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REVISED GUIDELINES REGARDING INITIAL REPORTS TO BE 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

Adopted by the Committee at its forty-third session, on 29 September 2006

Introduction

Pursuant to article 12, paragraph 1, of the Optional Protocol, each State party shall, within two years following the entry into force of the Protocol for that State party, submit a report to the Committee on the Rights of the Child ("the Committee") containing comprehensive information on the measures it has taken to implement the provisions of the Protocol. Thereafter, pursuant to article 12, paragraph 2, of the Protocol, States parties having submitted their initial report under this Protocol shall include in the reports they submit to the Committee in accordance with article 44, paragraph 1 (b), of the Convention any further information with respect to the implementation of the Optional Protocol. States parties to the Optional Protocol that are not parties to the Convention shall submit a report within two years following the entry into force of the Protocol and then every five years.

Guidelines regarding initial reports to be submitted by States parties under article 12, paragraph 1, of the Optional Protocol were adopted by the Committee at its 777th meeting, on 1 February 2002. The process of reviewing the reports received has led the Committee to adopt revised guidelines, in order to assist the States parties that have not yet reported to better understand the kind of information and data it considers necessary to understand and evaluate the progress made by States parties in implementing their obligations and to enable it to provide them with appropriate observations and recommendations.

The revised guidelines are divided into eight sections. Section I contains general guidelines about the reporting process, section II concerns data and section III concerns general measures of implementation relevant to this Protocol. Sections IV to VIII concern the substantive obligations recognized by the Protocol: section IV concerns the prevention of the

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sale of children, child prostitution and child pornography; section V concerns the criminalization of these practices and related matters; section VI concerns protection of the rights of child victims; section VII concerns international assistance and cooperation; and section VIII concerns other relevant provisions of national or international law.

The Committee particularly wants to draw attention of the States parties to the annex to these guidelines, which provides additional guidance on some issues and further indications as to the information needed for a comprehensive report of the States parties on the implementation of this Protocol.

I. General guidelines

1. Reports submitted pursuant to article 12, paragraph 1, of the Protocol should contain a description of the process of preparation of the report, including the contributions made by governmental and non-governmental organizations/bodies in its drafting and dissemination. Reports of federal States and States having dependent territories or autonomous regional governments, should contain summarized and analytical information on how they contributed to the report.

2. Reports should indicate how the general principles of the Convention, namely non-discrimination, the primacy of best interests of the child, the rights to life, survival and development, and respect for the views of the child, have been taken into account in the design and implementation of the measures adopted by the State party under the Protocol (see annex).

3. Since the Protocol is intended to further implementation of the Convention on the Rights of the Child, in particular articles 1, 11, 21, 32, 34, 35 and 36, reports submitted pursuant to article 12 of the Protocol should indicate how and to what extent the measures taken in order to implement the Protocol have contributed to the implementation of the Convention, in particular the articles listed above.

4. Reports should contain information on the legal status of the Protocol in the internal law of the State party, and its applicability in all relevant domestic jurisdictions.

5. States parties also are invited to include in the reports, when relevant, information about the intention of the State party to withdraw any reservation(s) it has made to the Protocol.

6. Reports should include, in addition to information on the measures taken to implement the Protocol:

(a) Information, including relevant quantifiable data where available, on the progress made in eliminating the sale of children, child prostitution and child pornography and in ensuring the protection and enjoyment of the rights set forth in the Protocol;

(b) An analysis of the factors and difficulties, if any, affecting the degree of fulfilment of the obligations under the Protocol; and

(c) Information from all autonomous regions or territories in the State party in a summarized version (full texts of the information concerning such entities may be annexed to the report).

7. Reports should accurately describe the implementation of the Protocol with regard to all territories and persons over which the State party exercises jurisdiction, including all parts of federal States, dependent or autonomous territories, all military forces of the State party and all locations where such forces exercise de facto effective control.

8. States parties are invited to submit, together with their reports under article 12, copies of the principal legislative, administrative and other relevant texts, judicial decisions and relevant studies or reports.

II. Data

9. Data included in the reports submitted pursuant to article 12 of the Protocol should be disaggregated, to the extent possible, by sex, region, age and by nationality and ethnicity, if relevant, and any other criteria that the State party considers relevant and that would help the Committee come to a more accurate understanding of the progress made in implementing the Protocol and any remaining gaps or challenges. The report should also contain information on the mechanisms and procedures used to collect these data.

