



# Convention on the Rights of the Child

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## Committee on the Rights of the Child

### **Concluding observations on the report submitted by Georgia 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\***

#### **I. Introduction**

1. The Committee considered the report of Georgia (CRC/C/OPSC/GEO/1) at its 2413th and 2414th meetings (see CRC/C/SR.2413 and 2414), held on 17 September 2019, and adopted the present concluding observations at its 2430th meeting, held on 27 September 2019.
2. The Committee welcomes the submission of the report of the State party and the written replies to the list of issues (CRC/C/OPSC/GEO/Q/1/Add.1). The Committee expresses appreciation for the constructive dialogue held with the high-level and multisectoral delegation of the State party.
3. The Committee reminds the State party that the present concluding observations should be read in conjunction with the concluding observations on the report of the State party submitted under the Optional Protocol on the involvement of children in armed conflict (CRC/C/OPAC/GEO/CO/1), adopted on 27 September 2019.

#### **II. General observations**

##### **Positive aspects**

4. The Committee notes with appreciation the accession or ratification by the State party of:
  - (a) The Optional Protocol to the Convention on the Rights of the Child on a communications procedure, in 2016;
  - (b) The Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, in 2014;
  - (c) The Council of Europe Convention on Cybercrime, in 2012;
  - (d) The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, in 2017.
5. The Committee welcomes the various measures taken by the State party in areas relevant to the implementation of the Optional Protocol, including the adoption of:

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\* Adopted by the Committee at its eighty-second session (9–27 September 2019).



(a) The Law on social work, in 2018, aimed at strengthening the workforce to address risks that could affect the well-being of children and their families;

(b) The Law on adoption and foster care, in 2017, which explicitly prohibited the practice of private or direct adoption and introduced mandatory training for adoptive parents and foster caregivers and safeguards in relation to intercountry adoption;

(c) The Juvenile Justice Code, in 2015, which provided for guarantees for the protection of the best interests and rights of children in contact with the criminal justice system.

6. The Committee further notes with appreciation the progress achieved in the creation of institutions and adoption of national plans and programmes that facilitate the implementation of the Optional Protocol, including:

(a) The national strategy on human rights for 2014–2020, which includes references to children’s rights;

(b) The human rights plan of action for 2018–2020, with a subsection on measures to prevent and respond to violence against children and a section on prevention of trafficking in persons and support for victims thereof;

(c) The national plans of action on combating trafficking in persons for 2017–2018 and 2019–2020.

### **III. Factors and difficulties impeding the implementation of the Optional Protocol**

7. The Committee notes that Abkhazia, Georgia and the Tskhinvali region/South Ossetia, Georgia, remain outside the effective control of the State party, which is a serious obstacle to the implementation of the Optional Protocol in those regions.

### **IV. Data**

#### **Data collection**

8. The Committee regrets that the data provided by the State party in its report and its replies to the list of issues is limited in scope and focuses mainly on trafficking in persons, including children. It also refers to the 2017 findings of the Special Rapporteur on the sale of children, child prostitution and child pornography that there was no comprehensive and reliable data on the scope and different forms of sexual abuse and exploitation of children (A/HRC/34/55/Add.1, para. 19). The Committee regrets that no information has been provided on any improvements with regard to data collection.

9. **The Committee recommends that the State party develop a comprehensive, coordinated and effective system of data collection, analysis, monitoring and impact assessment relating to all areas covered by the Optional Protocol, including the sale of children, child prostitution, child pornography, sexual exploitation of children in travel and tourism, and child marriage. The data should be disaggregated by, inter alia, sex, age, nationality, ethnic origin, region and socioeconomic status, with particular attention paid to children who are at risk of becoming victims of crimes under the Optional Protocol.**

### **V. General measures of implementation**

#### **Legislation**

10. The Committee notes that national legislation prohibits some offences covered by the Optional Protocol, but does not explicitly address all offences under article 3 of the Optional Protocol. The Committee is concerned about the absence of legislation explicitly defining and criminalizing all cases of the sale of children, a concept similar, but not

identical, to trafficking in children, and that other manifestations of the sale of children are thus overlooked.

