



Convention on the Rights of the Child

Distr.: General
19 June 2023
English
Original: Spanish
English, French and Spanish only

Committee on the Rights of the Child

Report submitted by Panama 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 2003* **

[Date received: 5 June 2019]

* The present document is being issued without formal editing.
** The annexes to the present report may be accessed from the web page of the Committee.



I. General background

1. Process for the preparation of the report

1. The present document contains the initial report to be submitted by the Republic of Panama to the United Nations Committee on the Rights of the Child 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, which describes the measures adopted by Panama to comply with the provisions of the Optional Protocol.
2. Panama signed the Optional Protocol on 31 October 2000 and ratified it on 9 February 2000; the Optional Protocol entered into force for Panama on 18 January 2002.
3. The report drafting process was overseen by the national standing committee on the implementation of and follow-up to the national and international human rights commitments made by Panama.¹ The committee's tasks include coordinating the preparation of reports that the State is required to submit to the United Nations human rights treaty bodies.
4. Consultations were held with institutions involved in the implementation of the Optional Protocol to gather information on the progress made, and the obstacles encountered, in effectively implementing the administrative, legislative and judicial measures needed to ensure that children and adolescents are protected against the sale of children, child prostitution and child pornography. Once the information had been collected, the national standing committee held a meeting to approve it; its members made their contributions in a collaborative fashion, with some members of civil society also present.
5. The report has been prepared in accordance with the revised guidelines regarding initial reports to be 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, adopted by the Committee on the Rights of the Child at its forty-third session, on 29 September 2006 (CRC/C/OPSC/2).
6. The information contained in the report covers the period from 2002 to 2018.

2. General principles of the Convention

(a) Non-discrimination (art. 2)

7. Article 19 of the Constitution of Panama establishes that there shall be no public or private privileges or discrimination on grounds of race, birth, disability, social class, sex, religion or political ideas, thereby guaranteeing recognition of the associated rights and the need to give appropriate attention to the population as a whole.
8. Under article 489 (9) of the Family Code, children and adolescents are entitled to protection against all forms of discrimination. Likewise, articles 585 and 589 set forth the protections that the State must provide to all minors without exception or discrimination, by providing all the means and conditions necessary to guarantee their recognition as subjects of rights.
9. Act No. 16 of 31 March 2004 contains provisions on the prevention and definition of offences against sexual integrity and sexual freedom. Article 1 of the Act provides that the overriding purpose of the Act is to protect minors against all forms of sexual exploitation, in whatever form, in accordance with the guiding principles of the Constitution, the Family Code and the international human rights treaties ratified by the country.
10. In criminal cases, Act No. 40 of 26 August 1999 enshrines the procedural guarantee of the principle of equality and the right to non-discrimination (art. 16).

¹ Executive Decree No. 7 of 17 January 2012 establishing the national standing committee on compliance with and follow-up to the national and international human rights commitments of Panama. *Gaceta Oficial* No. 26953-A.

11. The special protection available to children and adolescents who fall victim to any of the acts covered by the Optional Protocol entails caring for them in a manner that prevents their revictimization, adopting urgent protection measures and restoring the rights they hold as minors.

(b) Best interests of the child

12. Articles 2 and 740 of the Family Code establish the obligation for judicial and administrative authorities to give precedence to the best interests of the child.

13. The best interests of the child, as a rights-based principle, has been embedded in part of the Panamanian legislative framework; as a substantive right, it is recognized in some laws and procedures as the right of children and adolescents to have their best interests treated as a primary consideration in the adoption of decisions affecting them; as a legal benchmark, it ensures that, in cases involving provisions that can be interpreted in more than one way, the interpretation that best serves the best interests of the child prevails.

14. These rules require the rights of children and adolescents to be a primary consideration for the authorities in all decisions concerning them, including when collective interests are at stake, and to be a factor in decisions in the event of disputes arising in relation to other rights or subjects of rights.

15. One of the fundamental objectives of Act No. 16 of 31 March 2004 is to protect minors against acts of sexual exploitation of any form, taking into account their best interests.

(c) Right to life, survival and development

16. The protection of the right to life, survival and development is a prerequisite for the enjoyment of the rest of the rights accorded to children and adolescents; therefore, the protection of these rights is at the centre of all State action, including all the measures it takes to safeguard children whose rights have been violated.

17. The Constitution guarantees the protection of the physical and mental health and moral integrity of children and adolescents, as well as their rights to food, health, education, security and social welfare (art. 56). The Family Code (art. 485) also guarantees the right to life, survival and development of Panamanian or foreign children and adolescents, without distinction or discrimination of any kind.

(d) Respect for the views of the child

18. In processes and procedures involving children and adolescents, more weight is now being given to their views as a means of ensuring their participation in situations affecting them.

19. Taking due account of the views of children and adolescents in any decisions taken serves as a mechanism for protecting their human rights and is at the heart of several judicial and administrative processes.

20. Children and adolescents must be heard during adoption proceedings and express their views, which must be assessed in accordance with the child's or adolescent's degree of maturity and included in the record of the hearing (Act No. 43 of 2013, art. 48).

21. In 2012, the Charter of Rights of All Persons Involved in Judicial Proceedings was adopted through Decision No. 3 of 6 January 2012, establishing the right of minors to age-appropriate treatment and to respect for their privacy during the proceedings of the Public Prosecution Service, which entails ensuring that proceedings in which children and adolescents are involved remain strictly confidential.

3. Implementation of measures provided for in the Convention

22. Upon ratifying the Convention on the Rights of the Child in 1990, Panama committed to upholding the principles and the children's and adolescents' rights enshrined therein. Accordingly, it has adopted various laws and procedures related to the rights of children and

adolescents and the offences set out in the Optional Protocol, including a law on the prevention and criminalization of offences against sexual freedom and integrity, a law on adoptions, the prohibition of child marriage and a list of prohibited jobs for minors, thereby establishing a legal basis and an institutional framework for the implementation of the Convention.

23. Regarding the institutional framework, the establishment of bodies such as the National Commission for the Prevention of Sexual Exploitation Offences, the Committee for the Elimination of Child Labour and the Protection of Adolescent Workers, the National Commission against Trafficking in Persons and the National Intersectoral Committee for the Prevention of Violence against Children and Adolescents has allowed for the development of specific strategies for the protection of the rights enshrined in the Convention and the Optional Protocol thereto.

(a) Definition of the child (art. 1)

24. In accordance with article 1 of the Convention, the State defines a child or adolescent as any human being from the moment of his or her conception up to the age of 18 years (Family Code, art. 484).

25. Under Panamanian criminal law, the offences defined in the Optional Protocol carry harsher penalties when the victim is under 18 years of age. Aggravating circumstances are applied to ordinary offences when the victim is under 14, 16 or 18 years of age.

26. Pursuant to Act No. 30 of 5 May 2015, the State raised the minimum age for marriage to 18 years to ensure that prospective spouses have reached an appropriate level of maturity, health, education and development, and to protect children from abuse by adults. In accordance with article 339 of the Family Code, parental authority ceases when a child reaches 18 years of age.

27. Regarding sexual consent, article 175 of the Criminal Code punishes sexual relations with minors under 14 years of age with 2 to 4 years' imprisonment, even in cases where the victim gave his or her consent. An exemption is applied if it is duly proven that the victim and the offender were in a stable relationship as a couple at the time of the sexual activity, provided that the age difference between them does not exceed five years.

(b) Illicit transfer and non-return (art. 11)

28. The State has taken measures to protect children and adolescents against illicit transfer abroad and non-return, including by incorporating such conduct into its criminal law.

