



Convention on the Rights of the Child

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Committee on the Rights of the Child

Report submitted by Benin 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, due in 2007*

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Introduction

1. Benin ratified, without reservations, the Convention on the Rights of the Child on 3 August 1990 and the two Optional Protocols thereto in 2005. On 5 September 2006, the law on the ratification of the Convention was published in the Official Gazette, thus completing its effective incorporation into the domestic legal order.
2. In accordance with article 44 of the Convention, Benin has submitted and presented its initial¹ and second² periodic reports to the Committee on the Rights of the Child and reported on its implementation of the Committee's recommendations and concluding observations in its combined third to fifth reports,³ which are pending review by the Committee.
3. In the same vein, on 17 April 1997, Benin ratified the African Charter on the Rights and Welfare of the Child, a regional legal instrument on the rights of the child, which was adopted in 1990 by the Organization of African Unity (now the African Union). By ratifying these instruments, Benin made a commitment to report on the measures taken to give effect to the rights and freedoms set out therein, in accordance with the respective requirements of the relevant monitoring provisions.
4. The present report has been prepared in accordance with the requirements of 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. It covers the period from 2005 to 2015.

I. General guidelines

1. Description of the process of preparation of the report

5. The present report is the result of an inclusive and participatory national consultation process in which State bodies, civil society actors and especially children helped gather information. This process was supported by the United Nations Children's Fund (UNICEF).
6. The information and data contained in the report were compiled by the Ministry of Justice, in cooperation with other governmental and non-governmental bodies working within the National Monitoring Committee on the Implementation of International Human Rights Instruments.
7. The process comprised four phases:
 - Development of a data-collection protocol and its approval by a steering committee set up for that purpose
 - Data collection
 - Preparation of the preliminary draft report
 - Approval of the final report
8. Once the data had been collected, four sectoral workshops were organized with the participation of resource persons from ministries, technical departments and civil society organizations. The workshops focused on the following action areas:
 - Justice and security
 - Education and health
 - Social protection
 - Communication, employment and tourism

¹ 22 January 1997.

² 20 April 2005.

³ 2013.

9. The sectoral workshops yielded further data. A preliminary draft report was prepared and then submitted for approval to the National Monitoring Committee on the Implementation of International Human Rights Instruments.

2. Account taken of the general principles of the Convention on the Rights of the Child in the implementation of the Optional Protocol

2.1 Non-discrimination

10. New laws have been enacted that strengthen respect for the principle of non-discrimination, which is guaranteed under the Constitution, as mentioned in previous reports.

11. For instance, article 5 of Act No. 2011-26 of 9 January 2012 on the prevention and punishment of violence against women establishes the promotion of gender equality as a national priority.

12. Act No. 2015-08 on the Children's Code, adopted on 26 January 2015 and awaiting promulgation, clearly establishes the principle of non-discrimination. Article 7 of the Code provides: "Every child shall be entitled to the enjoyment of all the rights and freedoms recognized and guaranteed in this Act and in particular to equal treatment as regards services, property and benefits, irrespective of the child's or his or her parents' or legal guardians' race, origin, ethnic group, national and social origin, sex, language, religion, political or other opinion, fortune, birth, disability, family situation or other status."

13. The Government organized two awareness-raising events, one in 2010 and the other in 2011, to follow up on the decisions reached at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

14. In 2014, Benin adopted an action plan to combat racism, racial discrimination, xenophobia and related intolerance.

2.2 Best interests of the child

15. Several provisions of Beninese law enshrine respect for the best interests of the child.

In the field of adoption

16. Adoption, whether full or simple, may take place only if there is good reason and if it is clearly to the advantage of the adoptee (art. 336 of the Personal and Family Code).

Within the family environment and in case of placement of the child in an institution

17. Articles 425 et seq. of the Personal and Family Code provide for delegation of parental authority in civil matters and deprivation of parental authority in criminal matters when, as a result of misconduct by one or both parents or legal guardians, the family environment is no longer conducive to the harmonious development of the child.

In inheritance law

18. A conceived child may inherit provided that it is born alive (art. 594 of the Personal and Family Code).

In criminal procedure

19. A number of criminal procedure provisions promote respect for the best interests of the child, including:

- Special jurisdiction courts for alleged child offenders (art. 654 of the Code of Criminal Procedure)
- Mandatory testing by the competent health services for HIV/AIDS and other sexually transmissible infections for rape victims and perpetrators to determine the likelihood of an infection that might result in further harm to rape victims (art. 14 of

Act No. 2011-26 of 9 January 2012 on the prevention and punishment of violence against women)

At the time of sentencing

20. The minority of the victim constitutes an aggravating circumstance for certain offences. For example article 5 of Act No. 2003-03 on the suppression of female genital mutilation in the Republic of Benin provides that “where genital mutilation is practised on a minor under 18 years of age, the offender shall be liable to imprisonment for a term of three (3) to five (5) years and a fine of up to three million (3,000,000) francs”.

21. Similarly, the minority of the victim is the determining criterion for the classification of certain offences. For instance, under the provisions of Act No. 2006-19 of 5 September 2006 on sexual harassment and the protection of victims in the Republic of Benin, the age of the victim is a criterion of vulnerability and a constitutive element of the offence of sexual harassment (art. 3) and determines the special care measures to be taken for the benefit of the harassed child (arts. 17 and 21).

22. Article 8 (2) of the Children’s Code provides: “The term ‘best interests of the child’ refers to the primacy of protecting and promoting, in all circumstances, the rights of the child with a view to his or her fulfilment, well-being, growth and preparation for active life as a mature and responsible adult.”

2.3 The right to life, survival and development

23. The right to life is enshrined in the Constitution.

24. The death penalty was abolished in Benin in 2012.

25. Article 679 of Act No. 2012-15 of 18 March 2013 on the Code of Criminal Procedure provides that: “If a custodial sentence is imposed on a minor over the age of fifteen (15) years, the court may either order one of the supervision or rehabilitation measures provided for in articles 688, 690 and 692 to 694 of the present Code or impose a criminal sentence, with the proviso that the penalty may not exceed half of the sentence that would have been imposed on a convicted person aged 18 or over.” In any event, Benin is party to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

26. However, the amended Criminal Code, which expressly prohibits the death penalty, is still awaiting adoption.

27. Any violation of the right to life is punishable under law.

28. Ritual infanticide that is not the result of a conviction is a harmful social and cultural practice affecting the child’s right to life.

29. However, efforts to combat infanticide have been strengthened by the adoption of a new national child protection policy.

30. Articles 339 to 341 of the new Children’s Code, which is currently awaiting promulgation, define the penal regime governing both infanticide in general and ritual infanticide.

31. According to the December 2013 social indicators survey, the ChildPro database identified 15 cases of children at risk of infanticide (3 girls and 12 boys) who were saved thanks to the intervention and vigilance of people of goodwill. These cases represent 0.1 per cent of the 17,320 recorded cases of vulnerable children.

32. A national forum on the protection of the lives of so-called “witch children” on the theme “Defending life: What fate for the victims of ritual infanticide in Benin?” was held in Parakou from 28 to 29 March 2012 under the sponsorship of the Ombudsman. Organized by Franciscains Bénin in partnership with UNICEF, the forum revealed that the practice is in decline though pockets of resistance remain. However, a dearth of statistics makes it impossible to measure the impact of the actions taken.

33. Accordingly, representatives of State bodies and NGOs, local elected officials and religious and traditional leaders have been included in discussions on new strategies that could be developed to eradicate the killing of witch children in the north of Benin, such as mechanisms to raise awareness and promote dialogue and behavioural change, efforts to persuade the main stakeholders to get involved; prevention and punishment through court action, and the active involvement of keepers of tradition and executioners.

34. As part of the follow-up to the recommendations made during the universal periodic review, Franciscains Bénin organized national consultation days in 2013 and 2015 to evaluate the implementation of the recommendations with a view to preparing a midterm report on various themes, including ritual infanticide.

