia by:

(a) Strengthening efforts to improve living conditions in areas inhabited by indigenous peoples;

(b) Increasing its efforts to prevent health-related diseases, and particularly malnutrition, amongst indigenous children;

(c) Initiating programmes to reduce the sexual vulnerability of girls belonging to indigenous peoples;

(d) Stepping up its efforts to implement educational strategies adapted to indigenous children;

(e) Creating spaces for the participation of indigenous children between themselves and with non-indigenous children.

(80) The Committee welcomes the creation of the Network of Afro-descendant Organizations and notes that there is a lack of reliable statistics and social indicators related to the situation of the Afro-descendant population. The Committee also notes that there are discriminatory practices against children of Afro-descendants.

(81) The Committee recommends that the State party take steps to address these issues, inter alia by including specific questions regarding the Afro-descendant population in its next census or national polls in order to enhance understanding about the particular challenges faced by this population.

9. Optional Protocols to the Convention on the Rights of the Child

(82) The Committee reminds the State party that its initial reports under both Optional Protocols to the Convention were due in 2004 and 2005, respectively, and encourages their speedy submission, if possible at the same time, in order to facilitate the review process.

10. Follow-up and Dissemination

Follow-up

(83) The Committee recommends that the State party take all appropriate measures to ensure that the present recommendations are fully implemented, inter alia by transmitting them to the members of the Council of Ministers, the National Assembly, the Citizen's Power, the governors and legislative councils at the State level as well as to the councils and mayors at the municipal level, for appropriate consideration and further action.

Dissemination

(84) The Committee recommends that the second periodic report and written replies submitted by the State party and the related concluding observations, adopted by the Committee, be made widely available in the different languages of the country and to the

public at large, including by use of the Internet and the media so that it reaches civil society organizations, youth groups, professional groups, children and adolescents, their teachers and educational staff directors and other staff in regular contact with children and adolescents, such as physicians, district attorneys and judges, with the purpose of generating debate and awareness of the Convention, its implementation and monitoring.

11. Next report

(85) The Committee invites the State party to submit its combined third, fourth and fifth reports on the implementation of the Convention by April 2011.

(86) The Committee also invites the State party to submit an updated core document in accordance with the requirements of the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents, approved by the Fifth Inter-Committee Meeting of the human rights treaty bodies in June 2006 (HRI/MC/2006/3).

34. Spain

(1) The Committee considered the initial report of Spain under the Optional Protocol on the involvement of children in armed conflict (CRC/C/OPAC/ESP/1) at its 1276th meeting (see CRC/C/SR.1276), held on 1 October 2007 and adopted at the 1284th meeting, held on 5 October 2007, the following concluding observations.

Introduction

(2) The Committee welcomes the submission of the initial report of the State party while regretting the delay in its submission. The Committee appreciates the constructive dialogue with a high-level multisectoral delegation, which included a senior representative of the Ministry of Defence.

(3) The Committee reminds the State party that these concluding observations should be read in conjunction with its previous concluding observations adopted on the second periodic report of the State party on 4 June 2002, (CRC/C/15/Add.185) and the concluding observations adopted on the initial report under the Optional Protocol on the sale of children, child prostitution and child pornography (CRC/C/OPSC/ESP/CO/1) on 5 October 2007.

A. Positive aspects

(4) The Committee notes with appreciation:

(a) The declaration by the State party made upon the ratification of the Optional Protocol that the minimum age for voluntary recruitment into the armed forces is 18;

(b) The affirmation by the State party that international human rights treaties form part of domestic legislation and can be enforced by national courts;

(c) The contributions of the State party to projects for the rehabilitation and reintegration of child soldiers in several countries experiencing conflict or in post-conflict situations;

- (d) The support of the State party for the mandate of the Special Representative of the Secretary-General for Children and Armed Conflict and the Security Council resolution 1539;
- (e) The efforts of the State party to promote the European Union Guidelines on Children and Armed Conflict adopted by the General Affairs and External Relations Council in December 2003, and updated in 2005.
- (5) The Committee further commends the State party's accession to or ratification of international instruments related to the Optional Protocol, including:
- (a) The Rome Statute of the International Criminal Court on 24 October 2000;
- (b) ILO Convention No. 182 (1999) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour on 2 April 2001;
- (c) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography on 5 December 2001.

B. Main areas of concern and recommendations

1. General measures of implementation

Legislation and implementation measures

- (6) The Committee commends the support of the State party for raising the minimum age limit for voluntary recruitment to 18. The Committee notes that crimes under the Optional Protocol are indirectly covered by references to international treaties in the Criminal Code of the State party; however it is concerned that there are no specific provisions criminalizing the compulsory recruitment of a person under 18.
- (7) **In order to strengthen the national and international measures for the prevention of the recruitment of children for armed forces or armed groups and their use in hostilities, the Committee recommends that the State party:**
- (a) **Ensure that violations of the provisions of the Optional Protocol regarding the recruitment and involvement of children in hostilities be explicitly criminalized in the legislation of the State party;**
- (b) **Strengthen extraterritorial jurisdiction for these crimes when they are committed by or against a person who is a citizen of or has other links with the State party;**
- (c) **Ensure that military codes, manuals and other military directives are in accordance with the provisions and the spirit of the Optional Protocol.**

Dissemination and training

- (8) The Committee notes with appreciation that all military personnel, including the participants of peacekeeping missions, receive training on human rights, including the provisions of the Convention on the Rights of the Child and the Optional Protocols. The Committee is

however concerned that not all groups of professionals working with children receive sufficient training. Furthermore, the Committee is pleased to note that peace education is an element of human rights education in school, but is concerned that awareness of the Optional Protocol is low among children, parents and teachers.

(9) The Committee encourages the State party to continue to provide training activities on the Optional Protocol to members of its armed forces, including peacekeepers, and to all relevant professional groups working with and for children, who have been victims of acts contrary to the Optional Protocol, or professionals who may come with contact with them, such as health personnel, social workers, teachers, lawyers, judges, media professionals, and in particular, authorities working for and with asylum-seeking, refugee and migrant children.

(10) Furthermore, the Committee recommends that the State party make the Optional Protocol widely known to the public at large, and in particular to children and their parents through, inter alia, school curricula and human rights education.

2. Measures adopted with regard to disarmament, demobilization and social reintegration

Social reintegration measures

(11) The Committee notes the efforts of the State party to process asylum requests from children. However, the Committee is concerned that identification of children who may have been recruited or used in hostilities prior to arrival in Spain is inadequate and that data on these children are not systematically collected. The Committee is concerned that failure to identify such children could result in a breach of the principle of non-refoulement.

(12) Furthermore, the Committee regrets that asylum-seeking children who have been recruited or used in armed conflict are poorly informed about the asylum process and have insufficient access to specialized professionals who can provide multidisciplinary assistance for their physical and psychological recovery and social reintegration. The Committee is concerned that the heavy workload of the office of the ombudsman may have a negative impact on the best interests of the child.

(13) The Committee recommends that the State party:

(a) Take steps to identify and systematically collect data on refugee, asylum-seeking and migrant children within its jurisdiction who may have been recruited or used in armed conflict;

(b) Pay particular attention to refugee and asylum-seeking children in Spain who may have been involved in hostilities and increase the number of professionals in order to provide children with adequate multidisciplinary assistance for their physical and psychological recovery and social reintegration;

(c) Improve access to information, including helplines, for asylum-seeking children and reinforce the legal advisory services available to them, including within the office of the ombudsman;

(d) Safeguard full implementation of the Optional Protocol in all autonomous regions;

(e) Ensure that the best interests of the child and the principle of non-refoulement are primary considerations taken into account in the case of a decision to repatriate a child.

(14) In this regard, the Committee recommends that the State party take note of the Committee's general comment No. 6 (2005), in particular paragraphs 54 to 60, on the treatment of unaccompanied and separated children outside their country of origin.

3. International assistance and cooperation

Arms exports

(15) The Committee welcomes the support of the State party for the European Union Code of Conduct on Arms Exports (1998) and that the State party has criminalized the illegal arms trade. However, the Committee notes that the legislation of the State party contains no specific mention, as a criterion for excluding their sale, of the possible recruitment or use in hostilities of children in the country of final destination of the arms.

(16) The Committee recommends that the State party consider introducing a specific prohibition with respect to the sale of arms when the final destination is a country where children are known to be - or may potentially be - recruited or used in hostilities.

International cooperation

(17) The Committee commends the State party for its financial support to multi- and bilateral activities aimed at protecting and supporting children who have been affected by armed conflict.

(18) The Committee recommends that the State party continue and strengthen its financial support for multi- and bilateral activities to address the rights of children involved in armed conflict, in particular by promotion of preventive measures, as well as physical and psychological recovery and social reintegration of child victims of acts contrary to the Optional Protocol.

4. Follow-up and dissemination

(19) The Committee recommends that the State party continue to develop ongoing and systematic education and training in all official languages on the provisions of the Optional Protocol for all relevant professional groups as mentioned above. Furthermore, it recommends that the State party make the Optional Protocol widely known to the public at large and in particular to children and their parents through, inter alia, school curricula and human rights education.

