



# Convention on the Rights of the Child

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## Committee on the Rights of the Child

### Sixty-ninth session

18 May-5 June 2015

Item 4 of the provisional agenda

### Consideration of reports of States parties

## List of issues in relation to the report submitted by Honduras under article 12, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

### Addendum

### Replies of Honduras to the list of issues\*

[Date received: 23 April 2015]

#### Reply to the issues raised in paragraph 1

1. There is no new information available.

#### Reply to the issues raised in paragraph 2

2. The Action Plan to Combat Sexual Exploitation (2006-2011), which had national coverage, gave priority to carrying out activities in tourist areas, border zones and the most densely populated and poorest areas. The National Plan to Combat Commercial Sexual Exploitation and Trafficking in Persons (2015-2020) is currently being drafted.
3. At the start, a budget was drawn from funds from associated institutions, in particular such bodies as the Office of the Special Prosecutor for Children, the national police, the municipal mayor's office of the Central District, the Ministry of Human Rights, Justice, Governance and Decentralization, the National Institute for Migration and others.
4. The Inter-Agency Commission to Combat Commercial Sexual Exploitation and Trafficking in Persons coordinates the work of civil society organizations that provide comprehensive care to victims, since the Government has no specific programmes or projects in that regard.

\* The present document is being issued without formal editing.



5. During its early years, the Inter-Agency Commission to Combat Commercial Sexual Exploitation focused its efforts on combating the commercial sexual exploitation of children and adolescents. Later, however, because of the need to tackle the crime of trafficking in persons from an inter-institutional perspective, the Commission was relaunched as the Inter-Agency Commission to Combat Commercial Sexual Exploitation and Trafficking in Persons.

6. The Trafficking in Persons Act provided an institutional framework for the Inter-Agency Commission, establishing that it would have a decentralized, autonomous structure as regards both operations and budget and would be attached to the Ministry of Human Rights, Justice, Governance and Decentralization, with the purpose of promoting, coordinating, monitoring and evaluating activities designed to prevent and eradicate the various forms of trafficking in persons by administering and implementing targeted public policies.

7. In the second half of 2014, the Ministry of Human Rights, Justice, Governance and Decentralization allotted a budget of 2.8 million lempiras to the Inter-Agency Commission so that it could fulfil its legally established mandate, taking account of workplans for the current fiscal year. The plans include setting up an office, hiring staff, assembling a rapid response team, holding training workshops for key players nationwide, establishing local committees to carry out plans and projects, drawing up implementing regulations, and strengthening mechanisms for the reporting, investigation, prosecution and punishment of trafficking, and for providing appropriate care to victims.

8. The Office for the Administration of Seized Assets turned over the sum of 1,238,201.17 lempiras to the Inter-Agency Commission, 30 per cent of which was earmarked for care to victims, under a cooperation agreement struck between the non-governmental organization (NGO) Casa Alianza Honduras and the Inter-Agency Commission.

### **Reply to the issues raised in paragraph 3**

9. The body responsible for coordinating the implementation of the Optional Protocol is the Directorate for Children, Young Persons and the Family, which has the following functions:

- To investigate, formulate, manage, coordinate and supervise the implementation of national policies and laws relating to children, adolescents and families;
- To strengthen the State's capacities to promote, harmonize, develop and monitor plans, programmes and services, both public and private, providing care for children, adolescents and families in the various cycles and phases of their lives;
- To encourage shared responsibility and social participation at the national level, in promoting, defending and protecting the rights of children, adolescents and families, and any other activities that are directed at the same ends.

### **Reply to the issues raised in paragraph 4**

10. The lead agency continues to experience difficulties in developing a plan that will make it possible to establish what resources are required to ensure that the rights of children can be realized equitably and effectively and to identify possible funding sources.

11. In late 2014, the Ministry of Finance, with assistance from the United Nations Children's Fund (UNICEF), produced a document entitled "Public investment in

children and adolescents in 2013”, which — although it does not give specific information on the sums involved or the budget lines applied for this purpose — offers new elements that highlight the perspectives and priorities of the Government of Honduras in relation to children and adolescents. In the document, public investments for children are classified as follows: (a) groups of rights: survival, development, protection and participation; (b) type of investment, specific or indirect; (c) life cycle: early childhood (ages 0 to 5), childhood (ages 6 to 12), adolescence (ages 13 to 17). In 2013, 3,336,000 lempiras were allocated specifically for the protection of children’s rights, which represented 10.4 per cent of the total budgetary allotment for children.

