


**COMMITTEE ON THE RIGHTS OF THE CHILD**
**Forty-first session**

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 12 (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: Andorra**

1. The Committee considered the initial report of Andorra (CRC/C/OPSA/AND/1) at its 1095th meeting (see CRC/C/SR.1095), held on 16 January 2006, and adopted at its 1120th meeting, held on 27 January 2006, the following concluding observations.

**A. Introduction**

2. The Committee welcomes the submission of the State party's initial comprehensive report. The Committee appreciates the frank and open dialogue held with the high-level 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 State party's initial report on 2 February 2002 contained in CRC/C/15/Add.176.

**B. Positive aspects**

4. The Committee welcomes the various measures taken by the State party to implement and strengthen the protection of the rights covered by the Optional Protocol, especially through the amendment of the Criminal Code punishing, inter alia, trafficking in body organs, sexual abuses against children, child pornography and child prostitution. It also welcomes the Social welfare programme for children at risk with its Protocol on childhood in danger of 10 June 2004.

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**C. Principal areas of concern and recommendations**
**C.1. General measures of implementation**
**Coordination and evaluation of the implementation of the Protocol**

5. The Committee takes note of the information provided on the various ministries and State bodies involved in implementing the Optional Protocol but is concerned that there is no identifiable body to ensure a comprehensive and well coordinated implementation of the various ministerial activities to protect the rights covered by the Optional Protocol. The Committee also regrets the lack of mechanisms for the periodic evaluation of the implementation of the Protocol.

**6. The Committee encourages the State party to strengthen coordination in the areas covered by the Optional Protocol and to establish mechanisms for the periodic evaluation of the implementation of the Protocol.**

**National Plan of Action**

7. While noting with appreciation the efforts undertaken by the State Party to implement the Optional Protocol, the Committee is concerned at the absence of a Plan of Action for combating and preventing the sale of children, child prostitution and child pornography.

**8. The Committee recommends that the State party elaborate and implement a Plan of Action based on the Stockholm and Yokohama Agenda for Action and the provisions of the Optional Protocol.**

**Dissemination and training**

9. While noting initial efforts to disseminate the Convention and its Optional Protocols among non-governmental organizations and the media, the Committee considers that education for children and the public at large and training activities for professional groups on children's rights need ongoing attention.

10. The Committee recommends that the State party continue and strengthen its efforts to raise awareness among its population, with particular attention to children and parents, about the provisions of the Optional Protocol through among others things, its inclusion in the school curricula. The Committee also recommends that the State party develop ongoing and systematic education and training on the provisions of the Optional Protocol for all relevant professional groups.

## **Data collection**

11. The Committee notes the absence of reported cases falling within the provisions of the Optional Protocol and recommends that the State party undertake a study to assess the nature and extent of activities falling under the Optional Protocol and include efforts to identify unreported cases.

## **C.2. Prohibition of the sale of children, child pornography and child prostitution**

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

12. While noting with appreciation the efforts of the State party to criminalize trafficking and sale of children in the new Criminal Code, the Committee is still concerned that it does not include all purposes and forms of sale of children included in article 3, paragraph 1, of the Optional Protocol. The Committee is concerned that article 121 of the Criminal Code of 2005 does not sufficiently cover the offering of a child for the purpose of transfer of organs of the child for profit as defined in article 3, paragraph (i, b) and that legal persons cannot be held liable for crimes under the Optional Protocol.

13. The Committee recommends that the State party continue its efforts to amend the Criminal Code in order to prohibit the trafficking and sale of children for all purposes listed in article 3, paragraph 1, of the Optional Protocol and to extend the criminal liability to legal persons.

## **C.3. Penal/Criminal procedure**

### **Extraterritorial jurisdiction**

14. The Committee is concerned that the requirement of double criminality, both for extradition and for domestic prosecution of crimes allegedly committed abroad, limits the possibility of the prosecution of offences outlined in articles 1, 2 and 3 of the Optional Protocol and therefore limits the protection of children against these crimes.

15. The Committee recommends that the State party amend its legislation in order to abolish the requirement of double criminality for extradition and/or prosecution of offences committed abroad.

16. The Committee notes with appreciation that the State party assumes extraterritorial jurisdiction as defined in article 8, paragraph 8, of the Criminal Code, which includes sexual offences against minors, under the condition of the possibility of a sanction of imprisonment of six years and more. The Committee is concerned at the fact that some of the sexual crimes do not carry a maximum penalty of more than six years. It is further concerned that the extraterritorial jurisdiction does not under all circumstances cover offences committed outside of the territory by permanent residents of the State party.

17. The Committee further recommends that the State party review the existing provisions in the Criminal Code with a view to increasing the maximum penalties possible and to strengthening its extraterritorial jurisdiction and thereby the international protection of children against prostitution and pornography.

## **C.4. Protection of the rights of child victims**

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

#### **(a) In the context of the legal procedure**

18. The Committee notes the information on the Protocol of 10 June 2001 on children at risk which, inter alia, contains recommendations for the protection of children victims of sexual abuse (including child prostitution and pornography) who are involved in criminal procedures as witnesses. It welcomes the fact that these recommendations are supported by the judiciary and other relevant professional groups. The Committee, however, regrets that the criminal procedure law does not contain specific provisions to protect the child victim of sexual abuse or exploitation involved in criminal procedures as a victim.

19. The Committee recommends that the State party amend the criminal procedure law with a view to including the necessary provisions for the child victim who is, as witness involved in criminal procedures in accordance with article 8 of the Optional Protocol. It further recommends that the State party be guided in this respect by the United Nations Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (ECOSOC resolution 2005/20).

#### **(b) Terms of compensation, assistance, reintegration and recovery**

20. The Committee is concerned at the limited information provided about services or assistance programmes designed for child victims of trafficking and sexual exploitation.

21. The Committee recommends that the State party provide, in its next report, specific information on the services provided to child victims of trafficking and sexual exploitation to assist their recovery.

## **C.5. Follow-up and dissemination**

### **Follow-up**

**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 Executive Council, the General Council, and local governments for appropriate consideration and further action.**

### **Dissemination**

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

## **C.6. Next report**

24. 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.

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