(20) Additionally, in the light of article 6, paragraph 2, of the Optional Protocol, the Committee recommends that the initial report submitted by the State party and the concluding observations adopted by the Committee be made widely available to the public at large in order to generate debate and awareness of the Optional Protocol, its implementation and monitoring.

5. Next report

(21) In accordance with article 8, paragraph 2, the Committee requests the State party to include further information on the implementation of the Optional Protocol in its next periodic report under the Convention on the Rights of the Child, in accordance with article 44 of the Convention.

35. Spain

(1) The Committee considered the initial report of Spain under the Optional Protocol on the sale of children, child prostitution and child pornography (CRC/C/OPSC/ESP/1) at its 1277th meeting (see CRC/C/SR.1277), held on 1 October 2007, and adopted at its 1284th meeting, held on 5 October 2007, the following concluding observations.

Introduction

(2) The Committee welcomes the submission of the initial report of the State party but regrets the delay in its submission. The Committee appreciates the constructive dialogue with a high-level, multisectoral delegation.

(3) The Committee reminds the State party that the present concluding observations should be read in conjunction with its previous concluding observations adopted on the second periodic report of the State party on 4 June 2002 (CRC/C/15/Add.185) and with the concluding observations adopted on the initial report under the Optional Protocol on the Involvement of Children in Armed Conflict (CRC/C/OPAC/ESP/CO/1) on 5 October 2007.

1. General guidelines

A. Positive aspects

(4) The Committee notes with appreciation:

(a) The fact that international human rights treaties form part of domestic legislation and can be enforced by national courts;

(b) The amendments to the Criminal Code in 2004, which included provisions on the prohibition of child pornography;

(c) The adoption of a National Plan of Action against the Commercial Sexual Exploitation of Children 2001-2005 and the decision to extend it by adopting a second National Plan of Action for 2006-2009.

(5) The Committee further commends the State party's accession to or ratification of international instruments related to the Optional Protocol, including:

(a) ILO Convention No. 182 (1999) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, on 2 April 2001;

(b) The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime on 1 March 2002;

(c) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict on 8 March 2002.

B. General principles on the Convention on the Rights of the Child (arts. 2, 3, 6 and 12 of the Convention)

(6) The Committee is concerned that the general principles of the Convention on the Rights of the Child have not sufficiently been taken into account in the design and implementation of the measures adopted by the State party under the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. The Committee is particularly concerned that non-discrimination against foreign unaccompanied children who have been victims of trafficking is not given due consideration.

(7) The Committee recommends that the general principles of the Convention of the Rights of the Child, in particular the child's right to non-discrimination, be included in all the measures of the State party to implement provisions of the Optional Protocol on the sale of children, child prostitution and child pornography, including judicial or administrative proceedings.

2. Data

(8) The Committee notes the intention of the State party to establish a central database for documenting violations covered by the Optional Protocol. However, it is concerned about the current lack of data, disaggregated by age, sex, minority group and origin on the prevalence of the sale and trafficking of children, child prostitution and child pornography.

(9) The Committee recommends that the State party establish a central database for registering violations and ensure that data relating to areas covered by the Optional Protocol, disaggregated inter alia by age, sex, minority group and origin, are systematically collected and analysed, as they provide essential tools for measuring policy implementation.

3. General measures of implementation

Coordination and evaluation of the implementation of the Optional Protocol

(10) The Committee welcomes the establishment of a cross-sectoral Child Rights Observatory, consisting of both national and regional authorities and non-governmental organizations, for policy coordination. The Committee notes however that cooperation between the central administration and the autonomous communities remains insufficient.

(11) The Committee encourages the State party to continue and strengthen the work of the Child Rights Observatory and improve cooperation between the central administration and the autonomous communities in order to ensure that all autonomous regions comply fully with the Optional Protocol.

National Plan of Action

(12) The Committee welcomes the elaboration and evaluation of the first National Plan of Action against the Commercial Sexual Exploitation of Children as well as the adoption of a second National Plan of Action for 2006 to 2009. However, it is concerned that the Plan does not cover all areas of the Optional Protocol, lacks adequate resources for implementation, and is inadequately disseminated among relevant stakeholders such as local authorities in autonomous regions and professionals who work with and for children.

(13) The Committee recommends that the State party strengthen implementation of the second National Plan of Action against the Commercial Sexual Exploitation of Children by addressing all areas of the Optional Protocol and by ensuring adequate resources and a high degree of participation of civil society and children in the activities of the Plan as well as in its evaluation. The Committee further recommends that the State party improve and expand efforts to disseminate the Plan among relevant stakeholders, in particular among local authorities in autonomous regions and professionals who work with and for children.

Dissemination and training

(14) The Committee notes with appreciation that the State party has undertaken training and awareness-raising activities and initiatives in collaboration with non-governmental organizations relating to the provisions in the Optional Protocol, but is concerned that the rising incidence of commercial sexual exploitation of children indicates the need for further awareness-raising for prevention purposes and adequate training of professionals.

(15) The Committee recommends that the State party continue and strengthen systematic gender-sensitive education and training on the provisions of the Optional Protocol for all professional groups working with child victims of the abuses covered by the Optional Protocol.

(16) **The Committee further recommends that the State party:**

(a) Make the provisions of the Optional Protocol widely known, particularly to children, their families and communities, through, inter alia, school curricula and long-term awareness-raising campaigns;

(b) Promote, in line with article 9, paragraph 2, of the Optional Protocol, awareness in the public at large, including children, through information by all appropriate means, education and training, about the preventive measures and harmful effects of the offences referred to in the Optional Protocol, including by encouraging the community and, in particular, children and child victims, to participate in such information, education and training programmes;

(c) Continue cooperating with non-governmental organizations, civil society organizations and the media supporting them in their awareness-raising and training activities on issues related to the Optional Protocol.

Allocation of resources

(17) The Committee is concerned that insufficient resources have been allocated to the implementation of the National Plan of Action against the Commercial Sexual Exploitation of Children and for legal assistance and physical and psychological recovery measures for victims.

(18) The Committee encourages the State party to intensify its efforts to provide adequate budget allocations for coordination, prevention, promotion, protection, care, investigation and suppression of acts covered by the Optional Protocol, including by earmarking human and financial resources for the implementation of programmes relating to its provisions, in particular for the National Plan of Action against the Commercial Sexual Exploitation of Children. Furthermore, the Committee recommends that the State party allocate adequate resources for legal assistance and physical and psychological recovery of victims to relevant authorities and through non-governmental and civil society organizations.

4. Prevention of the sale of children, child prostitution and child pornography (art. 9, paras. 1 and 2, of the Optional Protocol)

Measures adopted to prevent offences referred to in the Optional Protocol

(19) The Committee welcomes initiatives for preventive action, such as the introduction of measures to report child pornography on the Internet, but regrets that documentation and research are lacking on the root causes, nature and extent of sexual exploitation of children, including prostitution and pornography.

(20) The Committee recommends that the State party allocate earmarked budget resources for preventive measures to be carried out in collaboration with UNICEF, ILO/IPEC, non-governmental and civil society organizations. Furthermore, the Committee encourages the State party to compile additional documentation and conduct more gender-sensitive research on the nature and extent of the commercial sexual exploitation of children, including prostitution and pornography, in order to identify the root causes, the extent of the problems and prevention measures.

(21) The Committee welcomes the considerable initiatives taken by the State party to prevent sex tourism, including the official recognition of the code of conduct drawn up by the World Tourism Organization on the protection of children from sexual exploitation in travel and tourism. The Committee notes however that greater awareness of this problem is needed within the tourism industry as well as among the general public.

(22) The Committee recommends that the State party take further steps to prevent sex tourism, in particular by earmarking additional funds for the national tourism authority for this purpose. The State party should also, through relevant authorities, strengthen cooperation with the tourism industry, non-governmental organizations and civil society in order to promote responsible tourism by the dissemination of the Code of Conduct among employees within the tourism industry as well as awareness-raising campaigns specifically directed at tourists.

(23) The Committee is concerned that the relatively low age of sexual consent at 13 years old may make children more vulnerable to sexual exploitation.

(24) The Committee recommends that the State party consider raising the age of sexual consent to provide greater protection against the offences covered by the Optional Protocol.

5. Prohibition of the sale of children, child pornography and child prostitution and related matters (arts. 3; 4 (paras. 2 and 3); 5; 6 and 7 of the Optional Protocol)

Existing criminal or penal laws and regulations

(25) The Committee welcomes the amendments to the Criminal Code in 2004, which included provisions on the prohibition of child pornography, including possession of such material. The Committee regrets that certain provisions of article 3 of the Optional Protocol have yet to be comprehensively incorporated into the Criminal Code, in particular in relation to the trafficking and sale of children as well as a definition of child pornography. The Committee has taken note of the information provided by the delegation that a comprehensive legal reform bill is pending in Parliament.

