



Convention on the Rights of the Child

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COMMITTEE ON THE RIGHTS OF THE CHILD**Forty-fourth session**
**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 12(1) OF THE
OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE SALE OF
CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY**
Concluding observations: Costa Rica

The Committee considered the initial report of Costa Rica (CRC/C/OPSC/CRI/1) at its 1201st meeting (see CRC/C/SR.1201), held on 15 January 2007, and adopted at its 1228th meeting, held on 2 February 2007, the following concluding observations.

A. Introduction

The Committee welcomes the submission of the State party's initial report, as well as the replies to its list of issues submitted in a timely fashion. The Committee also appreciates the constructive and informative dialogue held with the State party's high-level delegation.

The Committee reminds the State party that these concluding observations should be read in conjunction with its previous concluding observations adopted on the State party's third periodic report on 3 June 2005, which are contained in CRC/C/15/Add.266.

B. Positive aspects

The Committee notes with appreciation the following:

GE.07-41467 Establishment in 1999 within the Ministry of Public Security of a unit to combat the sexual exploitation of children and of a specialized unit within the Judicial Investigation Department;

Establishment of the National Commission to Combat the Commercial Sexual Exploitation of Children and Adolescents (CONACOES) as a special thematic commission of the National Council on Children and Adolescents; and the participation of non-governmental organizations (NGOs) in this Commission;

Adoption in September 2006 of the "Programme for the Integral Care of children and adolescents at risk and in vulnerable situation", a project implemented by the National Child Welfare Agency (PANI) offices at local level.

The Committee also welcomes the ratification, in 2003, of the Convention against Transnational Organized Crime and its two supplementing Protocols: to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and against the Smuggling of Migrants.

C. Principal areas of concern, and recommendations**1. General measures of implementation****Coordination and National Plan of action**

The Committee notes that CONACOES is the body responsible for the implementation of the Optional Protocol and the follow-up to the National Plan to combat the commercial sexual exploitation of children and adolescents. However, the Committee is concerned that the coordination and cooperation among the different institutions and bodies that compose CONACOES is insufficient and that there is lack of clarity with regard to the sphere of competence of these institutions and bodies. The Committee is further concerned that the lack of a specific public policy to eradicate the sale of children, child prostitution and child pornography may also contribute to the low level of cooperation and coordination among the different actors involved.

The Committee recommends that the State party develop a specific and comprehensive policy aimed at eradicating the

sale of children, child prostitution and child pornography, which, inter alia, would clearly define the mandate and competencies of the different institutions and bodies that compose CONACOES in order to improve their cooperation and the coordination of their activities.

Dissemination and training

The Committee notes with appreciation the activities on awareness-raising and training that targeted key actors in the fight against the commercial sexual exploitation of children. These activities were largely conducted in cooperation with and/or partnership with civil society organizations and international organizations, including United Nations agencies and programmes. Among the activities were large-scale campaigns to raise public awareness of the consequences of the commercial sexual exploitation of children and to publicize the relevant legislation. However, the Committee is concerned that, despite these efforts, there still appears to be broad tolerance of the offences covered by the Optional Protocol.

The Committee recommends that the State party:

Continue and strengthen systematic education and training on the provisions of the Optional Protocol for all relevant professional groups;

Make the provisions of the Optional Protocol widely known, particularly to children and their families, through, for example, school curricula and long-term awareness-raising campaigns;

Promote, in line with article 9(2) of the Protocol, awareness in the public at large, including children, through information by all appropriate means, education and training, on the preventive measures and harmful effects of the offences referred to in the Protocol, including by encouraging the community and, in particular, children and child victims to participate in such information and education and training programmes ;

Continue to cooperate with civil society organizations and support them in their awareness-raising and training activities on issues related to the Protocol;

Continue to seek the assistance of United Nations agencies and programmes, including the United Nations Children's Fund (UNICEF) and the International Labour Organization's International Programme on the Elimination of Child Labour (ILO/IPEC).

Data collection

The Committee regrets the scarcity of data disaggregated by age, sex and minority group, as well as of research on the prevalence of sale of children, trafficking, child prostitution, and child pornography.

The Committee recommends that the State party ensure that data, disaggregated inter alia by age, sex and minority group, are systematically collected and analysed, as they provide an essential tool for measuring policy implementation. In particular, the Committee encourages the State party to strengthen research on the nature and extent of the commercial sexual exploitation of children, including prostitution and pornography, in order to identify the causes and the extent of the issue, and develop and implement effective policies to prevent and combat it.