35. Pending the entry into force of the above-mentioned Children's Code, article 302 of the current Criminal Code governs the punishment of infanticide and concerns in particular mothers who commit or are an accomplice to infanticide. Under the Criminal Code, when a mother is an accomplice to or the perpetrator of the murder of her child, she is liable to forced labour for life or forced labour for a specified period (5 to 20 years) in the case of homicide.

36. Article 16 of the Criminal Code also takes into account the child's right to life and development.

2.4 Children's participation and respect for their views

37. Various provisions of Beninese law enshrine the principle of the child's right to participate and to be heard.

38. Regarding adoption, consent to simple adoption is required from a child aged 12 or over at the time of adoption (art. 367 of the Personal and Family Code). Similarly, consent to full adoption is required from a child aged 15 or over at the time of adoption (art. 341 of the Personal and Family Code).

39. With regard to legal guardianship, a child aged 16 or over is legally entitled to convene a family council (art. 478 of the Personal and Family Code). A child aged 16 or over may participate, on a consultative basis, in family council meetings (art. 481 of the Personal and Family Code).

40. The principle of the right to participation is also expressly enshrined in article 9 of Act No. 2015-08 on the Children's Code in the Republic of Benin, which provides that: "In any judicial or administrative proceedings concerning a child, his or her views and opinions shall be heard, either directly, or through a representative or by any other means decided by the competent authority, and may be taken into account by the authority concerned."

41. Children's right to participation is increasingly taken into account by relevant actors when planning their activities. The Government, with the support of its technical and financial partners, is taking various measures and initiatives to this end.

42. In this regard, the Ministry of Family Affairs established the National Children's Advisory Council on 5 November 2012. The Council provides a forum to facilitate exchanges between children and to enable them to become more involved in combating violations of their rights and violence against children. The children involved in these exchanges have been teamed up with their peers in Africa with a view to submitting their contributions to the African Committee of Experts on the Rights and Welfare of the Child. Their participation in the work of the Committee influenced the choice of the themes for the 2014 and 2015 editions of the Day of the African Child.

43. UNICEF and Plan International Benin support grass-roots initiatives that promote respect for children's views, in particular initiatives aimed at setting up municipal councils for children, media clubs, drama clubs, school committees and project management committees; advocacy initiatives with the authorities aimed at reducing the cost of birth certificates and ensuring their timely issuance; children's participation in surveys, planning, research and assessment activities; efforts to ensure that children's views are taken into account during feedback workshops and brainstorming workshops on issues that concern

them; children's participation in the midterm evaluation of projects targeting them and consideration of their views during the validation of results.

3. Measures taken in order to implement the Protocol that contribute to implementation of the Convention, in particular articles 1, 11, 21, 32, 34, 35 and 36 thereof

3.1 Article 1: Definition of the child

44. Since 20 November 1989, the date of adoption of the Convention on the Rights of the Child, children have had a new legal status recognizing them as subjects of rights. Article 1 of the Convention and article 2 of the African Charter on the Rights and Welfare of the Child provide a clear definition of the child that is reflected in several laws of the Republic of Benin, including:

- Act No. 2006-04 of 10 April 2006 on conditions for the displacement of minors and the suppression of child trafficking in the Republic of Benin, published in the Official Gazette of 1 September 2006 (art. 2)
- Act No. 2002-07 of 24 August 2004 on the Personal and Family Code (art. 459)
- The Act on the Children's Code in the Republic of Benin (art. 2), which is currently awaiting promulgation

3.2 Article 11: Illicit transfer and non-return of children abroad

45. At the legislative level, the entry into force of Act No. 2006-04 of 10 April 2006 on the conditions for the displacement of minors and the suppression of child trafficking in the Republic of Benin has resulted in a tightening of the conditions for the transfer of children both inside and outside the country.

46. Benin is also party to a number of bilateral and multilateral agreements, including a multilateral cooperation agreement to combat trafficking in persons, especially women and children, in West and Central Africa between the Economic Community of West African States (ECOWAS) and the Economic Community of Central African States (ECCAS), signed in Abuja, Nigeria, on 6 July 2006.

47. A joint plan of action against trafficking in persons was drawn up pursuant to the Agreement. Article 8 of the Agreement sets out eight areas for joint action: prevention, repression, protection, repatriation, reunification, rehabilitation, reintegration and cooperation.

48. Under the national plan of action to combat trafficking in children (2008 to 2012), steps were taken to document and assess situations of exploitation relating to child trafficking with a view to subsequently identifying and strengthening the legal, organizational and institutional frameworks for preventing child trafficking and rehabilitating and reintegrating victims.

49. In 2011, Benin signed a bilateral cooperation agreement with the Republic of the Congo on combating trafficking in persons, especially women and children. An action plan under the agreement was validated and signed by the two States in January 2012. A similar bilateral agreement is currently being prepared with the Gabonese Republic.

50. A thematic group on trafficking and exploitation was set up in 2007 as part of the activities of the national unit to monitor and coordinate child-protection activities. The unit is, among other things, responsible for coordinating concerted action by the State and civil society organizations aimed at combating child trafficking, in accordance with Order No. 1185/MFSN/DC/SGM/DEA/SPEA/SA of 20 March 2009 on the establishment of the unit. The Swiss Foundation Terre des Hommes chairs the group.

51. The second project to combat child trafficking was implemented in October 2007 with funding totalling €3.5 million from the ninth European Development Fund. The project's main areas of intervention are: strengthening the institutional framework for combating child trafficking and exploitation; reducing the structural causes of child trafficking and exploitation; promoting safe living conditions for working children and developing the vocational skills of children working in the markets of Dantopka in Cotonou

and Arzèkè in Parakou and in the market in Malanville. Swisscontact has undertaken to implement a third area of intervention which involves designing the educational tools needed for the implementation of vocational training in four trades (baking, soap-making, local catering and commerce) with a view to building children's capacities and making it easier for them to enter the labour market.

3.3 Article 21: Adoption

52. The Children's Code, which is currently awaiting promulgation, promotes adoption, and articles 62 to 111 thereof set out its conditions, procedures and effects. The provisions of the Code seek to incorporate those of the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption, which is in the process of being ratified by Benin.

3.4 Article 32: Protection from economic exploitation

53. Various laws and regulations protect children from economic exploitation, including:

- Act No. 2006-04 of 10 April 2006 on the conditions for the displacement of minors and the suppression of child trafficking in the Republic of Benin and its implementing decrees. The Act expressly prohibits the use of child labour, except as provided for by law and international conventions (art. 5), and categorically prohibits trafficking in children (art. 6);
- The Children's Code, which is currently awaiting promulgation, makes schooling compulsory until the age of 14. Article 117 of the Code provides: "Children under the age of fourteen (14) years who are unable to continue their education beyond primary level shall be referred to technical and vocational schools";
- Decree No. 2011-029 of 31 January 2011, which establishes a list of the hazardous types of work prohibited to children in the Republic of Benin;
- Order No. 331/MTFP/DC/SGM/DGT/DNT/SPT of 10 July 2007, which sets out the powers, organization and operation of the General Directorate of Labour and provides for the establishment within the Directorate of a unit to combat child labour and promote efforts to that end. A new document on the Directorate's powers, organization and operation provides for the establishment of such units within each departmental directorate. In addition, each departmental directorate has a labour inspection service, in accordance with the Labour Code;
- Order No. 435/MTFP/DC/SGM/DGT/DNT/SPLTE of 7 July 2008, which provides for the establishment of a national steering committee to combat child labour, whose secretariat is provided by the Labour Standards Directorate;
- The above-mentioned Committee, which is chaired by the Minister of Labour, the Civil Service and Administrative and Institutional Reform, is responsible for:
 - Providing guidance on the development of policies and programmes to combat child labour
 - Coordinating and overseeing efforts to combat child labour
 - Approving programmes to combat child labour
 - Monitoring and developing activities to combat child labour

54. In November 2012, the Government drew up a national plan of action to eliminate the worst forms of child labour in Benin, covering the period 2012 to 2015.