**11. The Committee recommends that the State party ensure that all acts and activities referred to in the Optional Protocol are fully covered under its criminal law, including all forms of the sale of children.**

#### **Comprehensive policy and strategy**

12. The Committee notes that the national strategy on human rights and its associated plans of action include references to children's rights, especially with regard to improving existing protection and assistance mechanisms, preventing sexual exploitation of children and developing rehabilitation services for victims. It also notes the adoption of the national plans of action on combating trafficking in persons. However, it regrets that the information provided by the State party concerning measures for the prevention and prohibition of offences under the Optional Protocol and the protection of child victims of such offences under the above strategy and plans of action was not sufficient.

**13. The Committee recommends that the State party ensure that its strategy and national plans of action on human rights include measures for specifically addressing all issues covered under the Optional Protocol and that adequate human and financial resources are provided for their implementation. In doing so, the State party should take into account the outcomes of the World Congresses against Commercial Sexual Exploitation of Children.**

#### **Coordination and evaluation**

14. The Committee notes the State party's information on the establishment of the inter-agency commission responsible for the implementation of the Convention on the Rights of the Child and the inter-agency council on combating trafficking in persons (CRC/C/OPSC/GEO/1, paras. 11–12). While welcoming the activities of the inter-agency council in the area of trafficking in persons, the Committee regrets that insufficient information was provided on the mandate of such mechanisms to coordinate and evaluate activities in all areas covered by the Optional Protocol.

**15. The Committee recommends that the State party ensure effective coordination among the various agencies and commissions working on developing and implementing child rights policies, and designate a single body capable of providing leadership and effective general oversight for the monitoring and evaluation of activities under the Convention, the Optional Protocol on the sale of children, child prostitution and child pornography and the Optional Protocol on the involvement of children in armed conflict across sectoral ministries and at all levels of government, from the central to the local level.**

#### **Training and dissemination**

16. The Committee notes the information provided by the State party on training and dissemination activities, including training in the areas of trafficking in persons and child pornography (CRC/C/OPSC/GEO/1, paras. 23–34). It is concerned however that the information provided on systematic training of relevant professionals working with and for children on areas covered by the provisions of the Optional Protocol was insufficient.

**17. The Committee recommends that the State party take measures to strengthen its training and dissemination activities. In that regard, the State party should ensure that such activities are systematic and multidisciplinary, cover all areas under the Optional Protocol and are provided to all relevant professionals working with and for children, including judges, law enforcement officers, prosecutors, social workers, investigators and immigration officials, and also to employees of the travel and tourism industry.**

### Allocation of resources

18. The Committee is concerned about the lack of specific budget allocations and tracking mechanisms to combat the sale of children, child prostitution and child pornography, including to prevent offences under the Optional Protocol, and to care for, rehabilitate and reintegrate child victims.

**19. The Committee recommends that the State party establish tracking mechanisms and ensure the allocation of adequate resources for combating the sale of children, child prostitution and child pornography, preventing offences under the Optional Protocol and providing appropriate care for child victims, and that the State party present information in this regard in its next report to the Committee.**

## **VI. Prevention of the sale of children, child prostitution and child pornography (art. 9 (1) and (2))**

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

20. The Committee welcomes the initiatives taken by the State party to raise awareness about the offences under the Optional Protocol among children, and the 2016 legal amendments to provide children in street situations with identification documents and to strengthen the role of social workers. Nevertheless, it remains concerned that the insufficient social protection renders children living in poverty, children in street situations, children with disabilities, children belonging to minority groups, children affected by or subjected to migration and domestic violence, among others, at risk of becoming victims to offences under the Optional Protocol.