10. Reports should summarize available data on the incidence of sale of children in the State party, including:

(a) The sale or transfer of children for purposes of sexual exploitation;

(b) The transfer of the organs of children for profit;

(c) The engagement of children in forced labour (see annex);

(d) The number of children adopted through the efforts of intermediaries using methods incompatible with article 21 of the Convention or other applicable international standards;

(e) Any other form of sale of children that occurs within the State party, including any traditional practices that involve the transfer of a child by any person or group of persons to another for any form of consideration, and any available indicators of the number of children affected by such practices;

(f) The number of child victims of trafficking - whether within the territory of the State party, from the territory of the State party to other States or from other States to the territory of the State party - including information as to the type of exploitation for which such children are trafficked (see annex); and

(g) The data provided should also show increase or decrease in these practices over time, when possible.

11. Reports should summarize available data concerning child prostitution, including:

(a) The number of persons under the age of 18 engaged in prostitution in the State party;

(b) The increase or decrease of child prostitution or any specific forms of child prostitution over time (see annex); and

(c) The extent to which child prostitution is linked to sex tourism within the territory of the State party, or the State party has detected within its territory efforts to promote sex tourism involving child prostitution in other countries.

12. Reports should summarize available information concerning the extent to which pornography featuring persons actually or apparently under the age of 18, is produced, imported, distributed or consumed within the territory of the State party and any increases or decreases in the production, importation, distribution or consumption of child pornography that have been measured or detected, including:

(a) Photographs and other printed materials;

(b) Videos, motion pictures and electronically recorded materials;

(c) Internet sites containing photographs, videos, motion pictures or animated productions (e.g. cartoons) depicting, offering or advertising child pornography; and

(d) Live performances.

The report should contain any available data concerning the number of prosecutions and convictions for such offences, disaggregated by nature of offence (sale of children, child prostitution or child pornography).

III. General measures of implementation

13. Reports submitted should contain information on:

- (a) All laws, decrees and regulations adopted by the national, State or regional legislatures or other competent bodies of the State party in order to give effect to the Protocol (see annex);
- (b) Any significant jurisprudence adopted by the courts of the State party with regard to the sale of children, child prostitution and child pornography, in particular jurisprudence that applies the Convention, the Protocol or related international instruments referred to by these guidelines;
- (c) The governmental departments or bodies having primary responsibility for the implementation of this Protocol and the mechanism(s) that have been established or are used to ensure coordination between them and the relevant regional and local authorities, as well as with civil society, including the business sector, the media and academia;
- (d) The dissemination of the Protocol and the appropriate training offered to all relevant professional and para-professional groups, including immigration and law enforcement officers, judges, social workers, teachers and legislators;
- (e) The mechanisms and procedures used to collect and evaluate data and other information concerning implementation of this Protocol on a periodic or continuing basis;
- (f) The budget allocated to the various activities of the State party related to implementation of the present Protocol;
- (g) The overall strategy of the State party for the elimination of the sale of children, child prostitution and child pornography and the protection of victims, and any national or regional plans, or particularly significant local ones, that have been adopted in order to strengthen efforts to implement this Protocol, or any components of plans for advancing the rights of the child, the rights of women or human rights that contain components aimed at the elimination of these practices or protection of victims;
- (h) The contributions made by civil society to efforts to eliminate the sale of children, child prostitution and child pornography; and
- (i) The role played by statutory ombudspersons for children or similar autonomous public institutions for the rights of children, if any, in implementing this Protocol or in monitoring its implementation (see annex).

IV. Prevention (art. 9, paras. 1 and 2)

14. Bearing in mind that article 9, paragraph 1, of the Protocol requires States parties to pay “particular attention” to the protection of children who are “especially vulnerable” to the sale of children, child prostitution or pornography, reports should describe the methods used to identify children who are especially vulnerable to such practices, such as street children, girls, children living in remote areas and those living in poverty. In addition, they should describe the social programmes and policies that have been adopted or strengthened to protect children, in particular especially vulnerable children, from such practices (e.g. in the areas of health and education), as well as any administrative or legal measures (other than those described in response to the guidelines contained in section V) that have been taken to protect children from these practices, including civil registry practices aimed at preventing abuse. Reports also should summarize any available data as to the impact of such social and other measures.

15. Reports should describe any campaigns or other measures that have been taken to promote public awareness of the harmful consequences of the sale of children and child prostitution and pornography, as required by article 9, paragraph 2, of the Protocol, including:

- (a) Measures specifically aimed at making children aware of the harmful consequences of such practices, and of resources and sources of assistance intended to prevent children from falling victim to them;
- (b) Programmes targeting any specific groups other than children and the general public (e.g. tourists, transportation and hotel workers, adult sex workers, members of the armed forces, correctional personnel);
- (c) The role played by NGOs, the media, the private sector and the community, in particular children, in the design and implementation of the awareness measures described above; and
- (d) Any steps taken to measure and evaluate the effectiveness of the measures described above, and the results obtained.