29. In parallel, it has strengthened the regulatory framework governing migration, cooperation with other countries, inter-institutional coordination, criminalization and law enforcement.

Illicit non-return

30. Any person who wrongfully retains or removes a minor or person who lacks legal capacity from the country or from the custody of his or her parents, guardian or another person responsible for looking after, raising or caring for him or her, without the authorization of those persons who have legal custody of him or her or in whose care he or she has been placed, is liable to 3 to 6 years' imprisonment (Criminal Code, art. 158).

31. This penalty is increased by between one third and one half if the offence is committed by one of the victim's parents. Close relatives of the parent who participate in the execution of the offence are also liable to punishment.

Offences against the identity of a minor

32. Offences against the identity of a minor are defined in article 205 of the Criminal Code, which provides that any person who deletes or alters information related to the identity of a minor in the civil status records is liable to 3 to 5 years' imprisonment. The same punishment also applies to any person who knowingly hands over a minor to a person who is not his or her parent or to anyone who is not authorized to take him or her.

Illicit transfer

33. Article 208 provides that any person who abducts, transfers or retains a minor or attempts to do so by illicit means, such as kidnapping, the use of fraud or coercion to obtain consent or the giving or receiving of illicit payments or benefits aimed at obtaining the consent of the minor's parents or persons or an institution having care of the minor is liable to 8 to 10 years' imprisonment.

Administrative measures

34. In the area of migration regulation, controls on the exit from the national territory of Panamanian and foreign minors, regardless of their migration status, were reinforced in 2008, affecting both the manner in which minors may leave the territory and the formal requirements applicable to both Panamanians and resident foreign nationals.

35. Panamanian and foreign minors, regardless of their migration status, are permitted to leave the national territory in the following circumstances: if they are accompanied by their mother and father; if they are accompanied by one of their parents and the accompanying parent has obtained written consent from the other parent, which must have been duly authenticated by a notary public; if they are accompanied by one of their parents and the accompanying parent has obtained the authorization of a competent judge, and, if the non-accompanying parent is deceased, a copy of his or her death certificate. If the minor is travelling with a third party, the latter must present written authorization from both parents and, if the minor is travelling alone, he or she must present written authorization from both parents.

36. In addition, if the minor is Panamanian or was born in Panama but holds a foreign passport, his or her original birth certificate must be presented (Decree Law No. 33 of 22 February 2008, art. 40).

Smuggling

37. Any person who directs, promotes, finances, collaborates in, facilitates or in any way participates in the entry or exit of persons from the national territory for the purpose of smuggling migrants, even with their consent, is guilty of the offence of people smuggling and is liable to 15 to 20 years' imprisonment. In cases where the smuggled migrant is a minor, this penalty is increased to 20 to 30 years' imprisonment (Art. 456-E).

38. In addition, any person who facilitates the obtaining of, supplies, prepares, offers, distributes or possesses a travel or identity document that is wholly or partially forged is liable to 8 to 12 years' imprisonment. This penalty is not applied if the person in possession of the document is also the victim.

Administrative measures

39. Pursuant to Act No. 36 of 2013 on the Smuggling of Migrants and Related Activities, steps have been taken to prevent the smuggling of migrants, including in the context of organized crime, to assist the victims of smuggling and to strengthen public security policies and actions against such offences.

40. An unaccompanied child migrant is defined as any person under the age of majority travelling unaccompanied by a parent, guardian or other adult responsible for his or her care by law or custom. Border crossings by children who have been duly authorized to travel by the persons responsible for their care and upbringing are excluded from the definition of people smuggling.

41. In cases where the migrant victim of smuggling is a minor, due account must be taken of his or her best interests, rights and need for adequate protection throughout the proceedings. Victims who are minors enjoy all the rights normally afforded to the victims of smuggling but also have special needs that must be recognized during the proceedings. Steps must be taken to reunite victims who are minors with their families when it is safe to do so.

42. The special measures that must be taken in relation to migrant victims under the age of 18 years include special care and assistance, especially where the victim is an infant. If it

is impossible to determine whether the victim is a minor, he or she will be presumed to be a minor until such time as his or her age can be verified. Assistance is provided by specially trained professionals and shelter and support services are also arranged.

43. All necessary steps are taken to establish the nationality and identity of unaccompanied child migrants and the whereabouts of their families when doing so is safe and in the child's best interest.

44. Child migrants who do not have proper legal representation are afforded legal counsel by the National Secretariat for Children, Adolescents and the Family. Minors who are the victims of smuggling or are in an irregular migration situation are not placed in immigration detention.

45. Judicial proceedings involving child migrants are conducted in private, away from the media and the general public. Child migrants give their statements to the investigating authority and the court in the absence of the persons charged.

(c) Adoption (art. 21)

46. In Panama, adoption is regulated by the General Adoption Act (No. 46 of 17 July 2013), in accordance with the principle of the best interests of children and adolescents and with a view to upholding their right to a family and to family life. Adoption is therefore a protective measure of last resort that is applied in order to restore the right to a family.

47. Act No. 46 recognizes the right of children and adolescents to live, grow up and be raised and cared for under the guidance and responsibility of their biological family, whether their nuclear family or other blood relatives. In the absence of their biological parents, the first choice is to place them with other blood relatives who are part of their extended family.

48. Private adoption is prohibited and international adoption is allowed only when domestic adoption is not possible. The offence of illicit adoption is laid out in article 207 of the Criminal Code. For more information, see paragraph 15 of this report, on the legal and other measures taken to prevent illicit adoptions.

(d) Exploitation of children and child labour (art. 32)

49. The minimum age of employment is 14 years, save for the exceptions provided for by law (Constitution, art. 70). This rule is elaborated on in the Labour Code, which prohibits the employment of persons under 14 years old and of 15-year-olds who have not completed their primary education (art. 117).

50. The employment of adolescents who are able to work must be regulated by a labour contract. The Ministry of Labour and Workforce Development is responsible for ensuring that such contracts comply with all applicable legal requirements.

Worst forms of child labour

51. Panama ratified the International Labour Organization (ILO) Worst Forms of Child Labour Convention, 1999 (No. 182) through Act No. 18 of 15 June 2000.

52. In 2006, in compliance with ILO Convention No. 182, a list of hazardous forms of work considered to be the worst forms of child labour was established pursuant to Executive Decree No. 19 of 12 June 2006, specifying the categories of work that are prohibited for persons under 18 years of age because they are considered dangerous.

53. In 2016, the list of the worst forms of child labour in Panama was updated to include specifically prohibited tasks, in view of the general nature of the previous version of the list, which set out prohibitions in terms of areas of economic activity. The new list was approved by tripartite consensus and the Committee for the Elimination of Child Labour and the Protection of Adolescent Workers.

54. Since 2007, the Criminal Code, in article 197, provides for penalties for child abuse and, in article 198, specifies the situations constituting abuse. They include inducing children to beg and employing them in types of work that are prohibited. Child abuse carries a penalty

of 2 to 4 years' imprisonment, or 3 to 6 years' imprisonment where there are aggravating circumstances.

(e) Sexual exploitation and sexual abuse (art. 34)

55. The State has adopted a range of measures to protect the sexual integrity of children and adolescents and to end and punish all forms of sexual exploitation and sexual abuse.

56. Offences against sexual freedom and integrity, including offences related to sexual exploitation and sexual abuse, are punishable under title III of the Criminal Code, which deals with offences against liberty and integrity.

57. Conduct related to commercial sexual exploitation has been criminalized in accordance with the Optional Protocol since 2004.