55. In addition, the International Programme on the Elimination of Child Labour (IPEC) of the International Labour Organization (ILO) was implemented from 1997 to 2014; the programme to combat the trafficking of children for labour exploitation in West and Central Africa (LUTRENA) was implemented from 2003 to 2009; and the ECOWAS II programme, on the monitoring of child labour, was implemented from 2012 to 2013.

56. The General Directorate of Labour conducts ongoing campaigns to raise public awareness of the charter for marketgoers and its protocol in the country's three main

markets (Dantokpa, Ouando and Arzèkè). With the support of UNICEF, training on the topic of child labour is planned for journalists in the departments of Atacora-Donga, Atlantique-Littoral, Mono-Couffo, Ouémé-Plateau, Zou-Colline and Borgou-Alibori. Under projects for the retrieval of child workers from high-risk situations, children have been removed from granite crushing sites at Bétérou, in Borgou department, and Djougou, in Donga department; stone crushing sites in Dassa-Zoumè, in Collines department; from market-gardening sites in Cadjèhoun, Cotonou department; and from joineries, sawmills, vehicle repair and welding workshops and hairdressing salons in Porto-Novo. Children who are removed receive educational support (registration or re-enrolment in school) or are provided with assistance to return to work in accordance with their background and interests (principle of the participation of the child). Other initiatives have focused on promoting education and alternative education.

57. Various multifaceted awareness-raising activities are organized to mark the World Day against Child Labour on 12 June every year. Furthermore, a documentary film is currently being made on the economic exploitation of children in the country's three main markets.

58. In addition to contributing to awareness-raising campaigns focusing on the need to keep children in school, the Central Office for the Protection of Minors, which comes under the Ministry of the Interior and Public Security, carries out so-called "Sparrowhawk" operations in markets, training workshops and construction sites in order to discourage child labour and to punish the perpetrators of this reprehensible practice.

3.5 Article 34: Protection from sexual exploitation and sexual abuse

59. Benin is gradually and significantly strengthening the legal and institutional framework for the protection of children against sexual exploitation and sexual abuse. The following laws and regulations have been enacted to strengthen the legal framework:

- Act No. 2006-19 of 5 September 2006 on sexual harassment and the protection of victims in the Republic of Benin (arts. 3, 4, 6, 7, 8, 12, 16 and 17 to 20). The Act provides for the protection of children from sexual harassment and the punishment of this offence;
- Act No. 2011-26 of 9 January 2012 on the prevention and punishment of violence against women, which provides for free testing for HIV/AIDS and other sexually transmissible infections for child rape victims and perpetrators in order effectively to manage the consequences of rape for the victim's health and future. An order has also been enacted on the establishment of integrated support centres for victims of gender-based violence.

60. The following steps have been taken to strengthen the institutional framework:

- The Central Office for the Protection of Minors, the only State body operating at the national level with specific responsibility for protecting minors and the family and suppressing trafficking in persons generally is actively involved, together with social welfare centres and the police, in combating trafficking and ensuring that perpetrators are punished. In addition, the Office operates a reception and care centre for children which receives child victims and children in vulnerable situations, including those in conflict with the law, and provides them with holistic care (health care, food and psychosocial support). The Office has also organized awareness-raising and information sessions on laws that provide protection for children, with a special focus on the penalties imposed on offenders and the need for society as a whole to protect children.
- In 2013 and 2014, the Office of the National Police chaired the annual meetings of the Kigali International Conference Declaration, which is a forum for the chiefs of security organs in Africa that enables them to establish mechanisms that provide for greater involvement of and care for victims of gender-based violence. Thanks to its dynamism, Benin developed in 2014, with the support of the United Nations Population Fund, standard operating procedures for preventing and responding to gender-based violence. As part of efforts to protect children from all forms of

violence and abuse, the Government has set up a vice squad and special border surveillance units to help eradicate this problem.

- In addition, personnel in social welfare centres, police stations, gendarmeries and non-governmental organizations receive child victims of sexual abuse and refer them to specialized care or other centres, as appropriate. In 2012, with technical assistance from the Swiss foundation Terre des Hommes and technical and financial support from UNICEF, tools were developed and disseminated to ensure the systematic, holistic and efficient management of cases involving children in contact with the justice system.
- Victims of sexual abuse are provided with rehabilitation and social reintegration assistance by legal assistance centres, social welfare centres, school social services of the Ministry for Family Affairs and NGOs.

3.6 Article 35: Prevention of the sale and trafficking of children

61. In this connection, attention should be drawn to the ECOWAS/ECCASS multilateral agreement on regional cooperation to combat trafficking in persons.

62. Benin has strengthened its legal arsenal in this area through the enactment of the following laws:

- Act No. 2006-04 of 10 April 2006 on conditions for the displacement of minors and the suppression of child trafficking in the Republic of Benin
- Act No. 2011-26 of 9 January 2012 on the prevention and punishment of violence against women
- The Children's Code, which is currently awaiting promulgation

63. With regard to the enactment of regulations, the following implementing decrees of Act No. 2006-04 of 10 April 2006 on conditions for the displacement of minors and the suppression of child trafficking in the Republic of Benin have been adopted:

- Decree No. 2009-694 of 31 December 2009 on specific conditions for the entry of foreign children into Beninese territory
- Decree No. 2009-695 of 31 December 2009 on procedures for issuing administrative authorizations for the transfer of children within Beninese territory
- Decree No. 2009-696 of 31 December 2009 on procedures for issuing administrative authorizations for the exit of children from Beninese territory

64. In addition to legislative and regulatory action, steps have been taken to develop projects and programmes to combat child trafficking.

3.7 Article 36: Protection against all other forms of exploitation

65. The issue of concern in this area is begging by talibé children. It is a particular problem in the departments of Borgou, Alibori, Atacora and Donga. NGOs actively support the reintegration of these children through dialogue with Koranic teachers, religious leaders and local authorities.

4. Legal status and applicability of the Protocol in Benin

66. Benin ratified the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography without reservation on 28 February 2005.

67. Its implementation has been facilitated by all the measures put in place to apply those provisions of the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child that are specifically related to the Protocol.

4.1 Withdrawal of any reservations

68. Nothing to report, since Benin ratified the Protocol without reservation.

4.2 Description of the implementation of the Protocol with regard to all territories and persons over which the State party exercises jurisdiction

69. The Republic of Benin is one and indivisible, secular and democratic (art. 2 of the Constitution).

70. Accordingly, laws enacted by the legislative branch apply across all of the country's territorial subdivisions, with the result that regulations issued by territorial entities respect the hierarchy of norms in the legal order in force in Benin.

4.3 Factors and difficulties impeding implementation of the Protocol

71. The fact that the Protocol has not been published or disseminated in the Official Gazette means that a large part of the country's population is not well acquainted with it. The lack of updated legislation on adoption and the scant importance given by a considerable proportion of the population to the rights contained in the Protocol are obstacles to its implementation.

72. Points 5, 6, 7 and 8 of the general guidelines have apparently been omitted.

II. Data on implementation of the Protocol

1. Data on the sale of children

On the sale or transfer of children for purposes of sexual exploitation

73. Data not yet available.

On the transfer of the organs of children for profit

74. Data not yet available. Nothing to report.

On the engagement of children in forced labour

75. Data not yet available. Nothing to report.

On the number of children adopted through the efforts of intermediaries using methods incompatible with article 21 of the Convention or other applicable international standards

76. Data not yet available. Nothing to report.

2. Information on 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

On the number of child victims of trafficking

77. The following table shows the extent of trafficking according to a national survey conducted by the National Institute of Statistics and Economic Analysis.

Table 1
Distribution by sex, age group and place of residence of children at risk of being trafficked

<i>Variables</i>	<i>No.</i>	<i>%</i>
Sex of respondent		
Male	24 832	36.8
Female	42 605	63.2
Age of respondent by specific age group		
5–11	23 134	34.3

<i>Variables</i>	<i>No.</i>	<i>%</i>
12–13	14 427	21.4
14–17	29 877	44.3
Place of residence		
Urban	18 629	27.6
Rural	48 807	72.4
Total	67 437	100

Source: National Institute of Statistics and Economic Analysis: National Survey on Child Trafficking, 2008.