V. Prohibition and related matters (arts. 3; 4, paras. 2 and 3; 5; 6 and 7)

16. Reports should provide information on all criminal or penal laws in force covering and defining the acts and activities enumerated in article 3, paragraph 1, of the Protocol, including:

- (a) The material elements of all such offences, including any reference to the age of the victim and the sex of the victim or perpetrator;
- (b) The maximum and minimum penalties that can be imposed for each of these offences (see annex);
- (c) Any defences and aggravating or attenuating circumstances applicable specifically to these offences;
- (d) The statute of limitations for each of these offences;
- (e) Any other offences recognized by the laws of the State party that it considers relevant to implementation of the present Protocol (see annex); and

(f) The sentences applicable under the law(s) of the State party for attempts to commit and complicity or participation in the offences described in response to this guideline.

17. Reports also should indicate any provisions of the law in force that the State party considers an obstacle to implementation of the present Protocol, and any plans it has to review them.

18. Reports should describe any law concerning the criminal liability of legal persons for the acts and activities enumerated in article 3, paragraph 1, of the Protocol, and comment on the effectiveness of such laws as a deterrent to the sale of children, child prostitution and child pornography; if the law of the State party does not recognize the criminal liability of legal persons for such offences, the report should explain why this is so and the position of the State party on the feasibility and desirability of modifying it (see annex).

19. Reports of States parties whose law permits adoption should indicate the bilateral and multilateral agreements, if any, that are applicable and the measures it has taken to ensure that all persons involved in the adoption of children act in conformity with such agreements and with the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children (General Assembly resolution 41/85 of 3 December 1986), including:

(a) The legal and other measures taken to prevent illegal adoptions, e.g. those that have not been authorized by the authorities competent for dealing with domestic and intercountry adoptions;

(b) The legal and other measures taken to prevent intermediaries from attempting to persuade mothers or pregnant women to give their children for adoption, and to prevent unauthorized persons or agencies from advertising services concerning adoption;

(c) The regulations and licensing of agencies and individuals acting as intermediaries in adoptions, as well as legal practices identified so far;

(d) The legal and administrative measures taken to prevent the theft of young children and to prevent fraudulent birth registration, including applicable criminal sanctions;

(e) The circumstances in which the consent of a parent for adoption can be waived and any safeguards in place that are designed to ensure that consent is informed and freely given; and

(f) Measures to regulate and limit the fees charged by agencies, services or individuals in connection with adoption and the sanctions applicable for non-compliance with them.

20. States parties to this Protocol that recognize adoption and that are not parties to the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption are invited to indicate whether they have considered becoming parties to it and the reasons they have not yet done so.

21. Reports should indicate:

(a) The laws in force prohibiting the production and dissemination of material advertising any of the offences described in the Protocol;

(b) The applicable sanctions;

(c) Any available data or information concerning the number of prosecutions and convictions for such offences, disaggregated by nature of the offence (sale of children, child prostitution or child pornography); and

(d) Whether such laws are effective in preventing advertising for the sale of children, child prostitution and child pornography and, if not, the reasons why and any plans the State has for strengthening such laws and/or their enforcement.

22. Reports should indicate the legal provisions that establish jurisdiction over the offences referred to in article 3 of the Protocol, including information about the grounds for this jurisdiction (see article 4, paragraphs 1 and 3).

23. Reports also should indicate the legal provisions that establish extraterritorial jurisdiction over such offences on the grounds mentioned in article 4, paragraph 2, and/or on any other grounds of jurisdiction recognized by the law of the State party.