**21. The Committee encourages the State party to strengthen its efforts to identify and detect children at risk of falling victim to offences under the Optional Protocol, especially among children in vulnerable and marginalized situations. It also recommends that the State party take comprehensive measures to address the root causes for children at risk of becoming victims to offences under the Optional Protocol. Furthermore, it recommends that the State party strengthen its social protection measures and mechanisms targeting children at risk of falling victim to such offences.**

### Surrogate motherhood

22. While noting the information provided by the State party in its report (CRC/C/OPSC/GEO/1, paras. 125–129) and replies to the list of issues (CRC/C/OPSC/GEO/Q/1/Add.1, paras. 102–104) on the measures taken to protect children born through surrogacy arrangements, the Committee is concerned that surrogate motherhood, if not properly monitored and regulated, may lead to the sale of children.

**23. The Committee recommends that the State party introduce additional safeguards to prevent the use of surrogacy for the sale of children.**

### Sexual exploitation of children in travel and tourism

24. The Committee remains concerned about the lack of a legal framework to protect children from sexual exploitation in travel and tourism and to regulate private sector operators in the tourism industry. It is also concerned about the lack of policies in hotels or travel agencies to prevent sexual exploitation of children.

**25. The Committee urges the State party to regulate and engage with the tourism industry in the prevention, monitoring and reporting of cases of sexual exploitation of children in travel and tourism. It also recommends that the State party widely disseminate the World Tourism Organization Global Code of Ethics for Tourism among travel agents and tourism agencies and to encourage those enterprises to become signatories to the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism. It also recommends that the State party enhance corporate social responsibility, involving Internet service and content providers,**

telecommunications providers, the travel and tourism industries and the media, in order to strengthen child safety online and to prevent child sexual exploitation in travel and tourism.

#### **Measures to prevent and address online child sexual exploitation and abuse**

26. The Committee is concerned that despite the increase in Internet penetration in the State party, there are currently no programmes for raising awareness and developing skills among parents, children, teachers, businesses, professionals and the general public about the risks of online sexual exploitation and abuse.

27. **Recalling Human Rights Council resolution 31/7 on the rights of the child, in which the Council addresses information and communications technologies and child sexual exploitation, and the outcomes of the WeProtect Global Alliance summits held in London in 2014 and in Abu Dhabi in 2015, the Committee recommends that the State party adopt, in close collaboration with relevant industries and organizations, a national response for preventing and addressing online child sexual exploitation and abuse, consisting of, at a minimum:**

(a) **A national policy to prevent and respond to online child sexual exploitation and abuse through an appropriate legal framework, a dedicated coordination and oversight entity, and specific analysis, research and monitoring capabilities;**

(b) **The adoption of protocols between law enforcement and information, communications and technology companies to combat online child abuse and exploitation;**

(c) **A strategy for preventing online child sexual exploitation and abuse, including a public education programme to raise awareness in this area; mandatory school education on online behaviour and safety; and information on online child sexual exploitation and abuse offences and how to report them;**

(d) **A dedicated, proactive, responsive and victim-focused criminal justice system with a trained police force, prosecution and judiciary; management of offenders to prevent reoffending, nationally and internationally; and a national database linked to the International Criminal Police Organization (INTERPOL) database.**

## **VII. Prohibition of the sale of children, child pornography and child prostitution and related matters (arts. 3, 4 (2) and (3) and 5–7)**

#### **Criminal or penal laws and regulations in force**

28. The Committee notes the information provided by the State party on the criminalization of some of the offences under the Optional Protocol. However, it is concerned that not all offences under the Optional Protocol are reflected in the criminal legislation of the State party in a way that allows the uniform interpretation and application of that legislation. In particular it is concerned that:

(a) The Criminal Code does not define or explicitly prohibit the sale of children as a separate crime as defined under the Optional Protocol and considers it only as part of the crime of child trafficking;

(b) The Criminal Code does not criminalize possessing, importing and exporting child pornography;

(c) The Criminal Code does not provide an explicit definition of online child sexual exploitation;

(d) The solicitation of children between 16 and 18 years of age for sexual purposes (grooming) is not criminalized.

