



Convention on the Rights of the Child

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Committee on the Rights of the Child

Concluding observations on the initial report of the Republic of Moldova submitted under article 12 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 sixty-fourth session (16 September–4 October 2013)

1. The Committee considered the initial report of the Republic of Moldova (CRC/C/OPSC/MDA/1) at its 1821st meeting (see CRC/C/SR.1821), held on 18 September 2013, and adopted at the 1845th meeting, held on 4 October 2013, the following concluding observations.

I. Introduction

2. The Committee welcomes the submission of the State party's initial report (CRC/C/OPSC/MDA/1) providing detailed information on its fulfilment of the rights guaranteed by the Optional Protocol and its written replies to the Committee's list of issues (CRC/C/OPSC/MDA/Q/1/Add.1), given the difficulties in producing these documents for the first time. The Committee also appreciates the constructive dialogue held with the multisectoral delegation of the State party.

II. General observations

Positive aspects

3. The Committee welcomes the numerous measures taken by the State party in areas relevant to the implementation of the Optional Protocol especially in the last two years, including:

- (a) The Law on Special Protection of Children at Risk and of Children Separated from their Parents in June 2013;
- (b) The amendments to the Criminal Code in April 2012 incorporating the provisions under the Optional Protocol; and
- (c) The Law to Prevent and Combat Trafficking in Human Beings in December 2005.

4. The Committee notes with appreciation the State party's ratification of:
 - (a) The Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse in March 2012; and
 - (b) The Council of Europe Convention on Cybercrime in May 2009.
5. The Committee welcomes the progress achieved in the creation of institutions and the adoption of national plans and programmes that facilitate the implementation of the Optional Protocol, including:
 - (a) The Centre for Combating Cyber Crimes under the General Police Inspectorate in 2013;
 - (b) The National Action Plan for Preventing and Combating Trafficking in Human Beings for 2012–2013;
 - (c) The National Plan of Action on the Prevention and Elimination of the Worst Forms of Child Labour for 2011–2015; and
 - (d) The National Justice Reform Strategy and Action Plan 2011–2016.

III. Data

Data collection

6. The Committee notes the establishment of an integrated electronic system of data collection and the general statistics provided by the State party on child pornography and trafficking in children. However, the Committee regrets that the statistics provided are not fully disaggregated and do not seem to reflect the real situation completely, and that the State party did not provide any statistics on the wide range of other offences that are covered in the Optional Protocol. The Committee also regrets the lack of information on access to the integrated electronic data collection system by all professionals working with or for children.

7. **The Committee recommends that the State party ensure that data relevant to the Optional Protocol are consistently disaggregated by, inter alia, age, sex, socioeconomic origin, nationality, ethnic origin and urban and rural residence, and systematically collected on all crimes covered under the Optional Protocol. The data should be analysed and utilized as essential tools for assessment, policy development, implementation, monitoring and evaluation of preventive measures. The Committee also recommends that the State party provide in its next periodic report information on statistics for all crimes under the Optional Protocol and the modalities and practice for access to the electronic data collection system by all stakeholders.**

IV. General measures of implementation

Reservations

8. The Committee notes the State party's declaration to the Optional Protocol that "the provisions of the Convention shall be applied only on the territory controlled effectively by the authorities of the Republic of Moldova". The Committee is, however, concerned about the negative consequences of that declaration on the fulfilment of children's rights in the disputed territory over which the State party has no effective control.

9. **The Committee recommends that the State party consider withdrawing its declaration and take all possible measures to ensure protection and respect for the**

rights of children under the Optional Protocol in the territory beyond the effective control of the State party to the extent possible. At the same time, the Committee urges the State party to strengthen its international negotiations and cooperation to guarantee the protection of children's rights under the Optional Protocol in that territory.

National plan of action

10. The Committee is concerned about the length of the process to adopt the National Strategy on Child and Family Protection, which includes measures to protect children at risk from becoming victims of offences under the Optional Protocol. It is also concerned that the new plan of action against trafficking in human beings has not yet been finalized, despite the State party's indication that the preparation of a budget plan for its implementation is ongoing.