(26) The Committee recommends that the State party expedite the legal reform bill and bring its Criminal Code, into full compliance with articles 2 and 3 of the Optional Protocol, including the provisions on remuneration and improperly induced consent (articles 2 (a) and 3, paragraph 1 (a) (ii)). Furthermore, the Committee recommends that the State party take the necessary steps to adequately define and criminalize trafficking in persons in accordance with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. Finally, the Committee recommends that the State party consider ratifying or acceding to the Council of Europe Convention on Action against Trafficking in Human Beings (2005) and the Convention on Cybercrime (2001).

Prosecution

(27) The Committee notes efforts to investigate cases and prosecute offenders of child pornography crimes in the State party, but is concerned that insufficient resources are dedicated to the investigation of child prostitution and the sale of children.

(28) The Committee, in view of the high incidence of child pornography in Spain, recommends that the State party step up its efforts to investigate and prosecute such crimes and allocate more resources to detecting and investigating crimes of child prostitution and the sale of children.

Jurisdiction

(29) The Committee welcomes the affirmation by the State party that offences covered by the Optional Protocol are subject to extraterritorial jurisdiction and the principle of universal justice, and in particular that prosecution is not conditional on the perpetrator being Spanish, resident

in Spain or whether the act is classified as a crime in the State in which it was committed. The Committee however regrets the lack of information relating to cases over which the State party has established jurisdiction.

(30) The Committee recommends that the State party take all necessary practical measures to effectively establish jurisdiction over offences, in accordance with article 4 of the Optional Protocol.

Extradition

(31) The Committee regrets that extradition requires acts to be defined as offences in the laws of both countries.

(32) The Committee recommends that the State party ensure that national legislation does not require double criminality for extradition and/or prosecution of offences committed abroad.

6. Protection of the rights of child victims (arts. 8 and 9, paras. 3 and 4, of the Optional Protocol)

Measures adopted to protect the rights and interests of child victims of offences prohibited under the Optional Protocol

(33) The Committee is concerned that crimes under the Optional Protocol remain undetected and victims unidentified. The Committee further regrets that interdisciplinary social reintegration and physical and psychosocial recovery measures for child victims are inadequate.

(34) The Committee recommends that the State party:

(a) Take all necessary measures to ensure that child victims and witnesses of any of the crimes under the Optional Protocol are protected at all stages of the criminal justice process in accordance with article 8 of the Optional Protocol;

(b) Allocate adequate financial and human resources to the competent authorities in order to improve legal representation for child victims;

(c) Provide support for a free telephone helpline accessible to children;

(d) Guarantee that all child victims of the offences covered under the Optional Protocol have access to adequate procedures to seek, without discrimination, compensation for damages from those legally responsible, in accordance with article 9, paragraph 4, of the Optional Protocol;

(e) Ensure that resources are earmarked in order to strengthen social reintegration and physical and psychosocial recovery measures, in accordance with article 9, paragraph 3, of the Optional Protocol, in particular by providing interdisciplinary assistance for child victims;

(f) Presume young victims of sexual exploitation to be children, and not adults, if in doubt;

(g) Ensure that the best interests of the child are a primary consideration and are also taken into account in the case of a decision to repatriate a child.

(35) The Committee welcomes efforts by the State party to protect the rights of child witnesses in judicial proceedings.

(36) The Committee encourages the State party to be guided by the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (Economic and Social Council resolution 2005/20), and urges it in particular:

(a) To allow the views, needs and concerns of child victims to be presented and considered in proceedings where their personal interests are affected;

(b) To apply child-sensitive procedures to protect children from hardship during the justice process, inter alia by using special interview rooms designed for children, child-sensitive methods of questioning, and by reducing the number of interviews, statements and hearings.

(37) Finally, the Committee urges the State party to take into account the recommendations issued by the Committee in its concluding observations in 2002 (CRC/C/15/Add.185, para. 46), the Committee's general comment No. 6 (2005), in particular paragraphs 50 to 53, on the treatment of unaccompanied and separated children outside their country of origin, as well as the recommendations of the Committee on the elimination of discrimination against women in 2004 (A/59/38, para. 337).

7. International assistance and cooperation

International assistance

(38) The Committee welcomes the support of the State party for international cooperation projects relating to implementation of the Optional Protocol in a number of countries, and urges the State party to step up its efforts in this regard.

Law enforcement

(39) The Committee notes that insufficient information has been supplied with respect to the assistance and cooperation provided by the State party at all steps of penal or criminal procedures with regard to the offences as stipulated in article 3, paragraph 1, of the Optional Protocol, i.e. in the detection, investigation, prosecution, punishment and extradition proceedings.

(40) The Committee encourages the State party to provide more detailed information in this respect in its next report.

8. Follow-up and dissemination

Follow-up

(41) **The Committee recommends the State party to take all appropriate measures to ensure full implementation of the present recommendations, inter alia by transmitting them to relevant government ministries, Congress and departmental as well as local authorities in autonomous regions, for appropriate consideration and further action.**

Dissemination

(42) **The Committee recommends that the report and written replies submitted by the State party and the related concluding observations adopted by the Committee be made widely available, including through the Internet (but not exclusively), to the public at large, civil society organizations, the media, youth associations and professional groups in order to generate debate and awareness of the Convention, its implementation and monitoring. Furthermore, the Committee recommends that the State party make the Optional Protocol widely known to children and their parents through inter alia school curricula and human rights education.**

9. Next report

(43) **In accordance with article 12, paragraph 2, of the Optional Protocol, the Committee requests the State party to include further information on the implementation of the Optional Protocol in its next periodic report under the Convention on the Rights of the Child, in accordance with article 44 of the Convention.**

36. Syrian Arab Republic

(1) The Committee considered the initial report of the Syrian Arab Republic under the Optional Protocol on the involvement of children in armed conflict (CRC/C/OPAC/SYR/1) at its 1278th meeting (CRC/C/SR.1278), held on 2 October 2007, and at its 1284th meeting (CRC/C/SR.1284), held on 5 October, adopted the following concluding observations.

Introduction

(2) The Committee welcomes the submission of the initial report of the State party under the Optional Protocol and the written replies to the list of issues (CRC/C/OPAC/SYR/Q/Add.1), which provide additional information on the legislative, administrative, judicial and other measures applicable in the State party in respect of the rights guaranteed under the Optional Protocol. The Committee also appreciates the constructive dialogue that took place with the multisectoral delegation.

(3) The Committee reminds the State party that these concluding observations should be read in conjunction with its previous concluding observations on the second periodic report of the State party under the Convention (CRC/C/15/Add.212), adopted on 6 June 2003, and on its initial report under the Optional Protocol on the sale of children, child prostitution and child pornography (CRC/C/OPSC/SYR/CO/1), adopted on 29 September 2006.

A. Positive aspects

(4) The Committee notes with appreciation:

(a) The declaration made by the State party upon the ratification of the Optional Protocol that the statutes in force and the legislation applicable to the Ministry of Defence do not permit any person under 18 years of age to join the active armed forces or the reserve bodies or formations and do not permit the enlistment of any person under that age, and that no derogation is permitted, even under exceptional circumstances;

(b) The confirmation by the State party, in its report, that military education was removed as a subject from the curricula taught at all schools and at all stages of education up to university level.

(5) The Committee also reiterates its appreciation of the ratification by the State party of:

(a) The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families on 2 June 2005;

(b) The Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment on 18 September 2004;

(c) ILO Convention No. 182 (1999) on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child labour (on 22 May 2003).

(6) The Committee also notes with appreciation the collaboration of the State party with international organizations such as UNICEF, UNHCR and the International Committee of the Red Cross (ICRC) on studies and activities carried out in the area of child protection.

B. Factors and difficulties impeding the implementation of the Optional Protocol

(7) The Committee is concerned at the absence of information on the implementation of the Optional Protocol in the occupied Syrian Golan, due in part to the absence of humanitarian agencies working in the area.

C. Main areas of concern and recommendations

1. General measures of implementation

Legislation

(8) The Committee is concerned that there are no specific provisions in the legislation of the State party criminalizing the compulsory recruitment of a person under 18 or any other violation of the provisions of the Optional Protocol.

(9) **In order to strengthen the national and international measures for the prevention of the recruitment of children by armed forces or armed groups and the use of them in hostilities, the Committee recommends that the State party:**

(a) Explicitly prohibit by law the violation of the provisions of the Optional Protocol regarding the recruitment and involvement of children in hostilities;

(b) Ensure that military codes, manuals and other military directives are in accordance with the provisions and the spirit of the Optional Protocol;

(c) Provide explicitly, within the Penal Code or otherwise, for extra-territorial jurisdiction over acts contrary to the Protocol, including conscripting or enlisting children into armed forces or armed groups, or using them to participate actively in hostilities, if such crimes are committed by or against a Syrian national or a person who otherwise has a close link with the State party;

(d) Ratify the Rome Statute of the International Criminal Court, which it signed on 22 November 2000.

National plan of action

(10) The Committee notes that the State party is considering the integration of the provisions of the Convention into its national plan for the protection of children (2008-2010).