78. The observations below are reproduced from the report of the Special Rapporteur on the sale of children, child prostitution and child pornography, Najat Maalla M'jid, on her visit to Benin from 28 October to 8 November 2013:

“The sale of children in Benin was not presented as a major problem during the visit, although it is at times difficult to distinguish it from the alarming phenomenon of trafficking in children, the seriousness of which is recognized.

All stakeholders interviewed referred to the problem of ‘vidomégon’ children⁴ exploited at the Danktopa market in Cotonou, the biggest open market in western Africa. According to a study by UNICEF, 4,677 children (including 3,776 girls) are working at the Danktopa market, 2,149 children (including 1,669 girls) at the Ouando (Porto Novo) market and 1,056 children (including 732 girls) at the Arzeke market in Parakou; 54 per cent of these children are under 14 years of age.⁵ According to Plan International,⁶ 90 per cent of vidomégon children do not go to school. They are employed at markets, in the street trade, in handling and in cleaning of stands, in addition to performing unpaid domestic tasks. Today this tradition supplies child sale and child trafficking networks. Employers and intermediaries go directly to the villages to collect these children.”⁷

3. Information on whether child prostitution is linked to sex tourism within the territory of the State party and a description of the investigations undertaken to detect and thwart attempts to promote sex tourism involving child prostitution

Child prostitution

79. According to a study carried out in June 2014 by the NGO End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes (ECPAT), Luxembourg, in two municipalities in the north of the country, 2.7 per cent of the girls surveyed reported having had sexual relations with persons of the same sex, i.e. girls/women. The figures are higher in Malanville (5 per cent) than Djougou (0.7 per cent). The girls concerned are either homosexual or bisexual; 7.3 per cent (19 out of 261) of the girl sex workers surveyed reported that they knew boys under the age of 18 who were sex workers.

80. According to the study, the prostitution of girls is more prominent in some privileged regions but that a certain reticence on the part of those most involved locally tends to conceal a phenomenon which is difficult to investigate because of sometimes unsuspected complicities. The second project to combat trafficking in children, carried out

⁴ Children placed in families which traditionally are responsible for their care and their education, in particular.

⁵ Census of children engaged in child labour in the Danktopa, Ouando and Arzeke markets, UNICEF, July 2013.

⁶ Situation analysis, Plan International.

⁷ Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, Najat Maalla M'jid, on her visit to Benin from 28 October to 8 November 2013; report of 5 March 2014.

in partnership with the NGO GRADH (Groupe d'action pour le développement humain), identified 21 full-time girl sex workers in Malanville in the period from 2008 to 2011. The girls were rehabilitated and provided with training in literacy and management skills to help them engage in commercial activities.

81. In May 2009, the NGO CIPCRE carried out a study on child trafficking for the purpose of sexual exploitation.⁸ Of the 252 girl sex workers identified, 10 were under 15 years of age, of whom 3 were working full time in prostitution sites. According to the study's conclusions, gaining access to the child workers in the sex industry is fraught with difficulties.

82. The clandestine nature of sex work by girls was again confirmed in April 2017 by a study conducted in prostitution sites in Malanville.

83. All of these studies were corroborated by the above-mentioned Special Rapporteur's report:

“The phenomenon of sexual exploitation of children in Benin was acknowledged by all stakeholders interviewed, although the Special Rapporteur was not provided with any figures. There was universal agreement that the problem existed, but that it was carefully concealed, and even ‘disguised’.”⁹

According to information from the vice squad, of the 100 persons arrested in the vicinity of Cotonou in 2012, 2 were minors. The vice squad intervenes primarily in inns, hotels and motels in and around Cotonou. According to the vice squad, soliciting takes place primarily in discotheques. The Parakou chief of police referred to the case of five girls who were victims of sexual exploitation around the market in 2013. The perpetrators were not arrested.¹⁰

According to the Department of Tourism, the number of child victims of sexual tourism has been growing in the department of Littoral. Police officers referred to cases of young girls who were sexually exploited in certain tourist areas.¹¹

Young vidomégon girls, in addition to being exploited economically, reportedly are often victims of occasional and ‘informal’ prostitution. It was reported that some sell their bodies to market guards in exchange for a place to sleep at night, and that others are forced to prostitute themselves to earn the money which they were unable to make during the day, and thus avoid being subjected to violence by their guardians.”¹²

84. A number of preventive measures have been taken by the Government, with the support of some civil society organizations (in addition to initiative by the Central Office for the Protection of Minors and the Family and the Suppression of Human Trafficking).

Child pornography

85. The Special Rapporteur obtained very little information concerning the dissemination of pornographic material involving children. However, some stakeholders expressed concern at the growing risk of sexual exploitation online, given the proliferation of Internet cafes, concerning which there is very little supervision because of the limited capacity of the Central Office for the Suppression of Cybercrime. The phenomenon of “video clubs”, which for a modest fee show films with content inappropriate for children, also gives cause for concern.

86. A number of officials, police officers and representatives of civil society have reported several cases of children who photographed themselves naked and sent each other the images by mobile telephone; the images are then circulated. No action is taken on these

⁸ CIPCRE, Study on child trafficking for purposes of sexual exploitation, Final Report, May 2009, p. 118.

⁹ Idem 7.

¹⁰ Idem 7.

¹¹ Idem 7.

¹² Idem 7.

cases, because the Central Office for the Suppression of Cybercrime does not have the technical means to carry out investigations.¹³

87. The above-mentioned EPCAT study revealed that pornography, striptease in clubs and escort services for foreigners and tourists, etc. account for 1.1 per cent of the type of services offered by child prostitutes in the municipalities of Djougou and Malanville.

88. A number of officials, police officers and representatives of civil society have reported several cases of children who photographed themselves naked and sent each other the images by mobile telephone; the images are then circulated.

III. General measures of implementation

89. Several laws in force in Benin contribute to the implementation of the Optional Protocol. They include:

- Act No. 2006-04 of 10 April 2006 on conditions for the displacement of minors and the suppression of child trafficking in the Republic of Benin and its implementing decrees
- Act No. 2011-26 of 9 January 2012 on the prevention and punishment of violence against women
- Act No. 2012-15 of 30 March 2012 on the Code of Criminal Procedure
- The law on sexual harassment
- Decree No. 2011-029 of 31 January 2011 listing the hazardous types of work prohibited to children in the Republic of Benin

1. Information on any jurisprudence adopted by the Beninese courts 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

90. In its decision DCC 06-119 of 1 September 2006, the Constitutional Court dismissed a complaint brought by a Beninese citizen against the entry into force of Act No. 2006-19 of 5 September on sexual harassment and the protection of victims in the Republic of Benin, which at that time was the subject of a constitutional review following its adoption by the National Assembly.

2. Body responsible for the implementation of the Protocol and the mechanisms that have been established or are used to ensure coordination between the relevant regional and local authorities, as well as with civil society, including the business sector, the media and academia

91. The National Commission on the Rights of the Child was established in 1999 to coordinate efforts to protect and promote children's rights. It is also responsible for monitoring the implementation of the Convention on the Rights of the Child (art. 2 of Decree No. 99-559 of 22 November 1999).

92. To this end, the Commission holds two annual sessions at which protection-related topics are discussed with a view to raising participants' awareness of children's rights.

93. The Directorate for Family and Children's Affairs (Order No. 1284 of 15 April 2013) within the Ministry of Family Affairs is tasked with developing, coordinating and implementing programmes for children and adolescents in accordance with government policy. In this connection, it is responsible for ensuring the dissemination and effective implementation of laws on child protection, including the Convention on the Rights of the Child and other international legal instruments ratified by Benin.

94. The national unit to monitor and coordinate child-protection activities is a forum for debate and action made up of representatives from government bodies, local and

¹³ Idem 12.

international NGOs and technical and financial partners. It ensures the social coordination of child protection activities, in accordance with Decree No. 1185/MFSN/DC/SGM/DEA/SPEA/SA of 20 March 2009.