24. Reports should describe the law, policy and practice of the State party concerning the extradition of persons accused of having committed one or more of the offences referred to by article 3 of the Protocol, including:

(a) Whether extradition requires the existence of an extradition treaty with the requesting State and, if not, any conditions applied in considering requests for extradition (e.g. reciprocity);

(b) If extradition is conditional on the existence of an extradition treaty in force for the State party and a requesting State, whether the competent authorities of the State party recognize article 5, paragraph 2, as sufficient basis for granting an extradition request made by another party to this Protocol, including in cases in which the extradition request concerns a national of the State receiving the request;

(c) Whether the State party has entered into any extradition treaties since becoming a party to this Protocol or is negotiating any extradition treaties and, if so, whether such treaties recognize the offences corresponding to those referred to in the Protocol as extraditable offences;

(d) Whether the State party, since the entry into force of the Protocol, has refused any request(s) for the extradition of a person subject to its jurisdiction who was accused by another State of any of the offences referred to in the present Protocol and, if so, the

reason for the refusal(s) to extradite, and whether the person(s) concerned was referred to the competent authorities of the State party for prosecution;

(e) The number of requests for extradition for any of the offences referred to the Protocol that have been granted by the State party since the entry into force of the Protocol or since its most recent report on implementation of the Protocol, disaggregated by the nature of the offences;

(f) Whether the State party has, since the entry into force of the Protocol, requested the extradition of any person accused of any of the offences referred to in this Protocol and, if so, whether such request(s) have been honoured by the requested State(s); and

(g) Whether any new legislation, regulations or judicial rules concerning extradition have been proposed, drafted or adopted and, if so, their consequences, if any, for the extradition of persons accused of offences corresponding to the conduct described in article 3 of this Protocol.

25. Reports should describe the legal basis, including international agreements, for cooperation with other States parties with regard to investigations and criminal and extradition proceedings brought with regard to the offences referred to by the Protocol, and the policy and practice of the State party with regard to such cooperation, including examples of cases in which it has cooperated with other States parties and any significant difficulties it has experienced in obtaining the cooperation of other States parties.

26. Reports should describe the law, policy and practice of the State party with regard to:

(a) The seizure and confiscation of materials, assets and or other goods used to commit or facilitate any of the offences set forth in the Protocol;

(b) The seizure and confiscation of proceeds derived from the commission of such offences; and

(c) The closure of premises used to commit such offences, including the execution of requests made by other States parties for the seizure and confiscation of any materials, assets, instrumentalities or proceeds described in article 7 (a) of the Protocol; the State party's experience concerning the response of other parties to its requests for the seizure and confiscation of goods and proceeds; any legislation concerning these matters that has been proposed, drafted or enacted since the entry into force of the Protocol, and any judicial decisions concerning these matters of particular significance.

VI. Protection of the rights of victims(arts. 8 and 9, paras. 3 and 4)

27. Reports should contain information on the measures adopted by the State party to implement article 8 of the Protocol with a view to ensure that the rights and best interests of children who have been the victims of the practices prohibited under the present Protocol are fully recognized, respected and protected at all stages of criminal investigations and proceedings which concern them. States also may wish to describe any efforts made to implement the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime adopted by the Economic and Social Council in 2005 (see annex).

28. Reports should describe the law, policy and practice throughout the territory of the State party regarding the investigation of the offences referred to by the Protocol, in cases in which the victim appears to be below the age of 18 but his or her actual age is unknown (see annex).

29. Reports should describe any rules, regulations, guidelines or instructions that have been adopted by relevant authorities in order to ensure that the best interests of the child are a primary consideration in the treatment afforded by the criminal justice system to children who are victims of any of the offences described in the present Protocol (see annex).

30. Reports also should indicate which provisions of the existing laws, procedures and policies are meant to ensure that the best interests of child victims of such offences are adequately identified and taken into account in criminal investigations and proceedings and, if not, what steps it considers necessary or plans to take to improve compliance with article 8, paragraph 3, of the Protocol (see annex).

31. Reports should indicate what measures are taken to ensure legal, psychological or other training for those who work with victims of the offences prohibited in this Protocol (see annex).

32. Reports should indicate the measures in place that provide the agencies, organizations, networks and individuals with the conditions necessary to carry out their work without fear of interference or reprisals and, if not, what measures are planned or considered necessary to ensure compliance with article 8, paragraph 5, of the Protocol (see annex).

33. Reports should describe any special safeguards or compensatory measures that have been introduced or strengthened in order to ensure that measures designed to protect the rights of child victims of the offences referred to by this Protocol do not have any undue impact on the rights of accused persons to a fair and impartial trial (see annex).

34. Reports should describe existing public and private programmes that provide child victims of sale, prostitution and pornography with assistance in social reintegration, paying special attention to family reunification, and physical and psychological recovery (see annex).

35. Reports should also describe the measures taken by the State party to help the child recover his or her identity, when the exploitation to which the child has been exposed has adversely affected any elements of his or her identity, such as name, nationality and family ties (see annex).

36. Information contained in reports concerning assistance in social reintegration, physical and psychological recovery and the

recovery of identity should indicate any differences between the assistance provided to children who are nationals or presumed to be nationals of the State party and those who are not nationals, or whose nationality is unknown (see annex).