58. The aforementioned offences were introduced in the new Criminal Code adopted in 2007, which increased the penalties for such offences and expanded the aggravating circumstances to be applied in cases where the victim is under 18 years of age.

59. These offences include: rape; sexual relations with minors; libidinous acts; sexual harassment; corruption of minors; pimping with aggravating circumstances owing to the victim's being a minor; forced prostitution; production, trade, advertising, dissemination or distribution of pornographic material featuring minors; possession of pornography featuring minors for "personal use"; child prostitution; indecent exposure or pornographic exhibitionism involving minors; exhibition of pornographic material to minors or authorization of access by minors to pornographic performances; sex tourism; and possession or running of a business involved in the corruption or sexual exploitation of minors (Criminal Code, arts. 174–192).

60. Special protection measures are put in place during proceedings involving victims of sexual exploitation and abuse who are minors, including the use of Gesell chambers to protect their identity.

61. Protocols are in place for the comprehensive care of child and adolescent victims of sexual violence and the care of victims of commercial sexual exploitation who are minors.

(f) Abduction, sale and trafficking (art. 35)

Abduction

62. The offence of abduction is set forth in article 150 of the Criminal Code, which provides that anyone who abducts a person in order to obtain from him or her or from another person, in return for the release of the abducted person, money, goods, information or documents with legal effect, by action or omission, or to obtain any other advantage for him or herself or a third party, even if he or she does not achieve this goal, is liable to 15 to 20 years' imprisonment. The same penalty is imposed on any person who, in the distribution of roles or tasks, participates in the commission of the offence by making a contribution aimed at guaranteeing its completion, even if the attempt is unsuccessful, and who fails to inform the authorities. The penalty provided for in article 150 is increased by between one third and one half where the victim of the abduction is a minor.

Unlawful rendition

63. According to article 206, which establishes the offence of unlawful rendition, anyone who hands over a child or adolescent to a person who is not the child's parent or a person who is not authorized to take him or her, for illicit purposes or by illicit means, is liable to 3 to 6 years' imprisonment.

Sale

64. According to article 207, the sale, rendition, offering, acceptance or transfer of a child for commercial purposes (remuneration, payment or reward) is punishable by 5 to 10 years' imprisonment. Where such acts are carried out for the purpose of sexual exploitation, organ

extraction, forced labour or servitude, the penalty is increased by between one third and one half of the maximum possible sentence.

Trafficking

65. Trafficking in persons is considered an aggravated offence and carries a penalty of between 20 and 30 years' imprisonment when the victim is a minor or is in a situation of vulnerability, has a disability or is incapable of giving consent (Criminal Code, art. 546A, second paragraph).

66. The fact that a victim of trafficking has given consent does not exempt the perpetrator from criminal responsibility. Information on aggravating circumstances can be found in section V of this report, on other related offences (paras. 143 et seq.).

Administrative measures

67. Act No. 79 of 9 November 2011 provided for the establishment of the National Commission against Trafficking in Persons, a technical and administrative body with legal personality attached to the Ministry of Public Security and responsible for the execution and monitoring of the National Policy against Trafficking in Persons through the National Plan against Trafficking in Persons. The Commission comprises various units tasked with safeguarding the rights of and protecting victims of trafficking.

68. The National Plan against Trafficking in Persons 2012–2017 sets specific targets based on strategic guidelines and central themes, including crime prevention, victim protection and assistance, the investigation and prosecution of offenders, national and international cooperation and implementation and follow-up and monitoring.

69. Various awareness-raising campaigns have been carried out, including the Blue Heart Campaign against Human Trafficking, an initiative of the United Nations Office on Drugs and Crime aimed at combating human trafficking and its impact on society. On 30 July 2015, the World Day against Trafficking in Persons, the Panamanian authorities joined the Blue Heart Campaign, thereby demonstrating the State's commitment to preventing trafficking in persons through a multi-institutional, coordinated and comprehensive approach. Human chains have also been organized with the participation of public institutions and schools.

4. Legal status of the Optional Protocol

70. Panama ratified the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict through Act No. 47 of 13 December 2000.

71. Article 4 of the Constitution provides that the Republic of Panama abides by the rules of international law. Article 17 provides that the rights and guarantees enshrined in the Constitution must be considered to be minimum standards that are without prejudice to other provisions relating to fundamental rights and human dignity. The aforementioned articles recognize the right of nationals and foreigners to enjoy their fundamental rights, which include the international principles and standards protected through the human rights treaties ratified by Panama.

72. By virtue of the foregoing, Act No. 47 of 13 December 2000 – a national law transposing into the national legal framework an international treaty that protects the human rights of children and adolescents– is applicable domestically and may be invoked by the courts in their decisions.

5. Reservations

73. Panama did not enter any reservations when it ratified the Optional Protocol.

6. Measures taken to implement the Optional Protocol

(a) Progress made

74. In 2003, as part of an initiative led by the Latin American Parliament, the Office of the Ombudsman established the National Front against Commercial and Non-Commercial Sexual Exploitation of Children and Adolescents, whose main objective at the time was to help coordinate the promotion of actions to prevent and eliminate commercial sexual exploitation of children and adolescents in Panama and to give effect to articles 34 to 36 of the Convention on the Rights of the Child and to the Optional Protocol on the sale of children, child prostitution and child pornography.

75. With the technical and financial support of the ILO International Programme on the Elimination of Child Labour, the National Front against Commercial and Non-Commercial Sexual Exploitation of Children and Adolescents coordinated the process of aligning national legislation. This process resulted in the proposal of a widely accepted draft bill to criminalize and appropriately punish offences related to the commercial sexual exploitation of children and adolescents, which was subsequently submitted to and approved by the National Assembly.

76. In March 2004, Panama adopted Act No. 16 of 31 March 2004² on the Prevention and Definition of Crimes against Sexual Integrity and Sexual Freedom, amending and supplementing the criminal and judicial codes.

77. By adopting this act, Panama joined the list of countries that have adopted laws on sexual exploitation that not only criminalize such conduct, but also provide for the adoption of a public policy on the prevention of sexual exploitation and the provision of care for child and adolescent victims. This act represents the first step in the State's strategy for complying with the principles and obligations established in the Convention on the Rights of the Child and the Optional Protocol on the sale of children, child prostitution and child pornography.

78. In accordance with Act No. 16 of 2004, in 2005, the National Commission for the Prevention of Sexual Exploitation Offences, a technical and administrative body, was established to examine ways of preventing and eradicating sexual exploitation.

79. The Commission has taken many measures to promote rights, prevent crime and provide care for victims, as described in the following sections of this report.

80. In 2007, through Act No. 14 of 18 May 2007, Panama adopted a new Criminal Code, which entered into force in 2008. The entry into force of the new Criminal Code did not result in any major changes to the offences defined in the special act of 2004.

81. Act No. 79 of 9 November 2011 establishes measures aimed at the prevention of victimization through trafficking and the revictimization of victims of trafficking, ensuring their protection and strengthening public security policies and actions to combat trafficking-related offences. The Act also provided for the establishment of the National Commission against Trafficking in Persons.

82. Through the adoption of Act No. 21 of 20 March 2018, the penalties prescribed by the Criminal Code for offences against sexual integrity and freedom were increased, specifically when the victim is a minor.