(11) The Committee encourages the State party to ensure integration into its national plan of the objectives and provisions of the Convention and its two Optional Protocols.

Dissemination and training

(12) The Committee notes with appreciation the steps taken by the State party to disseminate information on the Convention on the Rights of the Child through inclusion in school curricula and awareness-raising campaigns.

(13) In the light of article 6, paragraph 2, of the Optional Protocol, the Committee recommends that the State party also make the principles and provisions of the Optional Protocol widely known and promoted by appropriate means. The Committee further recommends that the State party develop systematic and awareness-raising education and training on the provisions of the Optional Protocol for all relevant professional groups, including those working with asylum-seeking, refugee and migrant children coming from countries affected by armed conflict, such as teachers, medical professionals, social workers, police officers, lawyers and judges.

Peace education

(14) While the Committee notes with appreciation the integration of human rights education, as well as social and gender issues, into the educational curricula at all levels, it regrets the lack of information provided by the State party on the inclusion of peace education as an element of the curricula of schools.

(15) The Committee recommends that the State party strengthen its efforts to include peace education in school curricula and to encourage a culture of peace and tolerance within schools. The Committee further recommends that the State party develop training for teachers on the inclusion of peace education in the educational system.

Arms export

(16) The Committee notes the information provided by the delegation that there is no arms export, but also notes that there is no specific provision in the legislation of the State party prohibiting the sale of arms to countries where children could be recruited or used in hostilities.

(17) The Committee recommends that the State party consider introducing a specific prohibition with respect to the sale of arms when the final destination is a country where children are known to be - or may potentially be - recruited or used in hostilities.

(18) The Committee further recommends that the State party, in accordance with article 7 of the Optional Protocol, strengthen its cooperation in the implementation of the Optional Protocol, including in the prevention of any activity contrary thereto and in the rehabilitation and social reintegration of persons who are victims of acts contrary to the provisions of the Optional Protocol, including through technical cooperation and financial assistance.

2. Measures adopted with regard to physical and psychological recovery and social reintegration

(19) The Committee notes that the State party is a country of destination for refugees, asylum-seekers and migrants, including children, some of whom come from countries recently affected by armed conflict. The Committee also notes that efforts have been undertaken, in collaboration with civil society and international organizations, to assist the physical and psychological recovery and social reintegration of refugee and asylum-seeking children. The Committee expresses concern that the mass influx of refugees from countries involved in armed conflict creates difficulties in the identification of children who may have been recruited or used in hostilities contrary to the Optional Protocol.

(20) In order to specifically assist those children who may have been involved in armed conflict, the Committee recommends that the State party:

(a) Identify at the earliest possible stage refugee, asylum-seeking and migrant children entering the Syrian Arab Republic who may have been recruited or used in hostilities contrary to the Optional Protocol;

(b) Carefully assess the situation of these children and provide them with immediate, culturally sensitive and multidisciplinary assistance for their physical and psychological recovery and their social reintegration, in accordance with article 6, paragraph 3, of the Optional Protocol;

(c) In the context of the above, consider ways to improve the legal protection of children concerned, including through refugee status determination where such status is being sought;

(d) Undertake periodic evaluations of existing physical and psychological recovery and reintegration programmes and services;

(e) Take all necessary measures to ensure that the return of a child to a country of origin shall only be arranged when it is in the best interests of the child;

(f) Include information on measures adopted in this respect in its next report.

(21) In this respect, the Committee further wishes to draw the attention of the State party to the Committee's general comment No. 6 (2005) on treatment of unaccompanied and separated children outside their country of origin.

3. Follow-up and dissemination

(22) The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, inter alia by transmitting them to the members of the Cabinet, Parliament, the Ministry of Defence and provincial authorities, where applicable, for appropriate consideration and further action.

(23) The Committee recommends that the initial report submitted by the State party and the concluding observations adopted by the Committee be made widely available to the public at large in order to generate debate and awareness of the Optional Protocol, its implementation and monitoring.

4. Next report

(24) In accordance with article 8, paragraph 2, of the Optional Protocol, the Committee requests the State party to include further information on the implementation of the Optional Protocol in its next periodic report under the Convention on the Rights of the Child, in accordance with article 44 of the Convention.

IV. COOPERATION WITH UNITED NATIONS AND OTHER COMPETENT BODIES

37. Before and during the meeting of the pre-sessional working group and the session, the Committee held various meetings with United Nations bodies and specialized agencies, as well as with other competent bodies, in the framework of its ongoing dialogue and interaction with those bodies in the light of article 45 of the Convention. The Committee met with:

- Ms. Davinia Ovet and Mr. Bernard Boeton, in connection with the activities of the Inter Agency Panel on Juvenile Justice
- Mr. Jakob E. Doek, former Chairperson of the Committee, to discuss issues related to possible cooperation with the African Committee on the Rights and Welfare of the Child
- Mr. Peter Newell and Ms. Jennifer Philpot-Nissen for a presentation of the civil society initiative for the development of a complaint procedure under the Convention on the Rights of the Child

- Representatives of the Coordinating Committee of the NGO Group for the Convention on the Rights of the Child to discuss issues of cooperation and mutual interest
- Ms. Hilde Frafjord Johnson, Deputy Executive Director of UNICEF and other representatives of UNICEF to receive the third revised version of the UNICEF Implementation Handbook for the Convention on the Rights of the Child.

V. METHODS OF WORK OF THE COMMITTEE

38. The Committee discussed its working methods, including ways and means of improving its working methods, in particular related to the consideration of the large number of reports received, and in view of the number of reports due, under the Convention and its two Optional Protocols.

39. The Committee adopted revised guidelines for reporting under the Optional Protocol on the involvement of children in armed conflict, in view of its experience with the consideration of reports submitted to date.

VI. GENERAL COMMENTS

40. The Committee also discussed, in general terms, the advancement of the drafts of its two forthcoming general comments on the right of the child to express views and be heard and on the rights of indigenous children. The Committee expects to have drafts for consideration at its forty-seventh session in January 2008.

VII. DAY OF GENERAL DISCUSSION

41. On 21 September 2007, the Committee held its annual Day of General Discussion entitled “Resources for the rights of the child - responsibility of States” based on article 4 of the Convention.

Recommendations¹

A. Background

42. The annual Days of General Discussion of the Committee on the Rights of the Child seek to foster a deeper understanding of the contents and implications of the Convention as they relate to specific articles or topics. On 21 September 2007, during its forty-sixth session, the Committee devoted its Day of General Discussion to: “Resources for the rights of the child - responsibility of States”, investments for the implementation of economic, social and cultural rights of children and international cooperation (article 4 of the Convention).

¹ These recommendations are based on the input to and discussions that took place during the day of general discussion on “Resources for the rights of the child - responsibility of States” on 21 September 2007 and do not pretend to be exhaustive.

43. Under article 4 of the Convention on the Rights of the Child, States parties are required to “undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the ... Convention”. However, its second sentence suggests that - with regard to economic, social and cultural rights - State parties shall “undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international cooperation”. The wording of the second sentence is similar to that of article 2, paragraph 1, of the International Covenant on Economic, Social and Cultural Rights² and explicitly recognizes that lack of resources may affect the full implementation of economic, social and cultural rights, introducing the concept of “progressive realization”.

44. In its general comment No. 5 (2003) on general measures of implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6, of the Convention), the Committee outlined the obligations of States parties to develop general measures of implementation and reflected on issues related to budget allocation for children, the progressive realization of economic, social and cultural rights enshrined in the Convention and international cooperation.³ In the introduction to this general comment (para. 1), the Committee indicated that, given the complexity of the concept, it was “likely to issue more detailed general comments on individual elements in due course”.

45. The purpose of the 2007 Day of General Discussion was to elaborate in further detail on issues raised by the second part of article 4 which required further discussion and consideration, and notably the obligations of State parties with regard to the implementation of economic, social and cultural rights.

46. On 21 September 2007, over 120 participants (representatives of State parties, international organizations and non-governmental organizations, as well as individual experts) attended the meeting, and more than 40 written contributions were submitted prior to the event.

B. Summary

47. Ms. Yanghee Lee, the Chairperson of the Committee, opened the Day of General Discussion with a short introduction on the topic, followed by Mr. Kamal Siddiqui, a member of the Committee and the keynote speaker for the Day. Mr. Siddiqui emphasized that the term “available resources” refers not only to financial resources but also to human and organizational resources, and that the quality of resources and not only their quantity must be taken into account. In elaborating on the concept of the “maximum extent”, Mr. Siddiqui argued that States parties must aim at achieving positive changes to the maximum extent progressively, but as quickly as possible. Upon ratification of the Convention, States bear the obligation not only to

² “Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.”