37. Reports should contain information on existing remedies and procedures that may be used by child victims of sale, prostitution or pornography to seek compensation for damages from those legally responsible (see annex).

VII. International assistance and cooperation (art. 10)

38. Reports should describe:

(a) Any multilateral, regional and bilateral arrangements for the prevention, detection, investigation, prosecution and punishment of those responsible for any of the offences referred to by this Protocol that the State party has helped draft, or has negotiated, signed or become a party to;

(b) The steps that have been taken to put in place procedures and mechanisms to coordinate the implementation of such arrangements; and

(c) The results obtained through such arrangements, any significant difficulties encountered in implementing them and any efforts made or considered necessary to improve the implementation of such arrangements.

39. Reports also should describe any other steps taken by the State party to promote international cooperation and coordination concerning the prevention, detection, investigation, prosecution and punishment of the offences referred to by the Protocol between their authorities and relevant regional or international organizations, as well as between the authorities and national and international non-governmental organizations.

40. Reports should describe any steps taken by the State party to support international cooperation to assist the physical and psychological recovery, social reintegration and repatriation of the victims of the offences referred to by this Protocol, including bilateral aid and technical assistance, and support for the activities of international agencies or organizations, international conferences and international research or training programmes, including support for the relevant activities and programmes of national or international non-governmental organizations.

41. Reports should describe the contributions of the State party to international cooperation designed to address root causes that contribute to children's vulnerability to sale, prostitution, pornography and sex tourism, in particular poverty and underdevelopment.

VIII. Other legal provisions (art. 11)

42. Reports should describe:

(a) Any provisions of domestic legislation in force in the State party that it considers more conducive to the realization of the rights of the child than the provisions of this Protocol;

(b) Any provisions of international law binding on the State party that it considers more conducive to the realization of the rights of the child than the provisions of this Protocol, or that it takes into account in applying the present Protocol; and

(c) The status of ratification by the State party of the main international instruments concerning sale of children, child prostitution, child pornography, trafficking of children and sex tourism, as well as any other international or regional commitments undertaken by that State concerning these issues, and any influence their implementation has had on implementation of the Protocol.

Annex

The link between the Optional Protocol and the implementation of the Convention referred to in **Guideline 2 *** is recognized by the first paragraph of the preamble to the Protocol.

The term forced labour, referred to in **Guideline 10 (c)**, includes any substantial work or services that a person is obliged to perform, by a public official, authority or institution under threat of penalty; work or services performed for private parties under coercion (e.g. the deprivation of liberty, withholding of wages, confiscation of identity documents or threat of punishment) and slavery-like practices such as debt bondage and the marriage or betrothal of a child in exchange for consideration (see International Labour Organization Convention No. 29 (1930) on Forced Labour (arts. 2 and 11), and the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (art. 1)).

Trafficking of children, as referred to in **Guideline 10 (f)**, means the recruitment, transportation, transfer, harbouring or receipt of persons under the age of 18 for the purpose of any form of exploitation, including sexual exploitation, the exploitation of child labour or adoption in violation of the relevant international standards, regardless of whether the children or their parents or guardian have expressed consent thereto (see the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (art. 3 (a), (b) and (c))).

Forms of prostitution that, according to **Guideline 11 (b)**, should be distinguished, if possible, include heterosexual and homosexual prostitution, and commercial or other forms of prostitution, such as the delivery of children to temples or religious leaders for the purpose of providing sexual services, sexual slavery, the solicitation by teachers of sexual favours from students and sexual exploitation of child domestic workers.

States may wish to present the information referred to in **Guideline 13 (a)** in the form of a table of relevant laws and their most relevant provisions.

The important role of children's ombudsmen and similar institutions, mentioned in **Guideline 13 (i)**, is described by the Committee in general comment No. 2 on "The role of independent national human rights institutions in the promotion and protection of the rights of the child", adopted at its thirty-first session in 2002.

Information provided in response to the guidelines contained in section IV above, in particular in reports made by federal States, States having dependent territories and/or autonomous regions, and States whose legal order recognizes religious, tribal or indigenous law, should include information about the relevant law of all jurisdictions having competence over these matters, including the law applicable to the armed forces.