83. Pursuant to the commitments assumed by the countries participating in the first World Congress against Commercial Sexual Exploitation of Children held in Stockholm in 1996, the National Commission for the Prevention of Sexual Exploitation Offences adopted the National Plan for the Prevention and Elimination of Sexual Exploitation of Children and Adolescents 2008–2010, which has been extended while a new national plan for the period 2019–2025 is being drafted. The National Commission against Trafficking in Persons adopted the National Plan against Trafficking in Persons in the Republic of Panama 2012–

² *Gaceta Oficial* No. 25,023 of 5 April 2004.

2017,³ which establishes strategic objectives for preventing and eradicating sexual exploitation and trafficking in persons.

84. The above-mentioned plans are in line with the principles and rights recognized in the international human rights conventions ratified by Panama.

(b) Implementation of the Optional Protocol

85. The Optional Protocol was ratified by an act of the Republic and is therefore applicable throughout Panama.

II. Data

Mechanisms and means used for periodic and ongoing data collection and evaluation

86. To facilitate the collection of data on sexual exploitation offences, the National Commission for the Prevention of Sexual Exploitation Offences designed a statistics platform, through which it requests information from the Public Prosecution Service on cases under investigation. With this information, it is possible to establish, inter alia, the geographical areas with the highest incidence of crime and the age of underage victims – information that can be used to establish profiles of victims and offenders.

87. Under proposed draft regulations on Act No. 79 of 9 November 2011, the institutions that make up the National Commission against Trafficking in Persons would be required to submit information to the Commission on a quarterly basis with a view to centralizing information related to trafficking in persons.

88. Both commissions receive information from the Public Prosecution Service Statistics Centre and the Centre of Court Statistics of the judicial branch, which keep records on the investigation and punishment of sexual exploitation and human trafficking offences.

89. Statistical data are presented below.

Public Prosecution Service – Attorney General’s Office

Table 1

Comparative analysis of the number of cases involving offences against sexual freedom and integrity at the national level

1 January–31 December 2017 and 2018 (p)

<i>Offence</i>	<i>Total cases</i>	<i>2017</i>	<i>2018</i>	<i>Change</i>
Chapter II – Corruption of minors, commercial sexual exploitation and other conduct	1 279	918	361	-61%
Corruption of minors (art. 179)	337	164	173	5%
Pimping (art. 180)	34	17	17	0%
Forced prostitution (art. 182)	1	1	0	-100%
Child pornography (art. 184)	667	536	131	-76%
Possession of child pornography (art. 185)	56	44	12	-73%
Paid sexual relations with persons between 14 and 18 years of age (art. 186)	24	15	9	-40%
Acts of indecent exposure or pornographic exhibitionism involving minors (art. 187)	31	25	6	-76%

³ Executive Decree No. 464 of 2 July 2012 approving the National Plan against Trafficking in Persons 2012–2017.

<i>Offence</i>	<i>Total cases</i>	<i>2017</i>	<i>2018</i>	<i>Change</i>
Exhibition of pornographic materials to minors, persons who lack legal capacity or person with disabilities (art. 188)	128	115	13	-89%
Sex tourism (art. 190)	1	1	0	-100%
Preliminary investigations	23	2	21	950%

Source: Public Prosecution Service Statistics Centre/Adversarial and Inquisitorial System Platform/Adolescents.

Note: (p) refers to preliminary data.

¹ In this context, the term “preliminary investigations” refers to cases where the report from the National Institute of Forensic Medicine and Science necessary for determining the exact nature of the offence is still pending.

III. General measures of implementation

90. The State works with various stakeholders to draw attention to sexual exploitation as a crime and as a violation of the human rights of children and adolescents.

91. The National Plan for the Prevention and Elimination of the Commercial Sexual Exploitation of Children and Adolescents 2008–2010 has been extended and is in the process of being updated.

1. National legislation

Laws

- Act No. 16 of 31 March 2004 on the Prevention and Definition of Crimes against Sexual Integrity and Sexual Freedom, amending and supplementing the criminal and judicial codes.
- Act No. 22 of 22 June 2007 on the Protection of Minors from the Display and Production of Pornographic Material, which, in particular, restricts minors’ ability to purchase Internet services so that they cannot gain access to websites displaying pornographic material.
- Consolidated Text of Act No. 14 of 18 May 2007 adopting the Criminal Code of the Republic of Panama, which made the criminal acts covered by the Optional Protocol offences under a new criminal code with a view to introducing the accusatorial system in Panama.
- Act No. 79 of 11 November 2011 on Trafficking in Persons and Related Activities, which increases the criminal penalty for the offence of trafficking to 30 years’ imprisonment; adds such offences to the list of crimes against humanity, which are not subject to a statute of limitations; establishes the National Commission against Trafficking in Persons; and provides for the adoption of the National Plan against Trafficking in Persons.
- Act No. 36 of 24 May 2013 on the Smuggling of Migrants and Related Activities, which provides for measures to prevent the smuggling of migrants, assist victims, including children and adolescents, and punish such criminal acts.
- Act No. 46 of 17 July 2013, the General Adoption Act of the Republic of Panama, which restores children’s and adolescents’ right to family cohabitation, in accordance with the Convention on the Rights of the Child, and establishes regulatory standards to prevent the use of adoption for purposes prohibited by the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.
- Act No. 121 of 31 December 2013 on the Amendment of the Criminal, Judicial and Criminal Procedure Codes and on Measures to Combat Activities Related to

Organized Crime, which creates offences for acts related to organized crime and provides for the investigation, prosecution, bringing to trial and punishment of those acts, in accordance with international conventions on serious crimes such as trafficking in persons, the commercial sexual exploitation of children and adolescents and child pornography.

Executive decrees

- Executive Decree No. 101 of 17 May 2005, which prohibits the access of minors to websites with pornographic content.
- Executive Decree No. 664 of 23 December 2008, under which the new format and content of the form for reports of investigations into suspected cases of domestic violence or ill-treatment of minors and older persons were adopted and approved in their entirety and Executive Decree No. 21 of 9 February 1998 was repealed.
- Administrative decisions:
- Decision No. DG 179-04, which establishes a special section for sexual exploitation offences within the Sexual Offences Division.
- Decision No. 35 of 5 December 2007 on the specialization of circuit-level public prosecutors' offices.

2. Judicial decisions

92. The Supreme Court of Justice of Panama has imposed criminal penalties on abusers of children and adolescents, sentencing them in its rulings to terms of imprisonment ranging from 2 to 7 years. The rulings mentioned below can be found in annex II.

<i>Case</i>	<i>Child pornography</i>	<i>Decision of the court</i>	<i>Child prostitution</i>	<i>Decision of the court</i>
Appeal in cassation in the proceedings against Gustavo Haskins Galvez, accused of indecency and infringing on sexual freedom. Reporting judge: Jerónimo Mejía E., Panama, 30 June 2008.		Vallester Aizpurua was found guilty and sentenced to 4 years' imprisonment; the payment of 150 day fines at the rate of 5 balboas per day, for a total of 750 balboas, to the National Treasury within four months; and concomitant disqualification from public service for the same period as the main penalty.	Appeal in cassation in the case against Thonya Xiomara Hubbard and Thayra Yanula de la Lastra Bedoya for the offence of pimping. Reporting judge: Graciela J. Dixon C., Panama, 27 January 2004.	The judgment appealed on behalf of Thonya Xiomara Hubbard de Him and Thayra Yanula de la Lastra Bedoya was not quashed.
Pretrial proceedings against Luis Rolando Vallester Aizprua for indecency and infringing on sexual freedom and integrity. Reporting judge: Anibal Raúl Salas Céspedes, Panama, 24 September 2010.		The appellate judgment of 21 November 2008 of High Court No. 2 of the first judicial district of Panama was not quashed.	Appeal in cassation on a point of law in the criminal proceedings against Liz Evelin Ameglio and Thonya Xiomara Hubbard Ubillus de Him for indecency and infringing on the sexual freedom of the minor Y.E.B.P. Reporting judge: Graciela J. Dixon C., Panama, 29 May 2006.	The conviction of Liz Evelin Ameglio and Thonya Xiomara Hubar Ubillus for the corruption of minors and pimping, for acts involving the minor Y.E.B.P, was not quashed.
Appeal in cassation filed on		Bolívar Rivera Justavino was found guilty of the corruption of minors and received a sentence of 2	Request for review filed on behalf of Victor Camarena	The request for review filed by the attorney Arnulfo A. Peñalba R. on behalf of Victor Camarena Broce, convicted of indecency and infringing on sexual freedom and integrity, was not accepted.