³ See general comment No. 5.

implement the Convention within their respective territorial jurisdiction, but also to contribute, through international cooperation, to global implementation. Mr Siddiqui further highlighted the importance of article 4 as an essential instrument for the implementation of the entire Convention, and set forth three questions to be taken into consideration when discussing its meaning: (a) a minimum political will in favour of child rights; (b) factors affecting the availability of resources for children; and (c) factors affecting the maximum use of resources available for children. Mr. Siddiqui also noted that political will in favour of child rights is an essential condition for the availability of resources for children, but it does not exist in a vacuum, he said, underlining the importance of pressure exerted on States by, inter alia, political movements, civil society, the international community and the media. With respect to the factors which may affect the availability of resources, Mr. Siddiqui highlighted the strength and efficacy of the taxation system, including whether there is a progressive tax policy at the local and national levels; military expenditure; independent tracking; and the involvement of civil society. He underlined the importance of having genuine consultation with children regarding the use of resources. Finally, Mr. Siddiqui analysed the main factors affecting the maximum use of resources, citing, inter alia, the prioritization exercise, the coordination between service providers and beneficiaries, the importance of having regular and independent monitoring of how resources are being used (e.g. waste and corruption), and of ensuring that resources reach the most marginalized groups of children.

48. Following the statement by Mr. Siddiqui, the floor was given to Mr. Patrick Reichenmiller of the World Bank Office in Geneva, who delivered a statement on behalf of Ms. Iqbal Kaur, Social Protection Specialist at the Bank's Middle East and North Africa Region. Underscoring the importance placed by the World Bank in investing in the rights of children and young people as a way to build a better future, Mr. Reichenmiller pointed to the evidence that increasingly demonstrates that the political and economic costs of not investing in children and youth could be immense, as highlighted by the consequences of risky behaviours of disadvantaged children, including teenage pregnancy, school dropouts, crime and HIV/AIDS. He also stressed that although the World Bank directed substantial economic resources towards children, particularly in the fields of education and health, their contribution represents only a small fraction of what is required. Indeed, allocating sufficient resources and directing them to where they are most needed is a task which requires collective action through partnerships between governments, international agencies and civil society within respective countries. He further emphasized that countries have to commit themselves to investing in child rights, by dedicating human and physical resources to be utilized effectively, prioritizing children and youth in national development plans, underpinning spending priorities and including the civil society in the entire process.

49. The final speaker of the opening segment was Mr. Eibe Riedel, a member of the Committee on Economic, Social and Cultural Rights. Mr. Riedel, recalling that the second sentence of article 4 of the Convention on the Rights of the Child takes up the wording of article 2 of the International Covenant on Economic, Social and Cultural Rights, provided an analysis of parallels between interpretations of the two articles, and described how the idea of progressive realization has also been taken up by the Committee on the Rights of the Child, as much as the idea that the obligations entrenched in article 4 remain, even with regard to those countries with inadequate available resources. In elaborating the approach taken by the Committee on Economic, Social and Cultural Rights, he highlighted the principle of non-retrogression, the power of discretion given to States parties in the modalities of financial

allocation and budgeting, and their duty to demonstrate that they have at least undertaken serious efforts to meet their obligations if they were not able to meet them fully. He concluded by suggesting that a similar approach be adopted by the Committee on the Rights of the Child.

50. Following Mr. Riedel's statement, the participants divided into two working groups, the first of which proceeded to discuss the concept of available resources and their allocation to children and the second the use of these resources to the maximum extent.

1. Available resources and their allocation to children

51. The work of the first working group, facilitated by Ms. Moushira Khattab, a member of the Committee on the Rights of the Child, joined by Ms. Rocío Barahona Riera, the Vice-Chairperson of the Committee on Economic, Social and Cultural Rights, began with two presentations from experts on the subject.

52. The first speaker was Ms. Elizabeth Gibbons, Chief of the Global Policy Section of the Division of Policy and Planning of UNICEF, who provided a concrete example of the work of UNICEF in budgeting for children at country level, and shared with participants the analysis and monitoring of social expenditure in Ecuador. On a general level, Ms. Gibbons stressed the importance of a balanced distribution of wealth in the context of economic policies, and underlined that the entire budget process should be based on the principles of participation, transparency, accessibility and universality. She also analysed some of the constraints in maximizing resources for children, in particular, the fact that budget priorities and economic policies have traditionally focused on economic growth, neglecting the social aspect and the human rights approach. Ms. Gibbons concluded her speech with some recommendations for consideration by the Committee.

53. The second speaker of this first working group was Ms. Lobna Abdellatif, a professor of Economics at Cairo University, who presented the experience of Egypt with respect to budget tracking for children. She stated that, as a precondition to having a more effective allocation of resources to children, it is essential to first overcome certain obstacles which usually hamper the development and implementation of child rights budgeting, including: lack of transparency; poor monitoring of the budget process; insufficient coordination among the different actors involved in the decision-making process of resource allocation; and lack of awareness of child rights. Ms. Abdellatif concluded her speech by emphasizing that the experience of the budget tracking exercise in Egypt demonstrates that there is a need for a collective action both at the national and the international level involving all stakeholders, including international organizations involved in budgeting exercises, to encourage a more coherent approach to budgeting for children.

54. In the discussion that followed, the working group focused on the concept of available resources and the process of their allocation to children, including national priorities and the need to increase transparency in this process. Resource mobilization, the human rights-based approach to the budget and the modalities of ensuring consistency and coordination between economic and social policies were discussed. The participants highlighted the importance of having a budget that is readable and accessible to children as an essential prerequisite for appropriate monitoring and follow-up to State policies. Participants also emphasized the need for involving civil society, including children, at all stages, and ensuring transparency in the budget process, including inter-ministerial transparency. Some participants pointed out that information

on revenues and expenditures should be made available to all governmental agencies, and the budgeting process be opened up to the general public and the civil society. Opportunity cost in budget allocation was also discussed, in particular in relation to military spending.

55. Several participants underscored the importance of involving the Ministry of Finance throughout the reporting process under the Convention on the Rights of the Child, and it was suggested that a representative of the Ministry of Finance be part of the delegation presenting the report before the Committee. The Committee was also invited to consider the possibility of developing a general comment on article 4, notably on the issues under discussion during the event. Reference was also made to the importance of providing children with social and financial education. Another area that was highlighted was that budgetary allocation must be scrutinized at the local level, and not only at the national level.

56. Some mention was also made of international cooperation, especially with respect to the importance of raising awareness among States parties with respect to their obligations under article 4, since there appeared to be a tendency, in some sectors, to believe that external support should be the main source of resource for the implementation of economic, social and cultural rights.

2. The use of resources to the maximum extent

57. The work of this second working group, facilitated by Mr. Jean Zermatten, a member of the Committee on the Rights of the Child, commenced with the introductory remarks of Mr. Hatem Kotrane, also a member of the Committee, who elaborated on the nature and the scope of obligations entered into by States parties under the Convention, including the duty to respect, protect and fulfil the rights of children. States had to ensure the broadest possible enjoyment of relevant rights within the limits of resources that are available to them, and in particular to ensure those rights for the most vulnerable groups of children. In particular, any decisions on allocation of resources should be monitored to ensure that they were not discriminatory and did not impact negatively on a particular group of children. States are also to seek external assistance, if necessary, including in the framework of international cooperation. In outlining the obligations of States, Mr. Kotrane also underscored the importance of ensuring the justiciability of economic, social and cultural rights in domestic courts, especially with regard to the allocation of resources to the maximum extent, and cited some of the landmark cases.

58. In the discussion that followed, the group, which was also joined by 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. Miloon Kothari, focused on how the resources allocated to children have been used, and discussed in relation to the definition and meaning of the obligation by States parties to undertake measures “to the maximum extent” of their “available resources” with regard to the implementation of economic, social and cultural rights. In doing so, the participants highlighted the importance of having reliable and accurate data, as well as the need for indicators that allow for effective assessment and monitoring of public expenditures for children. Some participants focused on the indivisibility of rights and emphasized that the fulfilment of civil and political rights has a direct link with the enjoyment of economic, social and cultural rights.

59. The second working group also discussed how an efficient use of resources can be achieved, eliminating misuse of resources, and reducing waste as much as possible. Consequently, they touched upon the related issue of a “minimum core content” of economic, social and cultural rights and minimum standards for their realization. In this connection, the group underscored the respective roles of local government, civil society and international financial institutions in ensuring that the legislative, administrative and other measures undertaken for children by States parties to the maximum extent of their available resources are in fact effective, equitable and non-discriminatory. Among other issues raised were principles and priorities guiding the use of resources for children, the role of international cooperation and the responsibilities of international financial institutions and non-governmental organizations in the implementation of article 4 of the Convention. Reference was made, in particular, to the duty of States to protect with respect to the prevention of violation of children’s rights by third parties, as well as to their duty to monitor and sanction these violations.

60. The two rapporteurs of the working groups, Ms. Lucy Smith (first working group) and Mr. Hatem Kotrane (second working group) summarized the main points raised during the discussions in the two working groups.

61. The reporting back was shortly followed by a video message from children from Peru, in which they made a number of concrete recommendations to the Committee and the other participants in the Day of General Discussion. Among those recommendations were that children should take an active part in discussing local and national budgets, that maximum priority be given to children when discussing public investments, and that information on the budget process be included in school curricula.