The reply to **Guideline 16**, especially its subparagraph (b), should distinguish between the penalties applicable to adults convicted of such offences and juveniles who have committed them. Article 3, paragraph 1, of the Protocol provides that States parties shall "as a minimum" ensure that the acts listed are covered by its criminal or penal law; the broader, generic obligation set forth in article 1 is to "prohibit the sale of children, child prostitution and child pornography". Hence **Guideline 16 (e)** indicates that reports should indicate any other forms of sale, or any other acts or omissions concerning child prostitution or child pornography, that are covered by its criminal or penal law. In addition, in some countries certain crimes may be used to prosecute the sale of children, child prostitution or child pornography even though they do not expressly prohibit those offences as such. Reports also should describe such offences and explain their application to the sale of children, child prostitution and/or child pornography.

Legal persons, referred to in **Guideline 18**, are entities other than physical persons that have legal personality, such as corporations and other businesses, local or regional governments and legally recognized foundations, organizations and associations.

The applicable international legal instruments in **Guideline 19** include articles 20 and 21 of the Convention, read together with the general principles recognized by articles 2, 3, 6 and 12 of the Convention; the 1993 Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption, which the Committee considers an appropriate instrument for meeting the obligation contained in article 21 (e), of the Convention; the 1967 European Convention on the Adoption of Children (CETS No. 58); the 1990 African Charter on the Rights and Welfare of the Child; the Declaration on Social and Legal Principles Relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally, adopted by the General Assembly in 1986; and bilateral treaties on adoption. The Declaration on Social and Legal Principles, which is mentioned in the Preamble to the Convention on the Rights of the Child, is applicable to all States, including those that are not party to any of the treaties mentioned above.

The information referred to in **Guideline 27** should include, in particular:

- (a) Any laws and other legal standards providing that the best interests of the child victim or child witness shall be a primary consideration in criminal justice matters concerning the sale of children, child prostitution and child pornography;
- (b) Any laws or other legal standards, procedures and practices concerning the placement of children considered to be victims of sale, child prostitution or child pornography in protective custody in police or correctional facilities, or public child welfare facilities, during the duration of investigations or legal proceedings against the perpetrators of such acts, and information on the number of children placed in such custody for the duration of such investigations or proceedings, disaggregated if possible according to the age, sex and place of origin of the child, the nature of the facility and the average duration of placement;
- (c) The principle that children shall not be deprived of liberty except as a last resort (see article 37 (b) of the Convention) means that child victims or witnesses should not be kept in police or correctional facilities nor, except in extreme circumstances, closed child welfare facilities, in order to ensure their protection and availability in criminal proceedings;
- (d) Any laws, procedures and practices allowing the placement of children considered to be victims of sale, child prostitution or child pornography in the temporary care of relatives, foster parents, temporary guardians or community-based organizations during the investigations or legal proceedings against the perpetrators of such acts, and information on the number of children so placed, disaggregated if possible according to the age, sex and place of origin of the child, the type of care provider and the average duration of placement;
- (e) Any legal standards that have been adopted recognizing the right of child victims of sale, child prostitution or child pornography to be informed about their legal rights and their potential role in criminal proceedings concerning such exploitation and the scope, timing and progress and outcome of such proceedings, and the practices and procedures that have been established in order to provide children with such information;
- (f) Any legal standards that have been adopted that recognize the right of child victims of sale, child prostitution or child pornography to express or convey their views, needs and concerns about criminal proceedings concerning their exploitation and the duty of investigators, prosecutors and other relevant authorities to take their views and concerns into account; the methods and procedures used to ascertain the views, needs and concerns of child victims of different ages and backgrounds and to communicate them to the relevant authorities; and information regarding the progress made and difficulties encountered, if any, in implementation of such standards and procedures;
- (g) Any programmes and services that provide support to child victims during criminal proceedings against those responsible for their exploitation, the geographical location and nature of the agencies or organizations responsible (public, subsidized or non-governmental), the nature of the support services provided and the coverage; any available data concerning the age, sex, place of origin and other relevant characteristics of the beneficiaries; the results of any evaluations of the support provided; and the views of the State party as to the adequacy of the coverage, scope and quality of the services available and any plans to expand them;
- (h) Any laws or regulations designed to protect the right to privacy and prevent the disclosure of the identity of victims of any of the

offences referred to in the Protocol, and any other measures taken by the State party to protect their privacy and prevent the disclosure of their identity, as well as the views of the State party on whether such laws, regulations and other measures are effective and, if not, the reasons why they are not and any plans it has to enhance the protection of their right to privacy and prevent the disclosure of their identity;

(i) The policies, procedures, programmes, protocols or other measures that have been put in place in order to ensure the safety of child victims of sale, prostitution or pornography who may be at risk of retaliation or intimidation and to ensure the safety of their families and of witnesses vulnerable to such risks, as well as the views of the State party on whether such measures have been effective and, if not, the reasons why they have not been and any plans it has to reinforce them, modify them or to adopt new safeguards; and (j) Any laws, rules, regulations, guidelines or policies that have been adopted by the competent legislative, administrative or judicial authorities in order to avoid unnecessary delay in the disposition of cases involving the offences referred to by this Protocol and in the execution of orders or decrees granting compensation to child victims, as well as any jurisprudence that may have been adopted by the courts of the State party concerning the timely resolution of such matters.