29. **The Committee recommends that the State party define and criminalize the sale of children, in conformity with articles 2 and 3 of the Optional Protocol, and that it not limit the definition to cases of trafficking in children. In particular, the State party should explicitly define and criminalize:**

- (a) **The sale of children, including for the purposes of sexual exploitation and forced labour;**
- (b) **The production, distribution, dissemination, import, export, offer, sale or possession of child pornography;**
- (c) **Online child sexual exploitation and grooming of a child above 16 years of age.**

#### **Extraterritorial jurisdiction and extradition**

30. **The Committee recommends that the State party take all the steps necessary, including removal of the requirement of double criminality, to ensure that its domestic legislation explicitly enables it to establish and exercise extraterritorial jurisdiction over all offences under the Optional Protocol. The Committee also recommends that the State party consider using the Optional Protocol as a legal basis for extradition in respect of such offences in the absence of a bilateral extradition treaty with the other country concerned, where that country is a party to the Optional Protocol.**

## **VIII. Protection of the rights of child victims (arts. 8 and 9 (3) and (4))**

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

31. The Committee welcomes a number of legal, policy and practical measures implemented by the State party, including the establishment of the child protection referral mechanism in 2016, a telephone helpline for adult and child victims of trafficking in persons, and the guidelines for the identification of victims of trafficking. The Committee is nevertheless concerned that certain challenges remain, including:

- (a) **Insufficient implementation of those measures, including the Juvenile Justice Code, in particular with respect to the right of child victims to compensation and access to recovery and rehabilitation services;**
- (b) **Weak mechanisms for the identification of child victims, which rely heavily on the law-enforcement agencies;**
- (c) **The multiple functions of the Social Service Agency, responsible for representing a child under State care in judicial proceedings, monitoring the care process and identifying victims of violence, which can lead to conflicts of interest;**
- (d) **The insufficient number of statutory social workers, who are also limited in geographical coverage, and the lack of effective control and monitoring of the services provided by those workers.**

32. **In the light of article 9 (3) of the Optional Protocol, the Committee recommends that the State party:**

- (a) **Fully implement all the initiated legal and administrative measures in order to effectively protect child victims of offences under the Optional Protocol;**
- (b) **Establish mechanisms and procedures for the early identification of child victims and ensure that training on children's rights, child protection and child-friendly interviewing skills for those responsible for such identification, including law enforcement officers, border and immigration authorities, judges, prosecutors, social workers and medical staff, is comprehensive and regular;**

(c) Provide all children with free or subsidized legal aid and the support of child psychologists and social workers, and ensure they have access to child- and gender-sensitive complaint mechanisms and appropriate procedures for seeking, without discrimination, compensation and redress;

(d) Increase the number and geographical coverage of social workers and ensure that there is no room for conflicts of interest in the functions and mandate of the Social Service Agency, which should be guided by the best interests of the child.

## **IX. International assistance and cooperation (art. 10)**

### **Multilateral, bilateral and regional agreements**

33. In the light of article 10 (1) of the Optional Protocol, the Committee encourages the State party to continue to strengthen international cooperation through multilateral, regional and bilateral arrangements, especially with neighbouring countries, including by strengthening procedures and mechanisms for coordinating the implementation of such arrangements, with a view to making progress in respect of the prevention of offences covered under the Optional Protocol and the detection, investigation, prosecution and punishment of those responsible for any such offences.

## **X. Implementation and reporting**

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

34. The Committee recommends that the State party take all appropriate measures to ensure that the recommendations contained in the present concluding observations are fully implemented, including by transmitting them to the President, Parliament, ministries and the judiciary for appropriate consideration and further action.

35. The Committee recommends that the report and the written replies to the list of issues submitted by the State party and the present concluding observations be made widely available, including through the Internet, to the public at large, civil society organizations, youth groups, professional groups and children, in order to generate debate on and awareness of the Optional Protocol and its implementation and monitoring.

### **B. Next periodic report**

36. In accordance with article 12 (2) of the Optional Protocol, the Committee requests the State party to include further information on the implementation of the Optional Protocol and the present concluding observations in its next periodic report to be submitted in accordance with article 44 of the Convention.