62. Finally, Mr. Norberto Liwski, a former vice-chair of the Committee on the Rights of the Child, and the General Rapporteur of the event, highlighted in his concluding comments that a clear need for a rights-based, holistic approach in the area of budgeting had emerged from the discussions. Mr. Liwski stressed the importance of a participatory process in the development and implementation of public policies which impact on children. He reminded participants that the question of progressive realization does not in any manner imply that States should postpone their immediate obligations and actions to ensure the widest possible enjoyment of the relevant rights derived from the Convention, and emphasized the monitoring role of national human rights institutions in this respect. Mr. Liwski also pointed out that international financial institutions should closely assess the impact of their policies on children and take into account national plans of action and the principle of best interests of the child in their decision-making at the national level. It was also stressed that there is a need for coordination of governments at the national, regional and local levels. He concluded by noting the importance of the Human Development Index as an objective indicator for the measurement of the degree of enjoyment of economic, social and cultural rights.

C. Concluding recommendations

Legislative framework

63. The Committee recalls that article 4 of the Convention underscores the obligation of States Parties to undertake legislative measures, as well as all other appropriate measures, for the implementation of the rights recognized in the Convention. To ensure that resources for children

are adequately prioritized, some States have gone as far as specifying the percentage of the State budget that must be allocated to children in national legislation, so that adequate resources are earmarked specifically for them. This approach of legally incorporating budgetary allocations for children in domestic legislation, so that public authorities are accountable for the use of resources for children, is one that the Committee supports, for the purpose of encouraging States to commit themselves to investing in children.

64. Recognizing that having an adequate legislative framework is an essential precondition for an equitable and effective allocation of resources to children, the Committee encourages all States to consider legislating for a specific proportion of public expenditure to be allocated to children. Such legislation should be accompanied by a mechanism that allows for a systematic independent evaluation of public expenditure on children.

The concept of “available resources”

65. The Committee reaffirms that it is the responsibility of States in the first place to allocate resources for the implementation of the rights of the child as defined in the Convention. The term “available resources” includes also resources available from the international community through international assistance, which should complement the resources available at national level. Resources must be understood as encompassing not only financial resources, but also other types of resources relevant for the realization of economic, social and cultural rights, such as human, technological, organizational, natural and information resources. Resources are also to be understood in qualitative and not solely quantitative terms.

66. The Committee encourages States parties to periodically identify available economic, human and organizational resources for the achievement of children’s rights, as well as the resources which are actually used to implement children’s rights, and to combine both in an assessment of available resources. The Committee particularly encourages States parties to assess available resources beyond financial measures that contribute to the implementation of children’s economic, social and cultural rights. In this respect, it emphasizes the importance of systematically supporting parents and families who are among the most important available resources for children.

Budget process, social policies and human rights

67. The Committee emphasizes that the ultimate purpose of public policy, including budgetary and fiscal policies, must be the universal fulfilment of rights and that economic growth and stability should be considered as a means towards human development and not as an end in itself. The Committee considers that it is very important to ensure a balance between economic and social policies and strongly emphasizes that social investment is not only directly proportional to achieving better access and better quality of social services and realization of human rights, but also, in the long term, to increased productivity and competitiveness through an improvement in human capital by investing in education, health and nutrition.

68. In “A World Fit for Children” (General Assembly resolution s-27/2), States reaffirmed their commitment to the mobilization and allocation of new and additional resources at both national and international levels, and to prioritizing children in budgetary allocations, guided by

the Convention. “Investing in children” is a concept now widely accepted as the best guarantee for achieving equitable and sustainable human development, and a fundamental requirement for the social and economic priorities of any Government. In this connection, the Committee also underlines the interdependence and indivisibility of all human rights, and the fact that enjoyment of economic, social and cultural rights is inextricably intertwined with enjoyment of civil and political rights.

69. The Committee underscores the ways in which factors such as the level of decentralisation, national and subnational planning processes, executive discretion and the role of civil society greatly determine or influence the allocation of resources, as well as the ways in which those allocations actually reach children and advance their enjoyment of economic, social and cultural rights.

70. The Committee further emphasizes that a good public financial management system is a precondition for the adequate allocation of resources in a country. In this respect, States parties should ensure that they have an appropriate system of budget methodology as well as a strong capacity for budget analysis in place within their public administration.

71. In view of the fact that investment for children has high economic returns and in an effort to ensure that investments and other resources allocated for children serve as an instrument for the fulfilment of children’s rights, the Committee recommends that States parties:

(a) Make children a priority in their budgetary allocations as a means to ensure the highest return on the limited available resources; and make investment in children visible in the State budget through detailed compilation of resources allocated to them;

(b) Consider using rights-based budget monitoring and analysis, as well as child impact assessments on how investments in any sector may serve “the best interests of the child”;

(c) Undertake a comprehensive approach to children’s economic, social and cultural rights, in particular by identifying ministries and departments dealing with children and by making sure that other ministries are also able to demonstrate how their budget and programmes are consistent with the realization of children’s economic, social and cultural rights.

72. The Committee also recommends that the emphasis on allocations aimed at economic growth not be made at the sacrifice of social sector expenditure. In this respect, the macroeconomic framework of growth targets should be harmonized with a human development framework based on the Convention on the Rights of the Child and the principles of non-discrimination, best interests of the child, participation, universality and accountability. The development of this framework should also take into account the Millennium Development Goals (MDGs), A World Fit for Children, rights-based Poverty Reduction Strategy Papers (PRSPs) and national plans of action for children developed in accordance with the Convention.

Transparency and accountability in the allocation and use of resources

73. Since national budgets are key political documents reflecting the priorities of Governments, the extent to which the budget serves as an instrument for the realization of children's rights is closely related to the extent to which the budget operates effectively and efficiently and prioritizes investments for children. It is therefore crucial that States parties consistently ensure the transparency of the budget allocation process, both internally and externally. Internal transparency implies that information on revenues and expenditures are available to all governmental bodies conducting impact assessments on how major spending decisions are likely to affect children. External transparency is understood to mean that the budget should be open and accessible to all stakeholders, including civil society and that information on budget choices and allocations is available to the public in comprehensible and easy-to-understand language and in a child-friendly manner.

74. Budget data may be difficult to obtain and verify, and may be affected in some instances by poor budgeting capacity and, in some cases, by corruption. Thus, an accurate systematization of data and indicators as well as an effective analysis of the budget are particularly important requirements for the monitoring of efforts towards the realization of economic, social and cultural rights for children.

75. **The Committee recommends that:**

(a) States parties encourage public dialogue on State budgets. The budgeting process should be transparent and participatory. Information on the criteria guiding the formulation and implementation of national budgets, including priorities guiding the allocation of resources, should be made publicly available in easy-to-understand language to encourage accountability and public scrutiny;

(b) Effective resource tracking systems for the allocation and use of resources and a comprehensive system of data collection on children are developed and implemented, including financial data and common indicators capable of international comparison and subjected to periodic review;

(c) The reports of States parties submitted under the Convention contain analytical statistical information on the various budget allocations in order for the Committee to adequately assess the importance that States parties attach to budgeting for children. These statistical data should indicate the resources available and the proportion allocated to children, disaggregated by sector. Such information should clearly indicate the proportion of allocation and expenditure on children in relation to other priorities of the Government, including, but not limited to, military allocation and expenditure;

(d) All stakeholders at the national level engage in the budget process through, inter alia, efforts to facilitate and encourage literacy in budgetary analysis;

(e) Consistent and systematic accountability of States parties, governmental departments and officials, as well as of other stakeholders involved in budgeting for children, be ensured. For such accountability to be consistently applied, States parties are

encouraged to take measures to rectify inefficiency and waste of resources as well as to establish effective mechanisms to hold public officials accountable for their actions;

(f) A representative of the Ministry of Finance be included in the delegation presenting the reports of States parties under the Convention to the Committee.

Participation of children and other stakeholders

76. The Committee reaffirms the obligation of States parties to implement article 12 of the Convention as an integral part of the implementation of the other provisions in the Convention. In this respect, it underlines the importance of ensuring that the process of allocation of resources is as participatory as possible and that children and their parents are involved from the outset in the development, implementation and monitoring of the budget process. It also underlines the importance of the effective engagement of civil society in policy development and budgetary processes, as appropriate.

77. In light of the Day of General Discussion of September 2006 on “the right of the child to be heard,” and recognizing the positive impact that a transparent and democratic process of decision-making on the State budget has on economic, social and cultural rights, the Committee encourages States parties to promote child participation in the budget process, by, inter alia, allowing parents, teachers, caregivers and children themselves to participate in budgetary decisions, and requests that the Committee be informed of the results achieved through the participatory process.

78. The Committee recommends that States parties report to the Committee not only on budget allocations with regard to article 4 of the Convention, but also on the process by which these allocations were made and the extent to which children, their parents and communities were involved in the decision-making process. Reports should also include information on how the national plan of action for children and other child-related policy documents relate to the budget process at the national level.