3. Information on 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

95. The State and civil society organizations are engaged on a daily basis in raising awareness of children's rights and delivering multifaceted capacity-building training activities to improve child protection.

96. During the period 2013–2014, the Office for the Judicial Protection of Children and Young People organized training courses for professionals in the justice system (judges, prosecutors, juvenile court judges, police officers, social workers, etc.) on the judicial protection of children.

97. In addition, the Ministry of Family Affairs publishes a quarterly newsletter known as "Le Social" in which issues such as child trafficking and the sexual exploitation of children are addressed. A survey is published every three years with information on trends in statistical data in this area.

98. In the fight against child trafficking, the Cooperation and Technical Assistance Office produced, as part of its first programme, a documentary entitled "Ana and Basile", which was screened in all of the country's departments within the context of an audiovisual project called "Film Itinérant".

4. Information on the mechanisms and procedures used to collect and evaluate data and other information concerning implementation of the Protocol on a periodic or continuing basis

Existence of databases

99. The databases on vulnerable children (ChildPro) and on the situation analysis of children (SITAN), which were established in 2007 with the support of UNICEF and the United States Agency for International Development (USAID) in the departmental directorates for family affairs, collect data centrally from over 217 care facilities for vulnerable children nationwide. The information contained in these databases is used to publish regular social surveys, most recently in 2010 and 2013.

100. The Observatory for the Family, Women and Children, which comes under the Ministry of Family Affairs, has developed a vulnerability scale to help social welfare centres and child protection services to identify vulnerable children.

Surveys and studies

101. The following comprehensive, modular surveys of household living conditions have been conducted:

- Demographic and health surveys in 2006 and 2012;
- A national survey on child labour was carried out in 2008 by the State, with the support of the ILO International Programme on the Elimination of Child Labour (IPEC);
- In May 2009, the NGO CIPCRE carried out a study on child trafficking for purposes of sexual exploitation;
- In October 2010, the Observatory for the Family, Women and Children, with the support of the United Nations Population Fund, conducted a knowledge, attitudes and practices (KAP) survey on women's and children's rights in order to assess the actual level of public awareness of these rights;
- In July 2013, the General Directorate of Labour, through the National Institute of Statistics and Economic Analysis and with financial support from UNICEF, carried

out a survey on the economic exploitation of children in the country's three main markets (Dantokpa, Ouando and Arzèkè).

5. Information on the budget allocated to the various activities of Benin related to implementation of the Protocol

102. Information not yet available. Nothing to report.

6. Information on the overall strategy of Benin 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 local ones that have been adopted in order to strengthen efforts to implement the Protocol and advance the rights of the child, the rights of women or human rights that contain components aimed at the elimination of prohibited practices or protection of victims

103. On 9 October 2007, the Government published a document entitled "Child Protection: Policy and Strategy, Action Plans 2008–2012".

104. A holistic protection policy was drawn up and subsequently adopted by the Council of Ministers in October 2014; the corresponding action plan is being prepared. The policy seeks to refocus and adjust approaches to various issues related to vulnerable children.

105. The National Social Protection Policy and Strategy, as implemented between 2004 and 2013, was aimed at providing support for vulnerable individuals, households and communities, with a strategic focus on child protection:

- Programmes derived from the Growth and Poverty Reduction Strategy, whose areas of intervention for the periods 2007–2009 and 2011–2015 included measures for the promotion of the family and child protection and development, in particular by facilitating access to health care;
- The National Gender Promotion Policy, which was aimed in particular at fostering gender equality and developing ways and means of combating early marriage;
- The policy on psychosocial care for persons living with the human immunodeficiency virus (HIV) and for orphans and vulnerable children (OVC) (July 2006);
- The National Plan of Action to Combat Trafficking in Children (2008 to 2012), the aim of which was to document and assess situations of economic exploitation relating to child trafficking with a view to subsequently identifying and strengthening the legal, organizational and institutional frameworks for preventing child trafficking and rehabilitating and reintegrating victims;
- The National Family Action Plan (2009–2016), which analyses the socioeconomic reality of families in Benin and sets out the strategic priorities for strengthening the economic capacity of families, improving access to social services and protecting families with specific needs;
- The National Policy for the Development of Justice;
- The National Child Protection Policy (2014–2025) currently in force was adopted by the Council of Ministers on 8 October 2014. The action plan for the first five-year period (2015–2020) is being developed.

7. Information on the contributions made by civil society to efforts to eliminate the sale of children, child prostitution and child pornography

International NGOs

106. The following NGOs are operating in Benin:

- Plan International Benin focuses on restoring the human dignity of the individual and providing technical and financial support to village communities in the field with a view to improving the quality of life of children on a sustainable basis. Plan International Benin also intervenes to support birth registration programmes through

ensuring the issuance of birth certificates and promotes child participation initiatives;

- Terre des Hommes, which was created in Switzerland in 1960, has had a delegation in Benin since 1974. It is actively engaged in a number of areas related to child health and education, including prevention, protection, recovery and reintegration efforts. It plays a very important role in the reception and integration of trafficked, abused, abandoned or institutionalized children, and those involved in child labour or begging. It has also been active for a long time in the field of adoption;
- The Catholic Relief Service takes part in initiatives to combat trafficking;
- BØRNEfonden, through its project on the reintegration of trafficked children, 2005–2009, contributed to the fight against child trafficking by reinserting some 400 trafficking victims, thanks to funding from the Kingdom of Denmark amounting to approximately 7,000,000 CFA francs;
- The Salesian Sisters are involved in combating trafficking, protecting girls in difficult situations and providing vocational training for children.

National NGOs

107. Information on national NGOs is set out below.

108. The NGO Project for the Integration of Children in Difficult Situations has implemented:

- A programme to improve care services for child trafficking victims in the north of Benin, which ran from 2012 to 2016. The Fondation Follereau de Luxembourg provided funding for the project amounting to 128,000,000 CFA francs;
- An ECOWAS programme on migration and development and child trafficking, which ran from 2014 to 2015. The ECOWAS-SPAIN Fund provided funding for the project amounting to 51,000,000 CFA francs;
- A total of 254 children benefited from these programmes during the period from 2012 to March 2015.

109. The NGO Enfants Solidaires d’Afrique et du Monde (ESAM) contributes to the implementation of the Protocol by conducting awareness-raising activities on prostitution and child pornography in tourist centres, Internet cafes and hotels. It participates in training programmes for stakeholders.

110. The NGO GRADH, an action group for human development, is engaged in combating begging by talibé children, child prostitution and child trafficking and contributing to the social reintegration of children in difficult situations, primarily by offering them vocational training and second-chance schooling opportunities.

111. National NGOs working in areas related to the Protocol have formed two main networks: CLOSE (Comité de liaison des organisations sociales de défense des droits de l’enfant) and ReSPESD (Réseau des structures de protection des enfants en situation difficile). They are actively engaged in advocacy work.

112. The Association des enfants et jeunes travailleurs du Bénin (AEJT) is a national body operating throughout the country that is also part of a pan-African umbrella organization. It helps to promote the well-being of children and youth by taking into account all issues concerning them.

8. Information on the role played by statutory ombudspersons for children or similar autonomous public institutions for the rights of children, if any, in implementing the Protocol or in monitoring its implementation

113. Nothing to report.

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

1. Description of 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

114. The Cœur d'Espoir unit within the Ministry of Family Affairs has developed a child vulnerability scale, which identifies children by thematic area and is used in centres that have access to a database.

115. Vulnerable children are also identified on the basis of surveys, empirical findings or when they come into contact with an administrative or judicial body involved in child protection.

116. According to the 2008 child labour survey conducted by the National Institute of Statistics and Economic Analysis, household poverty and the level of education of the head of household are significant factors in determining the vulnerability of children as potential victims of trafficking.

117. Article 169 of the Children's Code, which is currently being promulgated, defines the categories of children in difficult situations (rejected children, children at risk of vagrancy and begging, child victims of trafficking, forced marriage etc.).