The information referred to in **Guideline 28** should include, in particular:

- (a) The measures used to estimate the age of the victim when documentary proof is not available;
- (b) The standard of proof for the age of the victim and the legal presumptions, if any, that apply; and
- (c) The agency or bodies that are responsible for carrying out investigations with a view to determining the age of the child and the methods used to this end.

The information provided in response to Guideline 28 also should indicate whether difficulties in determining the age of presumed victims of the offences referred to by the Protocol to be a substantial obstacle to law enforcement and effective protection of children against such practices and, if so, why it does, and what plans, if any, the State party has to overcome them or what action it considers necessary to address such difficulties. Information provided also should differentiate, when relevant, between offences that have been committed within the territory of a State party against a child who is a national, and offences in which the victim may not be a national of the State party or the act may have taken place in the territory of another State.

The information provided in response to **Guidelines 29 and 30** should:

- (a) Indicate whether the legislation of all relevant jurisdictions of the State party recognizes the requirement that the best interests of the child shall be a primary consideration in the treatment afforded by the criminal justice system to children who are victims of any of the offences described in the Protocol and, if not, what steps, if any, the State party has taken or plans to take to incorporate this principle into the relevant legislation;
- (b) Describe any rules, guidelines, policies or jurisprudence concerning how the best interests of children are defined in this context and the methods that are used to determine the best interests of individual child victims;
- (c) Describe, in particular, any rules, regulations, guidelines, policies or jurisprudence concerning the methods used to determine the child's views and the weight given to such views in establishing what the best interests of the child are in this context;
- (d) Describe, in addition, what steps have been taken and what mechanisms and procedures have been established to provide child victims with objective information, in language adapted to their age and background, about criminal investigations and proceedings regarding offences affecting them, their rights with regard to such investigations and proceedings, and any options or alternative courses of action they may have;
- (e) Describe any legislation, regulations, procedures, policies and jurisprudence regarding the legal standing of children with regard to decisions that must be made regarding criminal proceedings concerning offences against them, including any age limit concerning the child's decision whether to testify or otherwise participate in proceedings; the authority of parents or guardians to take such decisions for the child, and the appointment of temporary guardians to ensure that the best interests of the child are identified and respected in the absence of any parent or guardian or in the event of a possible conflict of interest between the child victim and her or his parent(s) or legal guardian; and
- (f) Describe the role, if any, of child protection agencies or child rights bodies in criminal proceedings concerning the offences referred to by the Protocol, in particular any role they may play in defending the best interests of the child victim or child witness in such proceedings.

Information requested under **Guideline 31** should provide details as to the agency or agencies that are competent to investigate and/or prosecute the offences referred to by the Protocol and the courts competent over these offences throughout the territory or territories of the State party, and whether contact with child victims and witnesses by the staff of such agencies is limited to officials assigned especially to cases concerning children; any specific requirements regarding education on the rights of children and child psychology or development applicable to the recruitment or appointment of staff having contact with children; any entry-level or in-service training programmes that provide staff having contact with children and their supervisors with legal, psychological and other relevant training designed to ensure that child victims receive treatment that is sensitive to their age, sex, background and experiences and respectful of their rights, and a brief description of the content and methodology of such training programmes; and the agencies or organizations, public or private, that provide care, shelter and psychosocial services to the victims of the offences referred to by this Protocol, and any applicable regulations concerning the qualifications and training of private service providers.

The information provided in response to **Guideline 32** should indicate the public or private agencies, organizations and networks most involved in efforts to prevent the sale of children, child prostitution and pornography and related practices, as well as those most involved in providing protection, rehabilitation and similar services to the victims of such practices; and describe any significant attacks

or threats to the safety, security and integrity of the above-mentioned bodies and their members or staff, as well as the types of measures the State party has adopted to protect the persons or bodies that have been the target of attacks and threats of the kind mentioned above, and the measures or policies that have been adopted as a precaution against such threats or attacks.