11. **The Committee recommends that the State party:**

(a) **Prioritize the adoption of the National Strategy on Child and Family Protection, ensuring that it includes comprehensive measures as required under the Optional Protocol;**

(b) **Take measures to finalize and adopt the new plan of action against trafficking in human beings, taking into account the outcomes of its previous plans; and**

(c) **Ensure that the national strategy and action plans are regularly evaluated for progress achieved and provided with adequate human, technical and financial resources for their implementation. The strategy and plans should include measures aimed at the prevention, protection, physical and psychological recovery and social reintegration of child victims, as well as the investigation and prosecution of the offences covered in the Optional Protocol.**

Dissemination, awareness-raising and training

12. The Committee notes the information provided by the State party on its awareness-raising activities to prevent the victimization of children and on the numerous training sessions and seminars attended by police officers, prosecutors and judges. However, the Committee is concerned that such activities seem to be ad hoc and not systematic. It is also concerned that the impact of its training of judges and law enforcement personnel has not been assessed.

13. **The Committee recommends that the State party take the necessary measures to organize continuous and systematic dissemination and awareness-raising activities on the Optional Protocol throughout the country. These activities should involve children who belong to marginalized and disadvantaged groups and are at increased risk of becoming victims to offences under the Optional Protocol. It also recommends that the State party conduct regular assessment of its training for judges and law enforcement personnel to ensure that their knowledge is effectively translated into practice.**

Allocation of resources

14. The Committee is concerned that the State party has not allocated a specific budget for activities under the Optional Protocol, the lack of which is a significant obstacle to its implementation.

15. The Committee recommends that the State party allocate sufficient and targeted resources for the effective implementation of the Optional Protocol at national, regional and district levels.

V. Prevention of the sale of children, child prostitution and child pornography (art. 9, paras. 1 and 2)

Measures adopted to prevent offences prohibited under the Protocol

16. The Committee is concerned that the State party has taken very few preventive measures under the Optional Protocol, including on the Internet, and that there are no mechanisms in place to identify and monitor children at risk of becoming victims to the offences under the Optional Protocol. In particular, the State party lacks programmes specifically targeting Roma children, children living in poverty, children affected by migration, children living in care institutions and those who run away from such institutions.

17. The Committee encourages the State party to:

(a) **Expand and strengthen its preventive measures, including on the Internet, and establish a mechanism to identify and monitor children in vulnerable situations who are at risk of becoming victims to the offences under the Optional Protocol; and**

(b) **Establish special programmes targeting Roma children, children living in poverty, children affected by migration, children living in care institutions and those who run away from such institutions.**

Trafficking in children for sexual purposes

18. The Committee notes the efforts taken by the State party to address trafficking in children, namely the 2012 amendments to article 206 of its Criminal Code expanding the definition of trafficking in children and increasing the punishment. However, the Committee is concerned that the State party remains one of the main countries of origin of children trafficked abroad, and the numbers of such children are continuously growing. The Committee is also concerned about the lack of reliable statistics on the number of children trafficked for sexual purposes internationally and domestically.

19. **The Committee recommends that the State party take the necessary measures to conduct a comprehensive study to assess the causes, nature and extent of trafficking in children for sexual purposes. The Committee also recommends undertake measures to reduce and prevent trafficking, including by adopting a new plan of action against trafficking and raising professionals' and the general public's awareness of the problem of trafficking in children through education, including media campaigns, and establishing cooperation with the authorities of the countries to which children are trafficked.**

Child sex tourism

20. The Committee notes the information provided by the State party that it has started taking measures against agencies involved in child sex tourism, including by monitoring their activities. Nevertheless, the Committee is concerned that the State party is becoming a popular destination for child sex tourism and that the measures taken by the State party to counteract the sexual exploitation of children in tourism and the involvement of tourism agencies in recruiting and involving children in commercial sex for tourists have so far been insufficient.

21. **The Committee urges the State party to:**

(a) **Take immediate measures to identify and investigate the reports of children's involvement in sex tourism;**

(b) **Strengthen the measures taken against tourism agencies suspected of being involved in facilitating child sex tourism and evaluate the efficiency of such measures;**

(c) **Investigate and prosecute the agencies and individuals who organize or support the business of child sex tourism; and**

(d) **Conduct advocacy within the tourism industry on the harmful effects of child sex tourism, widely disseminate the Global Code of Ethics for Tourism among travel agents and tourism agencies and encourage them to become signatories to the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism.**

VI. Prohibition of the sale of children, child prostitution and child pornography and related matters (arts. 3, 4 (paras. 2 and 3), 5, 6 and 7)

Existing criminal or penal laws and regulations

22. The Committee welcomes the amendments made to the Criminal Code and the Criminal Procedure Code in 2012 to better reflect the provisions of the Optional Protocol. However, it regrets that the State party has not provided any information on whether the attempt to commit a crime and complicity in offences under the Optional Protocol are included in its Criminal Code. The Committee is also concerned that articles 175 and 175(1) of the Criminal Code criminalizing grooming, including on the Internet, concern only children up to the age of 16 years.