118. The following table describes the vulnerability of children by household type according to the National Child Labour Survey conducted by the National Institute of Statistics and Economic Analysis in 2008.

Table 2

Vulnerability of potential child victims of trafficking according to the level of education of the head of household

<i>Socio-professional category</i>	<i>No.</i>	<i>%</i>
Executives, intellectuals and administrative staff	1 376	3.6
Drivers, hairdressers	1 393	3.7
Sales personnel	3 736	9.9
Farmers and skilled agricultural and fisheries workers	17 809	47
Artisans, workers and unskilled workers	3 089	8.1
Other	10 513	27.7
Total	37 916	100

Source: National Institute of Statistics and Economic Analysis, National Child Labour Survey, 2008.

119. Female pupils and students who are at risk of being exposed to pornography are sometimes alerted by the police via the radio when certain schemes have been identified.

2. Any administrative or legal measures that have been taken to protect children from these practices, including civil registry practices aimed at preventing abuse

120. The Government has introduced the Civil Status Census, which was designed primarily to help all citizens to obtain a copy of their birth certificate. The initiative was launched on 10 October 2006 to address birth registration problems encountered by nearly 3 million Beninese citizens. The scheme does not specifically target children, as it concerns persons who have reached the age of 15. In 2011, 69 of the country's 77 municipalities had been covered. Some 2,101,402 applicants, including 65,000 children in examination classes who had no birth certificate, have obtained their birth certificates free of charge, in other words 88 per cent of Beninese citizens identified as having no birth certificate.

121. A forum on civil status was held in 2012 following the creation of the General Directorate for Civil Status within the Ministry of the Interior. Within this framework, plans

are in place to establish mechanisms to strengthen the birth registration system, particularly at the municipal level.

3. Description of 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 (2) of the Protocol

122. The entities responsible for children's issues within the relevant ministries, including the Ministry of Justice, the Ministry of Family Affairs and the Ministry of Labour, together with civil society organizations supported by technical and financial partners, carry out general preventive and protective work in the field of children's rights, including Protocol-related activities.

123. Within the context of their general work to protect children from trafficking and sexual exploitation, NGOs conduct campaigns aimed at certain professional groups, such as transport workers and their union, and hotel and hostel managers, in order to raise awareness about the fight against prostitution.

124. State authorities conduct both mass and targeted awareness-raising campaigns within the framework of grass-roots social, health and education programmes delivered by local services (social welfare centres and health centres at district and municipal levels) and schools. Civil society organizations and NGOs work to promote and protect children's rights (for example, Plan International Benin, Terre des Hommes, Enfants Solidaires d'Afrique et du Monde, BØRNEfonden, Andia).

125. In 2011, State authorities, with the support of its partners (UNICEF, the French Embassy, Plan International Benin, Terre des Hommes and the European Union) organized a training course that attracted over 200 participants from across the country representing all the professional categories involved in the judicial protection of children (including a court president, a public prosecutor, a children's judge, social workers, police officers, legal and social assistants, prison directors and communicators).

126. The teaching modules used in this training course covered all the issues addressed in the Optional Protocol.

4. Description of 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

127. Specific measures for raising children's awareness are included in policies and programmes for the promotion and protection of their rights; the measures target reception centres, training centres, schools, markets, etc.

128. Children's organizations (committees, clubs and associations) include in their action plans specific measures to raise awareness through peer-to-peer activities. This is the case, for example, with programmes for adolescents aimed at combating HIV/AIDS; children's clubs are supported by Plan International Benin.

129. Various civil society organizations run public sessions for local communities and promote action to combat practices harmful to children.

5. Description of the social programmes and policies that have been adopted or strengthened to protect children, in particular vulnerable children, from prohibited practices (for example, in the areas of health and education)

130. The relevant programmes and policies are as follows:

- The National Child Protection Policy, adopted in 2014;
- The document entitled "Child Protection: Policy, Strategies and Action Plans 2008–2012";
- The National Gender Promotion Policy, aimed in particular at fostering gender equality in schools, reducing school dropout rates and developing ways and means of combating early marriage;

- The policy on psychosocial care for persons living with the human immunodeficiency virus (HIV) and for orphans and vulnerable children (OVC) (July 2006);
- The National Plan of Action to Combat Trafficking in Children (2008 to 2012), which was designed to document and assess situations of economic exploitation relating to child trafficking;
- The National Family Action Plan (2006–2016), which analyses the socioeconomic reality of families in Benin and sets out the strategic priorities for strengthening the economic capacity of families, improving access to social services and protecting families with specific needs.

6. The role played by NGOs, the media, the private sector, the community and children in the design and implementation of awareness measures

131. State authorities organize consultation workshops with a view to involving stakeholders, including children, in the preparation of policy documents on the promotion and protection of children's rights.

132. Stakeholders participate in the process of developing action plans and preparing budgets during consultation and validation workshops.

133. Awareness-raising programmes are implemented in accordance with sectoral policies and involve the participation of civil society and children.

7. Required information on any available data as to the impact of such social and other measures

134. Nothing to report.

8. Economic exploitation

135. The 2008 ILO survey on child labour in Benin revealed that 664,537 children between the ages of 5 and 17 were economically active and 67,437 were potential victims of trafficking.

136. As part of the fight against economic exploitation, the Terre des Hommes Foundation has produced a documentary entitled "Little Hands of Stone Quarries". This documentary, which was shown in all of the country's departments as part of the "Film Itinérant" project, highlighted the harm done to children engaged in quarrying work.

137. In 2014, the Multiple Indicator Cluster Survey (MICS) conducted by the National Institute of Statistics and Economic Analysis revealed that 52.5 per cent of children aged 5 to 17 years were involved in child labour.

138. In July 2013, as part of a survey carried out by the National Institute of Statistics and Economic Analysis and UNICEF on child labour in markets, a census was conducted of children in the country's three main markets, namely Dantokpa (department of Atlantique-Littoral), Ouando (department of Ouémé-Plateau) and Azèrkè (department of Borgou-Alibori). The survey enumerated 7,882 children aged 4 to 17 years, 1,705 of whom were boys.¹⁴

¹⁴ National Institute of Statistics and Economic Analysis — UNICEF, census of children engaged in child labour in the Dantokpa, Ouando and Azèrkè markets, July 2013.

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

1. Information on the material elements of the offences referred to in the Protocol, including any reference to the age of the victim and the sex of the victim or perpetrator in Beninese law

Prohibition of the sale of children

139. Article 3 of Act No. 2006-04 of 10 April 2006 on conditions for the displacement of minors and the suppression of child trafficking in the Republic of Benin provides a strengthened definition of trafficking, as follows: “Any agreement concluded with the intent of depriving, whether for gain or gratuitously, the liberty of a child shall be deemed child trafficking. Child trafficking shall also mean the recruitment, transportation, transfer, placement, receipt or harbouring, by any means, of a child for the purpose of exploitation.” Furthermore, child trafficking is expressly prohibited under article 6 of the Act.

140. Article 390 of Act No. 2015-08 on the Children’s Code makes the sale of children a criminal offence.

Prohibition of child prostitution

141. Article 3 of Act No. 2011-26 of 9 January 2012 on the prevention and punishment of violence against women defines enforced prostitution as “the act of causing one or more persons to engage in one or more acts of a sexual nature, by force, threat of force or coercion, or by taking advantage of the inability of such persons to freely give their consent with a view to obtaining a pecuniary or other advantage”. Procuring is defined as “the activity of a person who promotes the debauchery of others by acting as an intermediary, thereby benefiting from the fruits of that activity”.

Child pornography

142. The minority of the victim of an indecent assault constitutes an aggravating circumstance for this offence under the Criminal Code (art. 331 of the Code).

143. The Children’s Code prohibits the exploitation of children (arts. 203 and 210), the sexual exploitation of children and the incitement of a child to debauchery (378 to 382).