Budget allocations

The Committee, while welcoming the information that the budget of PANI has been increased for the year 2007, is concerned at the lack of adequate resources for the implementation of the Optional Protocol. In this respect, the Committee notes the information that while the National Plan on the prevention of commercial sexual exploitation for the period 2004-2006 proposed by the Ministry of Education has been approved by the National Council on Children and Adolescents, budgetary funds have not yet been allocated for its implementation.

The Committee recommends that the State party provide adequate resources, including budget allocations, for all the activities aimed at implementing the Optional Protocol, such as the National Plan on the prevention of commercial sexual exploitation. Particular attention should be paid, for example through earmarked budgetary funds, to prevention, timely investigation and effective prosecution of the crimes covered by the Optional Protocol and to ensuring adequate protection, care and social reintegration of child victims.

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

The Committee welcomes the various legislative measures aimed at implementing article 3 of the Optional Protocol. However, it is concerned that possession of child pornography is not yet fully covered under the State party's criminal law, although a Bill to that effect (No. 14568) has been submitted to Congress.

The Committee recommends that the State Party:

Take the necessary measures to ensure that possession of child pornography is fully covered under Costa Rican criminal law in accordance with article 3 (1)(c) of the Optional Protocol. This crime should include the possession of child pornography in a computer system or on a computer-data storage medium;

Take the necessary steps to adequately define and criminalize trafficking in persons in the criminal legislation in accordance with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

3. Penal/criminal procedure

Jurisdiction

The Committee notes that in 2000 a Bill (No. 14204) was submitted to Parliament for the introduction of extraterritorial jurisdiction for sexual crimes against children that were committed outside the State party's territory. However, the Committee is concerned that this Bill has not yet been approved and that currently Costa Rica does not assume jurisdiction for prosecution of an offence covered by the Optional Protocol when it is committed abroad by a national of Costa Rica and the victim is not a national of Costa Rica.

The Committee recommends that the State party, especially in the context of prosecution of crimes related to sex tourism, take the necessary legislative measures, e.g. by adopting Bill No. 14204, to ensure, inter alia, that Costa Rican courts, in accordance with article 4 (2)(a) of the Optional Protocol, assume jurisdiction in cases where a national of the State party commits abroad an offence covered under the Optional Protocol.

4. Protection of the rights of child victims

The Committee welcomes the fact that one of the main areas of focus of the National Plan to combat the commercial sexual exploitation of children and adolescents is the provision of direct support for victims. It also welcomes that the Children and Adolescents Code provides for psychological assistance to child victims of any offence as well as for training to police officers on interviewing victims and special conditions for hearings in court. However, the Committee is concerned that a rights-based victim care system that takes account of sex and age is still lacking and that the area of protection and care of child victims suffers from a shortage of resources.

The Committee recommends that the State party:

Ensure that adequate services are available for child victims, including for their physical and psychological recovery and social reintegration, in accordance with article 9 (3) of the Optional Protocol, and, in this respect, assess the impact of the newly used method called *Modelo Cíclico de Respuestas Articuladas* ;

Take measures to ensure appropriate training, particularly legal and psychological, for persons who work with victims of the offences prohibited under the Protocol, in accordance with article 8 (4) of the Optional Protocol;

Ensure that all child victims of the offences described in the Protocol have access to adequate procedures to seek, without discrimination, compensation for damages from those legally responsible, in accordance with article 9(4) of the Optional Protocol;

In the light of article 8(1) of the Optional Protocol, continue to protect child victims and witnesses at all stages of the criminal justice process, taking also into account the United Nations Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (Economic and Social Council resolution 2005/20).

Smuggling and trafficking in children for the purpose of sexual exploitation

The Committee welcomes the measures taken to protect migrant children and children who are either smuggled into the country or trafficked for the purpose of sexual exploitation, including the creation of a special desk for them at the international airport at San José. The Committee also welcomes the establishment, in 2005, of a National Commission against the Smuggling of Migrants and Trafficking of Persons, of which PANI is a member. However, it expresses concern at the information that smuggling of migrants, including children, and trafficking in children for the purpose of sexual exploitation continue to be a serious problem in the country.