The use of resources to the “maximum extent”

79. The Committee recognizes that the exact nature of what the “maximum extent of available resources” may be, and how it could be measured, represents a challenge for States parties, for the international community working for children, and for the Committee itself. The Committee also recognizes the limits of statistical variables and the fact that human rights indicators cannot capture the complexity and specificity of individual human rights in different contexts. However, the Committee underlines the importance of assessment tools in the use of resources and recognizes the need to develop measurable indicators to assist States parties in monitoring and evaluating progress in the implementation of the rights of the child as defined in the Convention.

80. The Committee, while commending the existing initiative of the Office of the United Nations High Commissioner for Human Rights to develop a comprehensive, disaggregated and common set of human rights indicators, invites UNICEF to develop child-specific indicators, with a view to assisting States in improving their policy formulation, monitoring and evaluation for the implementation of child rights. This system of indicators, combined with specific time-bound targets, including those recognized

internationally, such as the Millennium Development Goals, will serve to identify human rights challenges and allow for assessment of progress or regress in the realization of children's rights.

Prioritization in the allocation and use of resources for children

81. The Committee recalls that the non-discrimination principle in the Convention requires that all the rights guaranteed by the Convention should be recognized for all children. In this respect, the Committee recognizes the need for identifying and giving priority to marginalized and disadvantaged groups of children, while not neglecting or diluting in any way the obligations which States parties have accepted under the Convention.

82. The Committee recommends that, in their efforts to prioritize the implementation of the rights of children in their respective national contexts, States parties consider establishing national priorities guided by the four general principles of the Convention in the allocation of resources. These priorities should be established using a rights-based approach, paying special attention to the most marginalized and disadvantaged groups of children.

83. States parties should ensure that, in order to have real impact, their national priorities for children can be independently monitored on a regular basis. While this may be done in the context of a parliamentary review, the Committee strongly recommends that States parties establish a monitoring mechanism that will allow for an external review of the national priorities vis-à-vis the actual enjoyment of rights by children, with the authority to issue recommendations. The outcomes of the review of national priorities should be included in the periodic reports to the Committee.

Justiciability of economic, social and cultural rights for children

84. In addition to legislation (see paragraphs 63 and 64 above), States are required to ensure the availability of judicial remedies with respect to all human rights, including economic, social and cultural rights. The Committee notes that many of the economic, social and cultural rights provided for in the Convention are already widely accepted as legally enforceable rights; for example, free and compulsory primary education is a right reflected in the national legislation of many States, as well as in practice. However, many States have yet to recognize many of the economic, social and cultural rights which are fundamental to the full development and well-being of children as justifiable in the court of law. The Committee recognizes that in order to give full meaning to the economic, social and cultural rights of children as enshrined in the Convention, these rights must be domestically justiciable in practice.

85. The Committee recommends that States parties ensure that domestic adjudicating bodies are able to give full justiciability to the economic, social and cultural rights of children, to ensure the full realization of these rights.

86. States parties should ensure that judicial procedures are child-sensitive and child-friendly, and that accessible and independent legal advice is made available to children and their representatives through, inter alia, the Children's Ombudsperson or the national human rights commission where appropriate.

Progressive realization

87. With respect to the issue of “progressive realization” of economic, social and cultural rights, the Committee notes that the principle of progressive realization is often misunderstood and interpreted to mean that those rights are not immediately applicable and are merely of aspirational character.

88. The Committee recommends that progressive realization be understood as imposing an immediate obligation for States parties to the Convention to undertake targeted measures to move as expeditiously and effectively as possible towards the full realization of economic, social and cultural rights of children. In particular, it underlines that there are obligations requiring immediate implementation, irrespective of the level of available resources, i.e. the obligation to guarantee non-discrimination in the enjoyment of these rights and the obligation to take immediate steps towards their realization. Also, the obligation not to take any retrogressive steps that could hamper the enjoyment of economic, social and cultural rights is considered to be inherent in the obligation towards progressive realization of those rights.

89. Standing parallel to the concept of progressive realization is the idea of “minimum core obligations” of States. Core obligations are intended to ensure, at the very least, the minimum conditions under which one can live in dignity. The Committee on Economic, Social and Cultural Rights has systematically underlined this obligation of States to guarantee at all times the minimum level of protection (the minimum core content) in the provision of: essential foodstuffs, equal access to primary health care, basic shelter and housing, social security or social assistance coverage, family protection, and basic education. All States, regardless of their level of development, are required to take immediate action to implement these obligations, as a matter of priority. Where the available resources are demonstrably inadequate, the State concerned is still required to strive to ensure the widest possible enjoyment of the relevant rights under the prevailing circumstances. Thus, complying with obligations relating to the core of a right should not be dependent on the availability of resources.

90. The Committee considers that States parties are under obligation to satisfy at least the core minimum content of economic, social and cultural rights and recommends that in their own assessment of the “adequacy” of the measures taken to protect, respect and fulfil the economic social and cultural rights of children, States parties closely examine the criteria set out by the Committee on Economic, Social and Cultural Rights in its statement on “An evaluation of the obligation to take steps to the ‘maximum of available resources’ under an Optional Protocol to the Covenant” (E/C.12/2007/1) and apply them in relation to children.

The role of international cooperation

91. The Committee notes the existence of divergent views on whether the reference to international cooperation in article 4 of the Convention amounts to a legal obligation on the part of States parties to engage in international development assistance, and notably for the realization of the rights mentioned in article 4.

92. The Committee believes that the rights of children are a shared responsibility between the developed and the developing countries. States parties must respect and protect the economic, social and cultural rights of children in all countries with no exceptions, and take all possible measures to fulfil these rights - whenever they are in a position to do so through development cooperation. At the same time, countries with severe resource constraints have the responsibility to seek international cooperation and assistance. Thus, inaction cannot be justified by sole reliance on external support and they must at least bear the burden of demonstrating that they have made all possible efforts, to the best of their ability, to ensure the widest possible enjoyment of the relevant rights under the prevailing circumstances, in particular for the most disadvantaged and marginalized members or groups of society.

93. **The Committee, recalling and reinforcing its views as stated in paragraphs 61 to 64 of its general comment No. 5 (2003) on the general measures of implementation of the Convention on the Rights of the Child, recommends that:**

(a) States parties meet internationally agreed targets, including the United Nations target for international development assistance of 0.7 per cent of gross domestic product and take all possible measures to pursue the aims of the 20/20 initiative with a view to achieving universal access to basic social services of optimum quality on a sustainable basis, as a shared responsibility of developing and donor States;

(b) Donor States parties consider the Convention as the framework for international development assistance related directly or indirectly to children. The programmes of donor States should be rights-based and a proportion of their international support should be earmarked for the implementation of children's rights. In this respect, the Committee welcomes and encourages the enactment of legislation on international aid and cooperation in line with the principles and the spirit of the Convention, so as to ensure that child rights are respected and protected in all sectors covered by the bilateral and multilateral development cooperation of States parties;

(c) States parties that receive international aid and assistance allocate, as a matter of priority, an adequate part thereof specifically to children;

(d) International financial institutions regularly and systematically earmark a proportion of their international support for the implementation of children's rights and assess the impact which their activities, including conditionalities, have upon children's rights and that the principle of the best interests of the child constitute a primary consideration in the development and the implementation of their policies;

(e) International financial institutions and other international governmental and non-governmental organizations should work together with recipient Governments to enhance their capacity to implement child rights-based budgeting through national budgets and to ensure that aid is effectively coordinated;

(f) Bilateral and multilateral international aid should not depend on any conditions which may have negative or harmful impact on the rights of children and other marginalized and disadvantaged groups.

Recommendations to be followed up on by the Committee

94. **The Committee recognizes the importance of continually striving to develop its reporting guidelines with a view to assisting States parties in reporting on the implementation of their obligations under the Convention.**

95. **The Committee will explore the possibility of developing a general comment on issues related to the implementation of article 4 of the Convention related to the issues discussed during this event.**

VIII. FUTURE DAY OF GENERAL DISCUSSION

96. At its 1284th meeting, held on 5 October 2007, the Committee adopted the theme for its next Day of General Discussion, which will be related to the education of children in situations of emergency. The Committee will further discuss the theme and adopt an outline at its forty-eighth session in January/February 2008. The Day of General Discussion is scheduled to take place during the forty-ninth session of the Committee, in September 2008.

IX. FUTURE MEETINGS

97. The following is the draft provisional agenda for the forty-seventh session of the Committee:

1. Solemn declaration by new members.
2. Adoption of the agenda.
3. Organizational matters.
4. Submission of reports by States parties.
5. Consideration of reports of States parties.
6. Cooperation with other United Nations bodies, specialized agencies and other competent bodies.
7. Methods of work of the Committee.
8. Day of general discussion.
9. General comments.
10. Future meetings.
11. Other matters.

X. ADOPTION OF THE REPORT

98. At its 1284th meeting, held on 5 October 2007, the Committee considered the draft report on its forty-sixth session. The report was adopted unanimously by the Committee.