2. The maximum and minimum penalties that can be imposed for each of these offences and the defences and aggravating or attenuating circumstances applicable specifically to these offences

Penalties applicable to the sale of children

144. Article 390 of the Children’s Code states: “Any act or transaction involving the offering, delivering or accepting of a child for remuneration or any other consideration shall be punishable by five (5) to ten (10) years’ imprisonment and a fine of from five hundred thousand (500,000) to five million (5,000,000) CFA francs.”

Penalties applicable to trafficking in children

145. The system of penalties applicable to trafficking in children is set out in article 17 et seq. of Act No. 2006-04 of 10 April 2006:

Article 21: “Any person who engages in trafficking shall be liable to a penalty of imprisonment of from ten (10) to twenty (20) years. In all cases where the act of trafficking in children is performed using any of the means listed in article 23 of the present Act or where the victim is subjected to one of the acts provided for in article 24 below, the guilty person or persons shall be liable to life imprisonment. The perpetrator shall also be liable to life imprisonment if the child is not found prior to sentencing or is found dead.”

Article 22: “Any person who knowingly uses in the Republic of Benin child labour resulting from trafficking in children, whatever the nature of the work, shall be liable to a fine of from five hundred thousand (500,000) francs to five million (5,000,000) francs and/or a prison term of from six (06) months to twenty-four (24) months.”

Penalties applicable to child prostitution

146. Article 34 of Act No. 2011-26 of 9 January 2012 on the prevention and punishment of violence against women states: “Enforced prostitution as defined in article 3 of the present Act shall be punishable by imprisonment of from one (01) to five (05) years and a fine of from one million (1,000,000) francs to ten million (10,000,000) francs. If the offence is followed or preceded by another offence or if the victim is a minor under the age of sixteen (16) years, the penalty shall be increased to at least ten (10) years.”

147. Articles 383 to 386 of the Children’s Code provide for penalties for prostitution, child sex tourism and child pornography.

Penalties applicable to child pornography

148. Article 331 of the Criminal Code provides for the penalty of imprisonment for any indecent assault of a minor.

149. Articles 383 to 386 of the Children’s Code provide for penalties for prostitution, child sex tourism and child pornography.

The statute of limitations for each of these offences

150. These offences are subject to the statute of limitations provided for by ordinary law: 1 year for minor offences, 3 years for major offences and 10 years for crimes. An analysis of the penalties applicable to each of the offences covered by the Protocol indicates that such offences constitute crimes under Beninese law and are therefore subject to a statute of limitations of 10 years.

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

151. Under article 2 of the Beninese Criminal Code, any punishable attempt to commit an offence is equated with the offence itself.

152. According to article 59, accomplices to a crime or major offence shall receive the same punishment as the perpetrators of the crime or major offence, except where otherwise provided by law. With regard to child trafficking, articles 26 and 27 of Act No. 2006-04 of 10 April 2006 provide respectively that any attempt to commit the offence of trafficking is subject to the same penalty as the offence itself and that accomplices to trafficking are liable to the same punishment as the perpetrators of trafficking.

4. Mention of any provisions of the law in force that Benin considers an obstacle to implementation of the Optional Protocol and any plans it has to review them

153. Nothing to report.

5. Description of any law concerning the criminal liability of legal persons for the acts and activities enumerated in article 3 (1) of the Protocol

154. Article 648 et seq. of the Code of Criminal Procedure lay down the rules for the prosecution, investigation and trial of offences committed by legal persons.

6. Description of 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 and 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

155. Provisions on the prevention of illegal adoptions and of complicity therein are set out in article 154 of the Beninese Criminal Code, which makes the abduction of minors by fraud or violence a punishable offence.

156. With regard to sale of children for intercountry adoption purposes,¹⁵ the Ministry of Justice has indicated that intercountry adoptions should be suspended until the 1993 Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption is ratified and national legislation is brought into line with relevant international standards.¹⁶

7. The regulations and licensing of agencies and individuals acting as intermediaries in adoptions, as well as legal practices identified so far

157. The legal practices that regulate adoption can be summarized as follows: the child's placement is ordered by the presiding judge, who also pronounces the adoption decision. Children who are taken in by a private individual or a private organization and have manifestly been neglected by their parents for more than a year are initially declared abandoned by a court of first instance. A copy of the court declaration of abandonment forms part of the adoption application file for such children.

8. The legal and administrative measures taken to prevent the theft of young children and to prevent fraudulent birth registration, including applicable criminal sanctions

158. Articles 60 to 64 of the Personal and Family Code provide for the mandatory registration of every birth and also lay down the procedures to be followed according to the circumstances of the birth or discovery of the newborn child.

159. Article 345 et seq. of the Criminal Code penalize acts intended to destroy the proof of a child's civil status or jeopardize his or her existence. Failure to declare the birth of a child is punishable by a term of imprisonment of from 6 days to 6 months and a fine of from 4,000 francs to 72,000 francs.

160. Article 19 of the Children's Code lays down the requirements for the registration of a foundling.

9. Description of 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

161. Adoption may not take place without the consent of the parents unless they have died or abandoned the child (art. 342 of the Personal and Family Code). When the father and the mother of the child are deceased or unable to express their wishes or no longer have parental authority, the family council gives consent, after consultation with the person who is actually taking care of the child. The same applies when the filiation of the child has not been established (art. 343 of the Personal and Family Code).

10. 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

162. Nothing to report.

¹⁵ From the report of Najat Maalla M'jid, the Special Rapporteur on the sale of children, child prostitution and child pornography.

¹⁶ The procedure for the accession of Benin to the 1993 Hague Convention is under way. Examination of the bill is scheduled for the first session of the National Assembly in 2014.

11. Intention of Benin to become a party to the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption

163. Parliament has authorized the ratification of the above Convention, and the ratification process is under way.

12. Legal provisions that establish jurisdiction over the offences referred to in article 3 of the Protocol

164. The Criminal Code and the Code of Criminal Procedure establish the rules on jurisdiction and criminal responsibility in general terms for each of these offences.

165. The Code of Criminal Procedure lays down the rules on judicial cooperation and extradition in cases where a foreign national is involved in the commission of an offence.

166. Article 59 et seq. of the Criminal Code define persons who are punishable, excusable or responsible for crimes or offences.

167. With regard to the advertising or supply of material that may be used for the commission of any of the offences covered by the Protocol, persons who engage in acts involving the intentional advertising or supply of such material are considered responsible as accomplices (art. 60 of the Criminal Code).

13. Description of the legal provisions that establish extraterritorial jurisdiction over such offences on the grounds mentioned in article 4 (2), and/or on any other grounds of jurisdiction recognized by the law of the State party

168. Articles 386 and 639 to 647 of the Code of Criminal Procedure establish the jurisdiction of Beninese courts over the offences provided for in the international treaties and conventions to which Benin is a party, in accordance with the rules on compulsory jurisdiction established by such conventions and treaties.

14. Description of the law, policy and practice of Benin concerning the extradition of persons accused of having committed one or more of the offences referred to by article 3 of the Protocol

169. Article 736 of the Code of Criminal Procedure provides that:

“Any act serving as a ground for extradition must:

- By the laws of the requesting State and of Benin, constitute either an offence punishable by a custodial sentence of at least two (02) years and for which prosecution is not barred by limitation, amnesty or any other lawful cause, or a custodial sentence which is still legally enforceable within six (06) months at least, not including imprisonment in default of payment;
- By the laws of Benin, constitute an ordinary law offence;
- From the circumstances show that extradition is not requested for political, religious or racial reasons, or based on the nationality of the person concerned.

Crimes and offences which are not directed against any kind of government shall be considered as ordinary law offences and may justify extradition.

Offences of universal jurisdiction provided for in international conventions and ratified by the Republic of Benin shall be considered as ordinary law offences.

The above provisions shall apply to offences committed by members of the military, the navy or similar bodies when such offences are punishable under Act No. 2010-11 of 7 March 2011 as offences under ordinary law.

The practices governing the handing over of sailors who have deserted shall remain unchanged.”