<i>Case</i>	<i>Child pornography</i>	<i>Decision of the court</i>	<i>Child prostitution</i>	<i>Decision of the court</i>
	<p>behalf of Natzul Uziel Torres Hidalgo in the criminal proceedings against him for infringing on sexual freedom and integrity. Reporting judge: Jeronimo E. Mejia, Panama, 19 July 2012.</p> <p>Appeal in cassation on a point of law by Digna Castillo, Prosecutor No. 6 of the first judicial circuit of Panama, against appellate judgment No. 12 of 25 January 2011 of High Court of Justice No. 2 of the first judicial district of Panama. Reporting judge: Harry A. Díaz, Panama, 25 February 2014.</p>	<p>years' imprisonment, which was replaced by an order to pay 100 day fines at the rate of 26.66 balboas per day, for a total of 2,666 balboas, within one year.</p>	<p>Broce, convicted of indecency and infringing on the sexual integrity and freedom of M.I.D.C. Reporting judge: Aníbal Salas Céspedes, Panama, 10 September 2007.</p> <p>Appeal in cassation in the proceedings against Eduardo Torres Guadamuz and Eneida Sánchez Alvarado for indecency and infringing on sexual freedom. Reporting judge: Jerónimo Mejia E., Panama, 24 November 2008.</p>	<p>Eneida Sánchez Alvarado, whose personal information is in the record, was sentenced to 7 years' imprisonment, loss of parental authority and disqualification from public service for the same period as the main penalty for an aggravated form of corruption of minors, for acts involving the minor K.E.P.S.</p>

93. The convictions for sexual exploitation handed down by ordinary criminal courts are listed in annex III.

3. State bodies responsible for implementing the Optional Protocol

94. Act No. 16 of 31 March 2004 established the National Commission for the Prevention of Sexual Exploitation Offences as a technical and administrative body tasked with examining ways to prevent and eradicate commercial sexual exploitation. The Commission comprises government bodies that safeguard the rights and ensure the protection of children.

95. The Commission is headed by the Attorney General and its members include government ministers (the Minister of Public Security, the Minister for Social Development, the Minister of Health, the Minister of Education and the Minister for the Economy and Finance), the presiding judge of the Superior Court for Children and Adolescents, the President of the Commission for Women, Children, Young People and the Family of the National Assembly, the Director of Criminal Investigations, a coordinator appointed by the executive branch, a representative of the Ombudsman's Office, the Director of the National Secretariat for Children and Adolescents and a representative of the country's bar associations.

96. The Ministry of Public Security is responsible, through its security services, for maintaining and defending the country's sovereignty; ensuring safety, tranquillity and law and order in the country; and protecting the lives, honour and property of Panamanians and of foreign nationals under the country's jurisdiction. To achieve these objectives, it carries out crime prevention policies and measures, sets policies and implements measures to ensure

the protection and safety of persons present in the country and develops and regulates policies for the prevention and scientific study of crime that have a quantitative or qualitative impact in communities. Since 2011, it has coordinated the National Commission against Trafficking in Persons, a technical and administrative body responsible for implementing and monitoring the National Policy against Trafficking in Persons. (Act No. 79 of 9 November 2011).

97. The National Secretariat for Children, Adolescents and the Family is the entity responsible for protecting children's and adolescents' human rights in the country. It has a department for protection from abuse and violence that is responsible for providing assistance to minors who are victims of such acts. The Secretariat coordinates the assistance provided to victims with the National Police, the Ministry of Health, the various juvenile courts and non-governmental organizations (NGOs) and, to that end, has in place protocols for the comprehensive care of child and adolescent victims of sexual violence and the care of minors who are victims of commercial sexual exploitation.

98. The Public Prosecution Service is not only responsible for prosecuting the offences covered by the Optional Protocol, but also provides assistance to victims through the Secretariat for the Protection of Victims and Other Participants in Criminal Proceedings and the Unit for the Protection of Victims, Witnesses, Experts and Other Participants, which is the first point of contact for victims, who receive interview assistance from an interdisciplinary team (psychologist and social worker), in line with the Protocol for Providing Comprehensive Assistance to Victims and Witnesses of Offences against Sexual Integrity and Freedom developed by the United Nations Office on Drugs and Crime and the Attorney General's Office.

99. Decision No. 29 of 12 November 2008 provided for the creation of the Office of the Special Prosecutor for Organized Crime, which has nationwide jurisdiction and competence and, together with prosecutors from all the country's provinces, is responsible for coordinating operations and investigating cases of sexual exploitation and trafficking of adults and minors. Undercover operations are carried out to dismantle the related criminal operations.

100. The judicial branch is responsible for administering justice in the country and for trying and punishing persons accused of the offences covered by the Optional Protocol.

101. The judicial branch administers justice in the country and is responsible for trying and punishing persons accused of the offences covered by the Optional Protocol.

4. Training and dissemination

102. The National Commission for the Prevention of Sexual Exploitation Offences has a comprehensive trainers' programme that covers the conceptual and legal frameworks relating to the sexual exploitation of children and adolescents in Panama and the applicable conventions, including the Convention on the Rights of the Child, the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and the ILO Worst Forms of Child Labour Convention, 1999 (No. 182). It also includes training in the proper use of technology to prevent child pornography and the identification of cases of sexual exploitation.

103. The National Commission for the Prevention of Sexual Exploitation Offences has, since its establishment, carried out training and awareness-raising activities, reaching staff of public institutions, civil society organizations and private companies.

104. The Public Prosecution Service provides all staff members responsible for processing the offences covered by the Optional Protocol with ongoing training. In this regard, it holds internal training sessions and facilitates staff members' participation in international training events. Between 2011 and 2018, 15 courses related to trafficking in persons and sexual exploitation were held.

105. The Department for Protection from Abuse and Violence of the National Secretariat for Children, Adolescents and the Family has provided training in schools, to teachers and to

staff of the Social Security Fund on topics related to sexual abuse, types of ill-treatment, trafficking in persons and the prevention of sexual violence.

106. The Migration Academy run by the National Migration Service provides training for the international diploma in migration-related careers and the diploma in criminal investigations, which has an emphasis on trafficking in persons.

107. The International Organization for Migration and the United Nations Office on Drugs and Crime regularly help train civil servants who have duties related to the fight against trafficking in persons. Employees of the Public Prosecution Service, the National Police, the National Migration Service, the judicial branch, the National Customs Authority, the Ministry of Health, the Ministry of Education, the National Border Service, the National Secretariat for Children, Adolescents and the Family, the National Institute for Women, the Institute of Legal Medicine and Forensic Sciences and universities have participated in those sessions.