23. **The Committee recommends that the State party take the necessary measures to ensure that all the elements contained in article 3 of the Optional Protocol are included in its legislation. It also recommends that the Criminal Code be amended to prohibit grooming, including on the Internet, of all children up to the age of 18 years.**

Investigations, prosecutions and convictions

24. The Committee notes the information provided by the State party on the number of investigations, prosecutions and convictions under article 206 of the Criminal Code on trafficking in children. However, it is concerned that the low numbers reported may not reflect the full extent of trafficking in children in the country. It is also concerned about the absence of information on the number of investigations, prosecutions and convictions under the other provisions of the Criminal Code that are relevant to the Optional Protocol.

25. **The Committee recommends that the State party establish an effective mechanism to enforce its criminal legislation so as to ensure that all reports of offences under the Optional Protocol are properly investigated and that the perpetrators are prosecuted and punished according to the law. It also recommends that the State party provide in its next periodic report information on investigations, prosecutions and convictions in relation to all crimes defined in articles 2 and 3 of the Optional Protocol.**

Extraterritorial jurisdiction and extradition

26. The Committee notes that the State party's legislation allows for prosecution of its nationals who committed a crime abroad, but regrets that the State party has not established extraterritorial jurisdiction in accordance with article 4 of the Optional Protocol. It is also concerned that the State party does not use article 5 of the Optional Protocol as a legal basis for extradition in the absence of a bilateral or multilateral treaty of extradition.

27. **The Committee recommends that the State party take measures to establish extraterritorial jurisdiction in accordance with article 4 of the Optional Protocol. It also recommends that the State party consider article 5 of the Optional Protocol as a legal basis for extraditing persons who commit offences prohibited therein in the absence of a relevant bilateral or multilateral treaty of extradition.**

VII. Protection of the rights of child victims (arts. 8 and 9 (paras. 3 and 4))**Measures adopted to protect the rights of child victims**

28. The Committee notes article 110/1 of the Criminal Procedure Code, which provides for nationwide special arrangements for hearing child victims and witnesses — up to 14 years of age — of crimes covered in the Optional Protocol. However, the Committee is concerned about the lack of information about the treatment and compensation provided to child victims of the crimes enumerated in the Optional Protocol.

29. **The Committee strongly recommends that the State party ensure that children who are victims of offences under the Optional Protocol are always provided with adequate treatment and compensation, and prompt information on how to obtain them. The Committee also recommends that the State party ensure, through adequate legal provisions and regulations, that all child victims or witnesses of crimes are provided with the protection required in the Convention and that the State party take fully into account the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime.**

Recovery and reintegration of victims

30. While noting the National Referral System for assisting and protecting human trafficking victims, the Committee regrets that the system is hampered by shortcomings — including a lack of financial resources, difficulties in identifying victims and potential victims (which hinders their access to assistance), the limited involvement of local authorities in a number of districts and the inadequacy of services provided.

31. **The Committee recommends that the State party take all necessary measures to ensure that child victims of the offences covered in the Optional Protocol are provided with appropriate assistance, including for their physical and psychological recovery and full social reintegration, by, inter alia, operating its National Referral System effectively, providing it with the necessary financial resources and addressing the other shortcomings indicated in paragraph 30 above.**

VIII. International assistance and cooperation (art. 10)**Multilateral, regional and bilateral agreements**

32. **In the light of article 10, paragraph 1, of the Optional Protocol, the Committee notes the agreements concluded with other States and encourages the State party to**

continue to strengthen international cooperation through multilateral, regional and bilateral arrangements, especially with neighbouring countries, including by strengthening procedures for and mechanisms to coordinate the implementation of such arrangements, with a view to improving prevention, detection, investigation, prosecution and punishment of those responsible for any of the offences covered under the Optional Protocol.

IX. Follow-up and dissemination

Follow-up

33. 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 relevant government ministries, the Parliament, the Supreme Court and to national and local authorities, for appropriate consideration and further action.

Dissemination of concluding observations

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

X. Next report

35. In accordance with article 12, paragraph 2, 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 under the Convention on the Rights of the Child due by February 2015, in accordance with article 44 of the Convention.