### **Reply to the issues raised in paragraph 5**

12. As noted earlier, the Government of Honduras has a new lead agency for this topic. In its organizational phase, all the Optional Protocol awareness and publicity programmes are undergoing a review, so as to ensure that they harmonize with the institutional workplan and with strategies for other plans and projects. Thus far no specific information is available on the programme review process.

### **Reply to the issues raised in paragraph 6**

13. With regard to mechanisms set up by the Government of Honduras to identify children and adolescents at particular risk of becoming victims of the crimes covered by the Optional Protocol, the following institutions work together in a coordinated way, as stated in the initial report:

- The Directorate for Children, Young Persons and the Family, the lead agency, is responsible for coordinating joint actions to combat the crimes set out in the Optional Protocol;
- The Office of the Special Prosecutor for Children handles complaints involving sexual violence (incest, rape, commercial sexual exploitation, trafficking in persons and other related offences) against the victim or other underage person. It also cooperates with the Directorate of Forensic Medicine;
- The Ministry of Security participates or intervenes when immediate assistance or protection for the victim or any member of the family is needed. It also supports awareness and training programmes for families and community social groups;
- The Ministry of Health coordinates government action providing underage persons with access to programmes targeting adolescents, such as one-stop health clinics for adolescents, reproductive health programmes and programmes for the prevention of HIV/AIDS and other sexually transmitted diseases;
- The family courts, the domestic violence courts and the juvenile courts coordinate the implementation of the Domestic Violence Act on behalf of the victim or any member of the family. They are also responsible for processing child maintenance, custody, the international travel ban, social risk and other procedures needed to protect victims;
- The Ministry of Education coordinates, with other public institutions and with NGOs, special programmes to reintegrate victims into the formal or alternative education system;
- The National Institute for Vocational Training develops programmes that facilitate access to training for underage persons who are victims of sexual violence or trafficking in persons or are at risk of becoming victims;

- The Office of the First Lady coordinates with the Ministry of Foreign Affairs and International Cooperation, in implementing a programme created by the National Institute for Migration in Mexico under which child protection officers have been appointed in order to safeguard the physical and emotional integrity of unaccompanied migrant children and adolescents, in view of the dangers that they face along their migration route, putting their lives at risk. Officials and staff of the National Migration Institute, the national police, the Directorate for Children, Young Persons and the Family, the Migrant Care Centre, Casa Alianza, Congress, the Office of the Special Prosecutor for Children, the consular protection bureau of the Ministry of Foreign Affairs and International Cooperation and other institutions working with migrants, have been trained for this purpose.

14. All the action necessary to process in a proper manner the reception of migrant children sent home by air or overland from the United States, Mexico, Guatemala or Belize is carried out under the supervision of the Directorate for Children, Young People and the Family with a view to ensuring that children and adolescents are handed over to the care and protection of their families.

15. The Ministry of Development and Social Inclusion and the Directorate are engaged in gathering socioeconomic information in order to obtain precise data on migrant children in Honduras, so that all State agencies and society as a whole can adopt the necessary measures and mechanisms to improve the conditions of life of persons who, for one reason or another, felt obliged to leave the country but were subsequently returned.

### **Reply to the issues raised in paragraph 7**

16. The bills on adoption and on international child abduction have not been adopted by Congress. During its transitional and organizational phase, the Directorate has pondered whether or not to take over responsibility for these matters in coordination with the Congressional Committee on Families and Children.

17. The mechanisms available in Honduras for preventing irregular adoption continue to be the provisions contained in the Code on Children and Adolescents, the Family Code, and the Trafficking in Persons Act.

### **Reply to the issues raised in paragraph 8**

18. Article 6 of the Trafficking in Persons Act, adopted under Legislative Decree No. 59-2012 of 6 July 2012, defines the crime of trafficking in persons as the “recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.”

19. The same article specifically defines the crime of selling persons as “any act or transaction in which a person is sold to another person or to a group of persons in exchange for payment or any other benefit”.