170. Article 728 of the Code of Criminal Procedure provides: “Any person who, in the territory of the Republic, has acted as an accomplice to a crime or offence committed

abroad may be prosecuted and tried in the Republic of Benin provided that the principal act has been established by a final judgment of a competent foreign court.”

171. Article 729 of the Code of Criminal Procedure states: “Any person who has acted as an accomplice abroad to a crime or an offence committed in the Republic of Benin may also be prosecuted and tried in the Republic of Benin.”

172. Article 737 of the Code of Criminal Procedure specifies the cases in which extradition is not granted. It provides:

“Extradition is not granted:

- When the subject of the extradition request is a Beninese national and was recognized as such at the time of the commission of the offence for which extradition is requested;
- When the crime or offence is of a political nature or if the circumstances show that extradition is requested for political, religious or racial reasons or on the basis of nationality;
- When the requested person is a refugee in the territory of the Republic of Benin. Acts committed during a rebellion or civil war by one of the parties involved in order to further its cause are extraditable only if they constitute acts of extreme barbarity or destructiveness prohibited by the laws of war and only after the civil war has ended;
- When the crime or offence was committed in the Republic of Benin;
- When the crime or offence, even if committed outside the Republic of Benin, has been prosecuted in Benin and a final decision rendered;
- When, according to the laws of the requesting State or those of the requested State, the time limit for bringing an action has passed before the extradition request is served, or the time limit for the enforcement of the sentence has passed before the arrest of the individual whose extradition is requested and, generally, whenever the criminal proceedings brought by the requesting State have been completed;
- When the act for which extradition is requested is punishable under the law of the requesting State by a penalty or security measure contrary to Beninese public policy;
- When the person sought would be tried in the requesting State by a court that does not provide fundamental procedural guarantees and protection for the rights of the defence;
- When the crime or offence constitutes a military offence under the law in force.”

15. Information on whether Benin has entered into any extradition treaties since becoming a party to the Optional 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

173. Bilateral agreements include provisions on exchange of information in judicial and police matters and on the extradition of alleged perpetrators and co-perpetrators.

16. Information on whether Benin, since the entry into force of the Optional 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

174. Nothing to report.

17. Description of 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

175. In this regard, article 147 of the Constitution of Benin provides that “Treaties or agreements duly ratified shall, upon publication, prevail over laws, subject, for each agreement or treaty, to its application by the other party.” (Add the ECOWAS agreement.)

176. In this regard, article 14 et seq. of the Multilateral Cooperation Agreement to Combat Trafficking in Persons, especially Women and Children, in West and Central Africa provide:

“Mutual legal assistance measures: consistent with the laws and regulations in force in their States, the Contracting Parties shall take the necessary measures to afford one another assistance in the search, pursuit and arrest of persons involved in trafficking in persons.

Assistance in this regard shall include as a minimum:

- (a) Identifying and tracing persons suspected of trafficking in persons or of abetting the commission of the offence or a related offence;
- (b) Identifying and tracing victims;
- (c) Effecting service of judicial documents;
- (d) Taking evidence or statements from persons;
- (e) Executing searches and seizures, and the freezing and confiscation of proceeds and instrumentalities of crime;
- (f) Providing originals or certified copies of relevant documents and records, including government, bank, financial, corporate or business records;
- (g) Examining objects and sites;
- (h) Providing information, evidentiary items and expert evaluations;
- (i) Facilitating the voluntary attendance of witnesses;
- (j) Effecting a temporary transfer of persons in custody to appear as a witness in the requesting State;
- (k) Assuring protection for and the delivery of care and social welfare services for victims of trafficking, assisting with investigations and prosecutions;
- (l) Producing judicial or official records;
- (m) Identifying or tracing proceeds of crime, property, instrumentalities or other things for evidentiary purposes;
- (n) The arrest or detention of any person with a view to the extradition of that person;
- (o) The enforcement in the requested State of criminal judgments imposed in the requesting State party except to the extent permitted by the laws of the requested Party.”

177. Articles 722 and 723 of the Code of Criminal Procedure establish judicial cooperation measures with the International Criminal Court and the conditions for the collection and preservation of evidence.

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

Information on the measures adopted by the State party to implement article 8 of the Protocol with a view to ensuring 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

178. In Benin, the support system for children is based on a multidisciplinary approach with a view to providing comprehensive care.

179. Article 132 et seq. of the Children's Code, which is currently being promulgated, provides for the establishment of child protection institutions.

180. In addition, the following institutions are responsible for implementing protection policy:

- The Ministry of the Interior, Public Security and Religious Affairs is responsible for the National Police and has a number of decentralized bodies tasked with the provision of justice services. These include the Central Office for the Protection of Minors and Families and for the Prevention of Human Trafficking (formerly the Brigade for the Protection of Minors), which is based in Cotonou but has nationwide jurisdiction. The Office has a reception and transit centre for child victims and children involved in investigations and it is responsible for the protection of minors and families and for the prevention of human trafficking. In addition, there are police stations and gendarmeries throughout the country from where judicial police officers conduct criminal investigations.
- The Ministry of Justice is responsible for the administration of juvenile justice. Within the Ministry, the Office for the Judicial Protection of Children and Youth is responsible for coordinating the national policy on child justice and for overseeing child and adolescent protection centres. In addition, the Prison Administration and Social Welfare Department provides support for minors in prison and intervenes to assist mothers imprisoned with their children. The Department for Civil and Criminal Cases is responsible for managing the operation of the courts under the supervision of the Secretary-General of the Ministry.
- The Ministry of Family Affairs is legally mandated to develop child policy and at the same time to coordinate action for children and to support and meet the needs of vulnerable children, especially children with disabilities and orphans. It operates mainly through the Directorate for Family and Children's Affairs and the Directorate for Social Affairs and National Solidarity. The Directorate for Family and Children's Affairs has two departments: one in charge of child protection and reintegration and the other in charge of the reintegration of child victims of trafficking.
- The Directorate for the Rehabilitation and Integration of Persons with Disabilities and the Directorate for the Advancement of Women and Gender Equality also work to promote children's rights. Lastly, the Ministry of Family Affairs operates the Social Development Support Fund. All the above-mentioned bodies are represented at the departmental level by six (6) departmental directorates, which oversee a total of eighty-five (85) social welfare centres nationwide.
- The Ministry of Labour is responsible for employment and occupational safety policy and is therefore the lead agency for child protection in the workplace. The Directorate General for Labour, within the Ministry, is responsible for coordinating the work of the national steering committee to combat child labour, working in close cooperation with ILO.

Strengthening the fight against child trafficking and support for victims

181. A document entitled “Model for the reception and reintegration of child victims of trafficking”, which serves as a master plan for the reception and care of child victims of trafficking, was drafted in June 2006. It sets out the three phases of intervention, making it possible to identify the role of each actor, depending on whether the child is in the country, has been detected or has been repatriated to Benin.

182. A project to strengthen the network of NGOs working to combat trafficking is being carried out by, among others, the NGO CARE International through its PROCHILD programme for the benefit of the CLOSE network. It is funded by the European Union for a period of three and half years and has helped build local capacities, including among decentralized local authorities, in planning and implementing concerted action to combat child trafficking and child labour.

VII. International assistance and cooperation (art. 10)

183. The various bilateral and multilateral treaties and agreements concluded by Benin in this regard are set out below.

184. The ECOWAS/ECCAS Multilateral Cooperation Agreement to Combat Trafficking in Persons, especially Women and Children in West and Central Africa, signed in Abuja, Nigeria, on 6 July 2006.

185. A joint ECOWAS/ECCAS plan of action against trafficking in persons, especially women and children, in West and Central Africa for the period 2006–2008 was developed under the Agreement of 6 July 2006. The Agreement sets out eight areas of joint action: prevention, repression, protection, repatriation, reunification, rehabilitation, reintegration and cooperation.

VIII. Other legal provisions (art. 11)

186. Benin is gradually strengthening its legislative, institutional and programmatic framework for the enforcement of the rights promoted under the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

187. Measures are being put in place to implement the recommendations of the Special Rapporteur on the sale of children, child prostitution and child pornography.