108. All institutions concerned with promoting and protecting children's and adolescents' rights hold and take part in training sessions on the human rights of children and protection in situations where those rights are violated, including those involving offences covered by the Optional Protocol. See annex IV for more information on dissemination and training activities.

5. Budget

109. Article 29 of Act No. 16 of 31 March 2004 states that the national Government must take steps to allocate the resources necessary for the implementation of public policies to prevent and eliminate the sexual exploitation of minors under the budgets of the Ministry for Youth, Women, Children and the Family, the Ministry of Health, the Ministry of Education, the Ministry of the Interior and Justice, the Ministry of Labour and Workforce Development, the Ombudsman's Office, the Technical Investigative Police Brigade, the Public Prosecution Service and the judicial branch.

110. The National Commission for the Prevention of Sexual Exploitation Offences administers the Sexual Exploitation Fund that was established under Act No. 16 of 31 March 2004 to finance projects designed to prevent commercial sexual exploitation. It is funded through the collection of a tax of one balboa for each tourist departing the country from Tocumen International Airport. (One balboa is equivalent to one United States dollar).

111. The tax collected is remitted to the National Commission for the Prevention of Sexual Exploitation Offences and used exclusively in the implementation of projects aligned with the prevention, victim assistance, penalty and institution-building components of the national plan in force. The projects are implemented mainly by NGOs, which are selected on the basis of how well their proposals match the terms of reference. When projects are implemented by NGOs, they are financed on a shared basis, with a portion of the financing coming from the Fund and a portion coming from the recipient NGO. As at December 2018, a total of US\$ 1,164,959.40 was being spent on the implementation of projects, with US\$ 1,615,208.21 coming from the Fund's budget and US\$ 450,248.81 from the other parties.

112. The Commission's operating expenses, which consist of salaries, rent and electricity, water and telephone charges, are covered by the Public Prosecution Service.

Status of projects approved by the governing board between May 2017 and December 2018

<i>Project</i>	<i>Contribution from the National Commission for the Prevention of Sexual Exploitation Offences</i>	<i>Recipient's contribution</i>	<i>Total</i>	<i>Status</i>
Operation by the University of Panama of an observatory on the commercial sexual exploitation of children and adolescents	279 970.37	33 822.00	313 792.37	In progress

<i>Project</i>	<i>Contribution from the National Commission for the Prevention of Sexual Exploitation Offences</i>	<i>Recipient's contribution</i>	<i>Total</i>	<i>Status</i>
"Let's Change Our World" by Casa Esperanza	297 428.04	129 200.00	426 628.04	In progress
"Using Community Networks to Help Prevent the Commercial Sexual Exploitation of Children and Adolescents" by the Ministry of Social Development	211 592.22	236 067.45	447 659.67	In progress
"Restoring the Rights of Children and Young People and Endowing Them with Life Skills" by Don Bosco Basilica	175 968.77	51 159.36	227 128.13	In progress
"Preventing the Sexual Exploitation of Children and Adolescents" campaign	200 000.00	-	200 000.00	In progress
Totals	B 1 164 959.40	B 450 248.81	B 1 615 208.21	

Source: 2018 management report of the National Commission for the Prevention of Sexual Exploitation Offences.

6. National strategy

113. The National Commission for the Prevention of Sexual Exploitation Offences has worked with various stakeholders to draw attention to sexual exploitation as a crime and as a violation of the human rights of children and adolescents. One of the country's primary tools in this regard is the National Plan for the Prevention and Elimination of the Commercial Sexual Exploitation of Children and Adolescents 2008–2010, which has been extended.

114. The National Plan is structured by area of intervention, in line with the guidelines of the world congresses against sexual exploitation, to provide a comprehensive response to the crime and assist victims. In addition, mechanisms have been established to provide comprehensive assistance to victims of these offences, and these are mentioned in this report.

7. Civil society contributions

115. In 2001, the National Network for Combating Violence against Women and the Family conducted an exploratory descriptive study entitled "Innocence Cut Short" to find out how students and teachers viewed the commercial sexual exploitation of children and adolescents in Panama.

116. Also in 2001, the NGO Casa Esperanza carried out a study on the smuggling of children and adolescents for purposes of sexual exploitation in Panama in order to obtain real, up-to-date information on commercial sexual exploitation and its implications in terms of the smuggling of minors and women in Panama. The study addressed social, legal, economic and political aspects of the issue. It found that there was a lack of specific programmes, investigations and various types of measures to address the problem of prostitution and the smuggling of girls and women for commercial sexual exploitation, even though Panama had ratified conventions such as the Convention on the Rights of the Child and had laws in place to prevent discrimination against women and girls.

117. With support from the United Nations Children's Fund and the NGO Casa Esperanza, as a civil society partner, a further study will be conducted to assess the situation regarding commercial sexual exploitation in Panama in 2019.

118. The National Commission for the Prevention of Sexual Exploitation Offences has obtained a series of signed commitments from strategic civil society partners that have

contributed to the promotion and protection of the rights of children and adolescents and to the provision of assistance to victims of offences covered by the Optional Protocol, namely:

- A June 2005 commitment letter between the Commission and the National Council of Journalism to support the fight against the commercial sexual exploitation of persons under 18 years of age, pursuant to which support was provided for the “Commercial Sexual Exploitation Is a Crime” awareness-raising campaigns, journalists were given training on the issue so that it could be properly addressed by media professionals and a publication was released on the role of the media as key actors in the fight against the commercial sexual exploitation of minors.
- An April 2009 commitment letter between the Commission and the Panama Tourism Bureau to join forces to protect the human rights of minors from violations relating to any type of commercial sexual exploitation, under which the Bureau undertook to contribute to combating and reporting any form of commercial sexual exploitation, promote agreement among the various tourism associations, raise awareness among all persons working in the tourism sector and tourism intermediaries of the serious consequences for minors who are victims and inform tourists that such offences are punishable by imprisonment.
- 2010 and 2018 commitment letters between the Commission and the Panamanian Hotel Association, with the Association providing funding in 2011 and 2012 for awareness-raising and training activities for managers of hotels and hostels, human resources directors, security personnel, restaurant owners, tour operators and students and professors in the hospitality and tourism programme at the Inter-American University.
- An October 2011 agreement between the Commission and the Association of Gambling Administrators to help prevent sexual exploitation offences through continuous monitoring intended to ensure that the establishments where casinos operate are free of this scourge.
- A 2014 framework agreement between the Commission and the University of Panama on technical and scientific cooperation in establishing an observatory on sexual exploitation, under which the project was launched in January 2019.
- Progress by the National Council of Private Enterprises in 2015 in systematizing the implementation of the “Social Footprint” in 10 of the 11 companies that had participated in the pilot, with a view to providing a road map for the various companies wishing to become socially responsible and to eliminate child labour and commercial sexual exploitation throughout their value chains.
- A treatment clinic run by the NGO Hogar San José de Malambo for minors in at-risk situations and victims of the crimes in question.

8. The role of the Ombudsman’s Office in supervising and monitoring the implementation of the Optional Protocol

119. As the national human rights institution, the Ombudsman’s Office is responsible for ensuring the protection of the fundamental rights and safeguards enshrined in the Constitution, international human rights conventions and the law through a non-judicial review of the facts and the acts or omissions of public servants and providers of public services.⁴

120. It has constitutional rank, acts with full independence and has functional, administrative and financial autonomy, taking no instructions from any authority or body of the State.

121. It has a special unit for children and adolescents, which has nationwide competence to safeguard the rights of children and adolescents, including those set forth in the Optional

⁴ Constitution, art. 129.

Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

122. Articles 17 and 28 of Act No. 16 of 31 March 2004 set out the responsibilities of the Ombudsman's Office, which include the provision of legal advice to persons who have knowledge of the occurrence of an offence set forth in the Act and are under an obligation to report it so that they can become a party to the proceedings.

123. The Ombudsman's Office is also required to carry out and follow up on prevention, training and public awareness-raising activities.

IV. Prevention

1. Methods used to identify vulnerable children and adolescents

124. The Directorate for Combating Child Labour and Protecting Adolescent Workers of the Ministry of Labour and Workforce Development, which has under it the Technical Secretariat of the Committee for the Elimination of Child Labour and the Protection of Adolescent Workers, takes steps to prevent child labour and address its worst forms through the application of the special legal regime in force for the protection of adolescent workers, with a view to ensuring and fostering processes conducive to the achievement of the targets under the Road Map to Make Panama a Country Free of Child Labour, a tripartite strategic tool that sets out short-term actions for reaching that goal and safeguarding the rights of children.

125. One of the country's objectives has been to push forward with the progressive elimination of child labour, following through on international commitments made to ILO and, with the adoption of the Sustainable Development Goals, to the United Nations and the entire international community with respect to the targets set to ensure that all children complete the full cycle of primary education and to achieve gender equality in education.

2. Programmes and policies targeting specific groups

126. The National Commission for the Prevention of Sexual Exploitation Offences manages the Special Fund against Sexual Exploitation, which is used to provide assistance, treatment and rehabilitation services to victims of such offences; the assistance in question is delivered in line with the Protocol for the Care of Minors Who Are Victims of Commercial Sexual Exploitation.

127. In 2013, the Commission signed a cooperation agreement with the company Tocumen S.A. to enforce the payment of the tax of one dollar under Act No. 16 of 31 March 2004, which is used to fund activities related to the prevention and prosecution of related offences.

128. The Act also provides for a tax on establishments that sell or rent X-rated movies in the amount of 5 per cent of the value of each video rented or sold. The same tax is applied to movie theatres screening X-rated films.

129. Under the policies on prevention, natural and legal persons must not expressly or implicitly include in their promotional packages any plans or programmes that have as their objective the sexual exploitation of minors in the country. Hotels, lodging houses and guesthouses must include in their contracts for accommodation a clause that states the legal consequences of the sexual exploitation and abuse of minors in the country. In addition, travel and tourism agencies and international airlines flying to Panama must include similar information in their promotional material.

130. Decree No. 101 of 17 May 2005 prohibits minors from gaining access to websites with pornographic content in locations known as Internet cafés or cybercafés or other similar establishments. The Ministry of Social Development is responsible for monitoring compliance with the Decree, which requires Internet facilities to have filters that block web pages with such content and to place in a visible location notices and warnings drawing

attention to the fact that minors are prohibited from using and gaining access to websites containing any type of pornography.

131. The Intersectoral Committee for the Prevention of Violence against Children and Adolescents was established under Executive Decree No. 39 of 30 April 2014 as an intersectoral and inter-institutional body tasked with implementing joint policies, strategic plans, programmes and measures for the prevention of violence against children. The Committee is headed by the National Secretariat for Children, Adolescents and the Family, which was responsible for launching, in mid-2018, the National Multisectoral Strategy for the Prevention of Violence against Children and Adolescents 2018–2022 and the related Action Plan 2018–2019.

132. The Directorate of Preventive Social Services of the National Secretariat for Children, Adolescents and the Family runs the following programmes:

(a) Supporting and Restoring Family Dynamics, a programme designed to promote the social integration of children and adolescents in at-risk situations, ensuring their full enjoyment of their rights, and to bring about greater harmony in families and communities;

(b) Assistance for children and adolescents between 9 and 17 years of age who are in situations of social vulnerability (situations involving domestic violence, running away from home or dropping out of school);

(c) A consolidation programme that establishes public and private inter-institutional management mechanisms to coordinate the implementation of preventive measures and the provision of assistance to the families served;

(d) Efforts to contribute to the progressive eradication of child labour and labour exploitation in urban and rural areas through capacity-building at the national level and the bolstering of governmental and non-governmental services so that a network of services can be put in place to meet the needs of the affected population and address issues relating to child labour.

3. Measures to raise public awareness

133. Examples of campaigns to disseminate information on the prevention and elimination of sexual exploitation include:

(a) “Commercial Sexual Exploitation Is a Crime”, which was the result of an agreement signed by the National Commission for the Prevention of Sexual Exploitation Offences and the National Council of Journalism and seeks to make it known that paying for sex with minors is a crime;

(b) “Sex Tourism Is a Crime”, an insert in the COPA Airlines magazine Panorama informing passengers travelling to Panama that sex tourism is an offence under Panamanian law;

(c) “We Are Not Toys” billboards in strategic locations in Panama City and on the Internet;

(d) “In Panama We Do Not Tolerate the Sexual Exploitation of Minors”, involving the Ombudsman’s Office and the Office of the Mayor of Panama City;

(e) “I Am Not a Toy. More Protection. Zero Tolerance. Report the Crime”, to promote the reporting of cases of commercial sexual exploitation and carried out with the National Tourism Authority, the company that administers the country’s airports, Tocumen S.A., and the Public Prosecution Service.

134. The governing board of the National Commission for the Prevention of Sexual Exploitation Offences approved a new publicity campaign against commercial sexual exploitation that targets young people and parents, as well as would-be offenders, in order to lower demand. Its impact will be felt throughout 2019.

135. Independent groups have been formed to protect young people from commercial sexual exploitation following the dissemination of information through the media under the awareness-raising plan launched by the National Commission for the Prevention of Sexual Exploitation Offences in 2018.

V. Prohibition and related issues

1. Criminal laws defining the acts and activities enumerated in article 3 (1) of the Protocol

136. Volume II, title III of the Criminal Code, Offences against sexual freedom and integrity, chapter II, Corruption of minors, commercial sexual exploitation and other conduct, provides for offences of paid sexual activity with minors, which, for the purposes of the Optional Protocol, correspond to the offence of child prostitution, and also provides for the offence of child pornography.⁵ Title V, Offences against the institutions of the family and marriage, chapter III, Offences against the identity of and smuggling of minors, establishes offences relating to the sale of children and adolescents.⁶

<i>Offence</i>	<i>Material elements</i>	<i>Minimum penalty</i> <i>Maximum penalty</i>	<i>Aggravating circumstances</i>
Sale of children and adolescents (Criminal Code, art. 207)	<p>Sale, offering, delivery, transfer or acceptance of a child or adolescent in exchange for remuneration, payment or reimbursement.</p> <p>Possession or acquisition of a child or adolescent for the purpose of his or her sale and subsequent unlawful adoption, or consent to or inducement of such a sale, in violation of the applicable legal instruments on adoption.</p>	<p>Minimum penalty: 5 years' imprisonment</p> <p>Maximum penalty: 10 years' imprisonment</p>	<p>Whenever the purpose is sexual exploitation, the removal of the victim's organs, forced labour or servitude, the penalty is increased by between one third and one half of the maximum penalty (Criminal Code, art. 207, second paragraph).</p>
Paid sexual activity with minors (Criminal Code, art. 186)	<p>Payment, promise of payment, in money or in kind, or rewarding of a person between 14 and 18 years of age, or of a third party, in order to perform sexual acts with those persons.</p>	<p>Minimum penalty: 5 years' imprisonment</p> <p>6 years' imprisonment (when the victim is under 14 years of age)</p> <p>Maximum penalty: 8 years' imprisonment</p> <p>10 years' imprisonment (when the victim is under 14 years of age).</p>	<p>When the victim is under 14 years of age, the penalty ranges from 6 to 10 years' imprisonment (Criminal Code, art. 186).</p>

⁵ Criminal Code, arts. 184–188.