20. Irregular adoption is also specifically defined as that which “occurs when the adoption is comparable to a sale, that is, when the child or adolescent has been abducted, kidnapped or given up for adoption with or without the consent of his or her parents, guardians or family members”.

### **Reply to the issues raised in paragraph 9**

21. There is no provision in Honduran law specifically establishing the criminal liability of legal persons for the commission of offences related to the sale of children and adolescents, child prostitution and child pornography. Under Honduran law, only a natural person can be charged with an offence.

### **Reply to the issues raised in paragraph 10**

22. As set forth in the initial report, article 5, paragraph 5, of the Criminal Code provides that Honduran courts shall deal with offences committed abroad, where the accused is present in Honduras and where, pursuant to the international treaties to which Honduras is a party, the offence is subject to Honduran criminal legislation or seriously violates internationally recognized human rights. Honduran law thus applies the principle of universality or universal criminal justice in the case of serious human rights violations, including the crime of trafficking in children and adolescents, on the basis of the Optional Protocol and the Trafficking in Persons Act.

### **Reply to the issues raised in paragraph 11**

23. The amendment to article 102 of the Constitution provides that extradition will be permitted under two conditions: (a) the offence comes under the category of organized crime; (b) an extradition treaty exists. In the case at hand, article 2 of the Special Act on Courts with National Territorial Jurisdiction in Criminal Matters defines an organized criminal group as a “group comprising three or more members that exists for a period of time and acts together for the purpose of committing the following offences: (a) murder; (b) any offence related to the illegal trafficking in drugs regulated by the Act on Drug Abuse and Illegal Trafficking in Drugs and Psychotropic Substances; (c) abduction; (d) car theft; (e) money-laundering, (f) trafficking in persons; (g) commercial sexual exploitation; (h) terrorism; and (i) offences related to forest lands.”

24. The Optional Protocol can thus be used as the legal basis for the extradition of persons for the crimes covered therein, in cases where those crimes are categorized as acts of organized crime and so long as there exists an extradition treaty between Honduras and the requesting State.

### **Reply to the issues raised in paragraph 12**

25. With regard to steps taken to support and protect child and adolescent victims and witnesses of offences covered by the Optional Protocol during their contact with the criminal justice system, the situation described in the initial report remains the same: the mechanisms for the prevention of stigmatization and revictimization continue to be those set out in the Criminal Code, the Code of Criminal Procedure, the Code on Children and Adolescents and the Act on Trafficking in Persons.

### **Reply to the issues raised in paragraph 13**

26. As for the measures taken by the Government of Honduras to ensure that the victims of the offences covered by the Optional Protocol are neither treated as criminals nor stigmatized, and the measures taken to prevent them from being socially marginalized and to facilitate their reintegration and their physical and psychological rehabilitation, the situation is as described in the initial report.

27. As regards measures taken to improve the accommodation, nourishment and treatment of children and adolescents held in protection institutions, the Directorate has given priority to a policy on preventing violence against children and young people, which constitutes the first governmental instrument designed specifically to set up the necessary mechanisms to prevent violence against children and young people.

28. The Directorate has also launched the Special Criminal Justice Programme, which has begun putting into practice the measures listed in the Critical Road Map for Transforming the Educational Centres for Adolescent Offenders. Such centres will be administered by the American Red Point Association from 6 December 2014.

29. At the behest of the executive office of the Directorate and the Office of the Special Prosecutor for Children, the National Council for Defence and Security has issued a decision to strengthen the security perimeters outside educational centres by deploying public order military police, at the same time strictly adhering to international standards that prohibit the use of lethal weapons inside detention centres for adolescents. Following the adoption of these two measures, renovations have begun at all the educational centres for adolescent offenders.

30. The Directorate has instigated and organized periodic visits to the educational centres, with a view to supervising conditions for the treatment of child and adolescent detainees and conducting a review of their files.

31. With assistance from UNICEF, the following documents have now been produced: an analysis of current conditions in the special justice system for juvenile offenders; a proposal for establishing a set of regulations for title III of the Code on Children and Adolescents relating to juvenile offenders; and training modules for justice officials to be taught at the Judicial Academy of the Supreme Court.

32. The Directorate has resurrected the subprogramme on alternative measures established under the Honduran Institute for Children and the Family, with a view to following up cases that arose before and during the transition phase and improving the facilities for implementing the measures set out in the subprogramme.

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