Annex I1

MEMBERSHIP OF THE COMMITTEE ON THE RIGHTS OF THE CHILD

Name of Member	Country of Nationality
Ms. Agnes Akosua AIDOO*	Ghana
Ms. Alya AL-THANI**	Qatar
Ms. Joyce ALUOCH**	Kenya
Mr. Luigi CITARELLA*	Italy
Mr. Kamel FILALI*	Algeria
Ms. Maria HERCZOG*	Hungary
Ms. Moushira KHATTAB*	Egypt
Mr. Hatem KOTRANE*	Tunisia
Mr. Lothar Friedrich KRAPPMANN*	Germany
Ms. Yanghee LEE**	Republic of Korea
Ms. Rosa Maria ORTIZ*	Paraguay
Mr. David Brent PARFITT**	Canada
Mr. Awich POLLAR**	Uganda
Mr. Dainius PURAS*	Lithuania
Mr. Kamal SIDDIQUI**	Bangladesh
Ms. Lucy SMITH**	Norway
Ms. Nevena VUCKOVIC-SAHOVIC**	Serbia
Mr. Jean ZERMATTEN**	Switzerland

* Term expires on 28 February 2011.

** Term expires on 28 February 2009.

Annex II

DAY OF GENERAL DISCUSSION: LIST OF REPRESENTATIVES OF STATES PARTIES, ORGANIZATIONS AND BODIES REGISTERED FOR PARTICIPATION

3 - D Trade Human Rights - Equitable Economy, Action for Children and Youth Aotearoa Incorporated, Adhoc Working Group from Africa and Save the Children Sweden, Aflatoun CHILDS SAVINGS INTERNATIONAL, AL ZAHRAA Forum, Anglicare Victoria, Arigatou Foundation, Burundian youth for peacebuilding and young refugees integration. BYPR, Campana Nacional en el presupuesto publico Las Ninas y los Ninos Primero, Asociacion Nacional de Centros, Universidad del Pacific, Caritas Europa, Caritas Internationalis, Central Union for Child Welfare, Centre Haitien pour la défense des droits de l'enfant (CHADDE), Centre on Housing Rights and Evictions (COHRE), Child Helpline International, Child Rights equality Action Training Exchange, Child Rights Information Network (CRIN), Child to Child Local NGO, Children's law centre, Comité de los Derechos del Nino Uruguay, Committee on Economic, Social and Cultural Rights, Community Law Centre, University of the Western Cape, Consultant on Human Rights and Children's Right and Development, Consultant CRC rights, Coordination des ONG pour les droits de l'enfant, Coordinadora Institucional de Promocion por los Derechos de la Ninez CIPRODENI, CRAS ONLUS, creaeXchange, Defense for children international (DCI) - International Secretariat, Defense for children international Belgium, Department of Political Science - University of Hawaii, ECPAT International, EveryChild, Faculty of economics & political science, Cairo University, Federation for the Protection of Children's Human Rights, Flemish Ministry of Culture, Youth, Sport and Media, GURISES UNIDOS/REDLAMYC (Red latinoamericana y caribena por la defensa de los derechos de los ninos, ninas y adolescentes, HAQ: Centre For Child Rights, Human Rights Centre, Queen's University Belfast, Human Rights Centre, University of Essex, Ibfan-gifa, India Alliance for child rights, Institut International des droits de l'Enfant, Interagency Panel on Juvenile Justice, Inter-American Children's Institute - Organization of American States, International Peace bureau, International Federation of Social Workers, International Federation Terre des Hommes, Iraqi democratic forum, Irish Ombudsman for Children's Office, Istituto degli Innocenti - Florence, JAGGARTA social welfare organization, Live alive foundation, Mercycorps, Municipality of Genoa - Direction Person's Service, National Coalition for the Implementation of UN-CRC, Nicaraguan Coordinating Federation of NGO that work with the Childhood and the Adolescence (CODENI), Norwegian Centre for Human Rights, Office of the Court Administrator, Supreme Court of the Philippines, Organizacion de la Nacion Aymara (ONA), Pakistan International Education Foundation, Pestalozzi Children's Foundation, Physicians for Human Rights, Plan Finland, Plan Norway, Public Health Agency of Canada, Division of Childhood + Adolescence, Red para la Infancia y la Adolescencia de El Salvador, Save the children, Save the Children Norway, Save the children Norway (NICARAGUA's Programme), Save the Children SEE, Save the Children Suecia - Oficina regional para America latina y el Caribe, Save the Children Sweden, Save the Children UK, Scotland's Commissioner for Children and Young People, SOS-Kinderdorf International, Sozial Department Zurich, Terre des Hommes - Aide à l'enfance, The African Child Policy Forum, The Jamaica Observer TEENage Writers' Club, UN Special Rapporteur on Adequate Housing, UNESCO PARIS, UNICEF, UNICEF Canada, UNICEF Chair in Children's rights, Faculty of Law, University of Antwerp, Universidad del Pacifico - Centro de Investigacion, University Cairo, University of Fribourg, WORLD BANK, World Initiative for Orphans, World Vision International.

Annex III

DAY OF GENERAL DISCUSSION: LIST OF SUBMISSIONS

A. Non-governmental and governmental organizations and United Nations agencies

HAQ Centre for Child Rights

BfC India's Financial Commitment to the Child

Child Helpline International

Child Helplines: The Role of Governments in Securing the Economic, Social and Cultural Rights of Children in Need of Care and Protection

Children's Law Centre

Paper by the Children's Law Centre and Save the Children on Resources and the Implementation of Economic, Social and Cultural rights under the CRC

Aflatoun, Child Savings International

The importance of Child Social and Financial Education

International Peace Bureau

Four key concepts in implementing CRC Article 4, and recommendations

Centre on Housing Rights and Evictions

Fulfilling the Right of All Children to Adequate Housing

Save the Children Sweden, Ethiopia Programme

Article 4 and International Cooperation: A case study from Ethiopia

Gruppo di Lavoro per la Convenzione sui diritti dell'infanzia e dell'adolescenza

Investments for the Implementation of Economic, Social and Cultural Rights of Children and International Cooperation (CRC art.4)

Save the Children Sweden

The role of States Parties in supporting parents as a resource for children

International Save the Children Alliance

Last in Line, Last in School report briefing

Save the Children UK

Budget Analysis as a tool for enabling realisation of children's rights in South-East Europe

EveryChild

EveryChild submission

UNICEF - Belgique

State obligations to respect, protect and fulfil children's rights in development cooperation - Belgium case study

Committee for Legal Aid to the Poor

Written Contribution for DGD 2007 from CLAP

Ad hoc working group on "Available Resources: The African Context; An African Perspective"

Submission by ad hoc working group

ECPAT - International Secretariat

The use of resources to the "maximum extent" and its' relationship to the participation rights of children

Grupo Alianza para la Inversion en Niñez

Centroamerica: Aportes para mejorar la inversión en niñez y adolescencia

Elementos de calidad en la inversión en niñez y adolescencia

Elementos de calidad para la inversión en niñez

La inversión municipal directa en niñez y adolescencia - premisas y ejemplos

Matriz para la utilización de los Elementos de Calidad en la Inversión en Niñez y Adolescencia como lista de chequeo de su cumplimiento

Propuesta de Recomendaciones relacionadas a la aplicación del Art. 4 de la CDN

Red latino americana y caribeña por la defensa de los derechos de los niños, niñas y adolescentes REDLAMYC

Los recursos disponibles y su asignación a favor de los niños

La utilización de los recursos hasta el máximo

Los niños primero - recomendaciones a los estados de la región de américa latina y el caribe

Instituto Interamericano del Niño, la Niña y Adolescentes

Inversión Pública en Infancia: acceso a la información, dificultades de cálculo y exigibilidad

World Vision International

World Vision International submission

Bureau International Catholique de l'Enfance/International Catholic Child Bureau

L'application par la Russie de l'article 4 de la Convention des droits de l'enfant

Propuesta de aporte de la Fundación Navarro Viola al día de debate general del comité de los derechos del niño para su 46 período de sesiones

Asociación Nacional de Centros

Los recursos disponibles y su asignación a favor de los niños

La utilización de los recursos hasta el máximo

UNICEF

UNICEF's Submission for the Day of General Discussion 2007 "Resources for Children - responsibility of States"

Comité de los Derechos del Niño y Adolescente - Uruguay

Situación y perspectivas sobre la inversión en la niñez y adolescencia en Uruguay: una mirada desde la sociedad civil organizada

Red para la Infancia y la Adolescencia - El Salvador

Inversión en los Derechos de las Niñas, Niños y Adolescentes Posición de América Latina

B. Individual submissions

Mervat Rishmawi

Written Contribution to the General Discussion Day

George Kent

Global obligations for children's rights

Justice Nimfa Cuesta Vilches

Trafficking In Women And Children

Prof. Dr. Fons Coomans

Identifying the Key Elements of the Right to Education: A Focus on Its Core Content

Prof. Dr. Wouter Vandenhoele

Is There a Legal Obligation to Cooperate Internationally for Development?