For purposes of **Guideline 33**, the rights of accused persons to a fair and impartial trial should be considered to be the rights set forth in articles 14 and 15 of the International Covenant on Civil and Political Rights, in particular the right to be presumed innocent until proved guilty according to law, to have adequate facilities for the preparation of a defence and to examine, or have examined, the witnesses against him.

Information provided in response to **Guideline 34** should include: identification of programmes or services and the agencies or organizations that operate them, their geographical location and a description of the type of services provided; data on the number of children who receive such assistance, disaggregated according to the age and sex of the beneficiaries, the type of abuse suffered and whether the assistance is provided in a residential or non-residential setting; the results of any evaluation(s) that have been made of the assistance provided by existing programmes and information regarding the unmet demand for such services, if any; and any plans the State party has for increasing the capacity of existing programmes or expanding the type of services provided, as well as any other information that it considers relevant.

The right to assistance in social reintegration and psychological recovery referred to by **Guideline 35** and article 9, paragraph 3, of the Protocol includes the right of children deprived of any element of their identity to assistance in speedily re-establishing their identity, a right also recognized by article 8, paragraph 2, of the Convention on the Rights of the Child.

Information provided in response to **Guideline 36** should include:

- (a) The number of children who are not nationals or whose nationality is unknown who are identified annually as victims of sale, child prostitution and child pornography, disaggregated to the extent possible by age, sex, type of exploitation and country of origin;
- (b) The policy of the State party regarding the repatriation of child victims and reintegration with their families and community, including the way such policies address issues such as the best interests of the child, the right of the child to have his or her views taken into account, the child's participation in criminal proceedings against those responsible for his or her exploitation and the right of the child to protection against the risk of reprisals and to assistance in physical and psychological rehabilitation;
- (c) Any existing legal or administrative agreements with other countries concerning the repatriation of children who have been victims of these forms of exploitation, mutual assistance in re-establishing their identity or relocating their families and for evaluating the appropriateness of return of the child to his or her family or community, as opposed to other forms of social reintegration; and
- (d) Information on the progress made and difficulties encountered in safeguarding the right to social reintegration, identity and physical and psychological recovery of children who have been victims of these forms of exploitation and who are not nationals, or whose nationality is unknown, as well as any plans it may have for overcoming the difficulties encountered, if any.

The information provided in response to **Guideline 37** should include:

- (a) Whether the child's right to compensation is subordinated to or conditioned by a prior finding of criminal responsibility on the part of those responsible for his or her exploitation;
- (b) Procedures and standards regarding the appointment of a guardian or representative for the child for purposes of legal procedures of this kind, when there is an actual, possible or potential conflict between the interests of the child and those of his or her parents;
- (c) Standards and procedures concerning the voluntary settlement of cases or complaints involving the sale of children, child prostitution or pornography;
- (d) Whether there are any differences between the procedures applicable to cases involving children and those involving adults, insofar as the admissibility of evidence or the way evidence concerning the child victim is presented;
- (e) Whether rules and guidelines concerning the management of cases recognize the importance of the need to avoid undue delay in the resolution of cases involving children, in accordance with article 8, paragraph 1 (g), of the Protocol;
- (f) Whether there is any difference in the statute of limitations applicable to claims of compensation for these forms of exploitation, when the victim is a child;
- (g) Any special features of the law that concern the use, disposition and safeguarding of damages awarded to children until such time as they reach the age of majority;
- (h) Any other special features of existing procedures that may be used by children to seek compensation in the type of cases referred to above that are designed to make them more sensitive to the special needs, rights and vulnerabilities of children;
- (i) Whether the information given in reply to the preceding paragraphs of this guideline is applicable to victims who may not be nationals of the State party, and any special measure that may exist to ensure that victims who are not or may not be nationals have equal access to remedies designed to obtain compensation for damages due to the forms of exploitation referred to above;
- (j) Any information concerning the number and amount of awards made to children for abuses of this kind, as a result of legal or administrative proceedings or settlements supervised by official bodies, that would help the Committee understand how existing remedies and procedures work in practice;
- (k) Whether the State party considers that existing remedies and procedures provide adequate protection to the right of children who

have been victims of the above forms of exploitation to obtain adequate compensation for damages and, if not, what improvements or changes it considers would enhance effective protection of this right.

Damages include physical or mental injury, emotional suffering, prejudice to moral interests (e.g. honour, reputation, family ties, moral integrity), denial of one's rights, loss of property, income or other economic loss and expenses incurred in treating any injury and making whole any damage to the victim's rights (see principles 19 and 20 of the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law).
