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**Convention on the Rights of the Child**

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**COMMITTEE ON THE RIGHTS OF THE CHILD****Forty-sixth session**
**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES 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**
**Concluding observations: France**

The Committee considered the initial report of France (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:

**I. Introduction**

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

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

**A. Positive aspects**

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);

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(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.

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

(a) The International Labour Organization Convention No. 182 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)**

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 to deal with asylum seekers and unaccompanied children in the waiting zones of airports.

**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.**

## **II. Data**

The Committee notes that the National Monitoring Centre for At-risk Children 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 State party report on the areas covered by the Optional Protocol.

**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.**

## **III. General measures of implementation**

### **C coordination and evaluation of the implementation of the Optional Protocol**

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.

**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**

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

**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 a 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**

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, the Committee regrets that no information is available as to whether or not these resources are sufficient to implement the Optional Protocol.

**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.**

## **IV. Prevention of the sale of children, child prostitution and child pornography**

### **Measures adopted to prevent offences prohibited under the Optional Protocol**

The Committee welcomes the State party's efforts, in collaboration with professionals, non governmental organizations and the 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.

**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 Pedophilia 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 to 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.

## **V. Prohibition of the sale of children, child prostitution and child pornography and related matters**

### **Existing criminal or penal laws and regulations**

While noting the State party's efforts to criminalize the sale of children, child prostitution and child pornography, the Committee is concerned that irregular inter-country adoption may not be criminalized as an act of sale of children.

**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**

The Committee welcomes 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.

**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 .**

## **VI. 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**

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.

**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)*.

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 which 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.

**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 (CRC/GC/2005/6) on the treatment of unaccompanied and separated children outside their country of origin.**

## **VII. International assistance and cooperation**

## **Law enforcement**

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.

**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**

The Committee notes with appreciation the State party's support to numerous initiatives in the framework of international cooperation and in its bilateral relations with developing countries.

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

## **VIII. Follow-up and dissemination**

### **Follow-up**

**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**

**The Committee recommends that the report and written replies submitted by the State party and the related recommendations (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.**

## **IX. Next report**

**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.**

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