The Committee, with reference to the situation of special vulnerability to the offences covered by the Optional Protocol of children victims of smuggling and trafficking, recommends that the State party:

Increase its efforts to combat these criminal activities, including by adequately implementing the Programme of Action against Trafficking of Children for the purpose of Sexual Exploitation, a joint project between the Judiciary and the PANIAMOR Foundation;

Provide the National Commission against the Smuggling of Migrants and Trafficking of Persons with adequate resources;

Consider becoming party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

5. Prevention of the sale of children, child prostitution and child pornography

Sex tourism

The Committee notes with appreciation that strict controls have been introduced in the tourist sector, and partnerships have been established with hotel owners, networks of taxi drivers and other stakeholders in order to prevent offences covered by the Protocol, especially child sex tourism. It also welcomes the adoption, in 2003, of a Code of Conduct for the Protection of Children and Adolescents from Commercial Sexual Exploitation in Tourism, an intersectoral project focused on responsible and sustainable tourism aimed at service providers, customers and entrepreneurs in the public and the private sectors. However, the Committee notes with concern that the practice of purchasing sexual services from children is still socially acceptable, especially among men, and that Costa Rica is increasingly becoming a popular destination for sex tourism.

The Committee recommends that the State party continue to take measures to tackle the increasing problem of sex tourism involving children, including by strengthening awareness-raising campaigns containing specific messages on child rights and on the existing sanctions on child abusers. The State party should also take appropriate measures aimed at effectively prohibiting the production and dissemination of material advertising the offences described in the Protocol, in accordance with article 9(5).

Child pornography on the Internet and other evolving technologies

The Committee welcomes the steps taken by the State party in the area of cybercrime, including the creation of a special investigation unit for cybercrime, the adoption of “regulations governing the control and regulation of premises providing public Internet services”, as well as the project “Internet security for children: safe surfing”, which was launched in 2003. However, the Committee is concerned at the growing availability of child pornography on the Internet and other evolving technologies and that a certain degree of impunity continues to exist for crimes covered by the Protocol committed through the Internet, e.g. child pornography.

The Committee recommends that the State party continue to take measures to combat cybercrime and especially child pornography on the Internet, including by ensuring and monitoring the full implementation of the regulations governing the control and regulation of premises providing public Internet services. It also recommends that the State party adopt and implement specific legislation on the obligation of Internet providers to prevent (to the extent possible) the dissemination of and access to child pornography on the Internet.

Contributing factors to the sale of children, child prostitution and child pornography

The Committee welcomes the National Development Plan 2002-2006 and the “New Life” Plan to overcome poverty, as these plans address one of the main causes of the sale of children, child prostitution and child pornography, and will thus contribute to their prevention and elimination.

The Committee encourages the State party to continue to give support, including financially, to projects aiming at poverty reduction. It also encourages the State party to promote the strengthening of international cooperation in order to address the root causes, such as poverty and underdevelopment, contributing to the vulnerability of children to the sale of children, child prostitution, child pornography and child sex tourism, in accordance with article 10 (3) of the Optional Protocol.

Prevention of sale for the purpose of adoption

The Committee is concerned that problems continue in the governance and implementation of child adoption, especially intercountry adoption, although a proposal aimed at addressing this problem is pending before the Parliament. In particular, the Committee is concerned to learn that the juridical regime applying to intercountry adoptions processed through PANI, where all international standards are applied, differs from that which applies to intercountry adoptions based on direct consent among the parties, which bypass the intermediation of PANI.

The Committee recommends that the State party:

Modify its legislation so as to ensure that all requests and procedures for adoption, whether national or intercountry, are assessed by PANI and respect applicable international standards ;

Adequately define and punish the sale of children for the purpose of adoption in conformity with article 3(1a) (ii) of the Optional Protocol;

Take all appropriate legal and administrative measures to ensure that all persons involved in the adoption of a child act in conformity with applicable international legal instruments;

Collect information on and investigate the activities of the agencies and/or individuals acting as facilitators and mediators in the adoption procedures and punish those violating national and international legislation.

6. International assistance and cooperation

The Committee encourages the State party to continue its active cooperation with United Nations agencies and programmes, including interregional programmes, and NGOs, in the development and implementation of measures aimed at adequate application of the Optional Protocol .

Law enforcement

The Committee encourages the State party to continue its efforts to strengthen international cooperation by multilateral, regional and bilateral arrangements for the prevention, detection, investigation, prosecution and punishment of those responsible for acts involving the sale of children, child prostitution, child pornography and child sex tourism.

7. Follow-up and dissemination

Follow-up

The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, inter alia by transmitting them to relevant ministries and Parliament (“Asamblea Legislativa”), and to provincial authorities, where applicable, for appropriate consideration and further action.

Dissemination

The Committee recommends that the 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, and children in order to generate debate and awareness of the Convention, its implementation and monitoring.

8. Next report

In accordance with article 12, paragraph 2, the Committee requests the State party to include further information on the implementation of the Optional Protocol in its next periodic report under the Convention on the Rights of the Child due, in accordance with article 44 of the Convention, on 19 September 2007.