⁶ Criminal Code, art. 207.

<i>Offence</i>	<i>Material elements</i>	<i>Minimum penalty</i> <i>Maximum penalty</i>	<i>Aggravating circumstances</i>
Child pornography (Criminal Code, art. 185, art. 187, first paragraph, and art. 188)	<p>Use of a minor in acts of obscene exhibitionism or pornography, whether or not photographed, filmed or recorded by any means, in front of third parties or alone, with one or more minors or adults, of the same or different sex, or with animals, or consent or acquiescence to participation in such acts.</p> <p>Possession for one's own use of any voluntarily acquired pornographic material containing the image, real or simulated, of minors.</p> <p>Exhibiting of pornographic material or granting access to pornographic performances to minors, legally incapacitated persons or persons with disabilities in a manner that prevents them from resisting.</p>	<p>Minimum penalty: 6 years' imprisonment 3 years' imprisonment (own use of pornographic material) 4 years' imprisonment (exhibiting of pornography and public performances to minors)</p> <p>Maximum penalty: 8 years' imprisonment 5 years' imprisonment (own use of pornographic material) 6 years' imprisonment (exhibiting of pornography and public performances to minors).</p>	<p>If the perpetrator of the offence of exhibiting pornography to minors is the father, mother, guardian, guardian ad litem or person responsible, in any capacity, for the victim, the penalty is increased from 5 to 8 years' imprisonment and the perpetrator loses the right to parental authority or whichever other rights that have conferred on him or her responsibility for the victim until the date on which the offence was committed (Criminal Code, art. 188, second paragraph).</p>

Grounds for exemption from criminal liability

137. The Criminal Code sets forth the following general grounds for exemption from criminal liability:⁷

- A person will not be held liable if he or she, while knowing the conditions or circumstances of the act which constitute the conduct, is unaware, owing to an unavoidable error, of its unlawfulness (art. 39).
- A person will not be held liable if he or she acts on the basis of an order issued by a competent authority in accordance with the appropriate legal formalities that he or she is obliged to obey and that does not amount to a clearly punishable offence (art. 40).
- This provision does not apply to members of the public security forces when they are on duty, in which case the responsibility rests solely with the superior who gives the order. This exception does not apply in cases of crimes against humanity or enforced disappearance.
- A person will not be held liable if he or she carries out a punishable offence that he or she did not incite in order to prevent otherwise unavoidable actual and imminent harm to a legal interest belonging to him or her or to another, provided that the legal interest

⁷ Criminal Code, arts. 39–42-A.

in question is of a value equal to or greater than that of the injured legal interest (art. 41).

- A person will not be held liable if he or she acts under one of the following circumstances (art. 42):
 - Coercion or serious and unavoidable actual or imminent threat from a third party.
 - Unavoidable, serious, real and imminent fear of harm greater than or equal to that which has been caused.
 - Mistaken conviction that the action is justified for some reason.
- Cultural or religious customs or traditions may not be invoked to impede criminal investigation or as grounds for exemption from criminal liability for committing, inflicting, consenting to, promoting, instigating or tolerating the offence of violence against women or any person (art. 42-A).

Aggravating circumstances

138. The Criminal Code sets forth the following general aggravating and mitigating circumstances:⁸

139. The following are common aggravating circumstances (art. 88):

- Abusing a position of authority or using methods that diminish the ability of the victim to defend him or herself or make such a defence impossible.
- Committing the act by means of flood, fire, poison, explosion, running-aground of vessels, intentional damage to vessels or aircraft or train derailment, or of any other method likely to cause severe harm, or committing the act by taking advantage of one of the above-mentioned accidents or another similar disaster.
- Inflicting cruelty on the victim.
- Committing the act in exchange for payment or reward.
- Using guile, fraud or dissimulation.
- Abusing authority, public trust or the powers inherent in the profession exercised by the perpetrator or the position he or she holds.
- Being armed with a weapon or enlisting the help of third parties to commit the offence or to secure impunity.
- Committing the act by breaking and entering.
- Committing the punishable act by taking advantage of domestic relationships, the provision of works or services, shared living arrangements or hospitality.
- Pre-planned intoxication.
- Committing the act against a person with a disability, when that disability makes the victim vulnerable, or against a person incapable of ensuring his or her own safety or health.
- Committing the act by taking advantage of a minor or a person with a disability.
- Recidivism by committing another punishable act.
- Planning, coordinating or ordering the commission of a punishable act from prison.

140. The Criminal Code sets forth the following mitigating circumstances, which are applicable to all offences, including those covered by the Optional Protocol (art. 90):

- Having acted with noble or altruistic intentions.

⁸ Criminal Code, arts. 88–93.

- Lack of intent to cause harm as serious as that which occurred.
- Physical or psychological conditions that placed the perpetrator in a position of inferiority.
- Remorse, when, by actions subsequent to the commission of the act, the perpetrator has mitigated, or attempted to mitigate, its consequences.
- Effective cooperation on the part of the perpetrator.
- Having committed the offence under conditions of diminished capacity.
- Any other circumstance not established in law that, in the opinion of the court, should be taken into account.

141. The circumstances provided for in this article apply only to basic offences for which there are no special mitigating circumstances.

142. Depending on the nature of, motives for and effects of the offence, the aggrieved party's being a close relative of the offender may constitute an aggravating or mitigating circumstance (art. 91).

- For the purposes of criminal law, a close relative is considered to be the spouse or cohabitating partner, or any person within the fourth degree of consanguinity or second degree of affinity, including relatives by adoption.
- For each applicable aggravating circumstance found to apply, the sentence is increased by between one sixth and one third. The punishment thus imposed may not exceed half of the maximum penalty established for the offence (art. 92).
- Each of the above-mentioned mitigating circumstances entitles the defendant to have his or her sentence reduced by between one sixth and one third (art. 93).

Statutes of limitations for the offences

143. In 2011, the penalties for offences related to trafficking in persons were increased to 30 years' imprisonment. In addition, it was established that there is no statute of limitations for such offences and that no pardons or amnesties may be granted.

144. A statute of limitations equal to the sentence imposed in the judgment applies in respect of the other offences.⁹

Related offences

145. Volume II, title III, chapter II of the Criminal Code provides for the offences of corruption of minors, sexual exploitation, sexual servitude, sex tourism, failure to report an offence and prescribes penalties for the owners of offending establishments.¹⁰

146. Title XV, chapter II of the Criminal Code establishes offences against persons and property protected by international humanitarian law, while offences related to trafficking in persons are set forth in chapter IV.¹¹

<i>Offence</i>	<i>Material elements</i>	<i>Minimum penalty</i>	<i>Aggravating circumstances</i>
		<i>Maximum penalty</i>	
Corruption of minors	Corrupting or promoting the corruption of a person under 18 years of age by making him or her participate in or	Maximum penalty of 10 years' imprisonment and minimum penalty of 8 years' imprisonment.	The aggravated offence of corruption of minors is as follows (Criminal Code, art. 179, second paragraph):

⁹ Criminal Code, art. 119.

¹⁰ Criminal Code, arts. 179, 180, 182, 190, 189 and 191.

¹¹ Criminal Code, arts. 456-A–456-E.

<i>Offence</i>	<i>Material elements</i>	<i>Minimum penalty</i> <i>Maximum penalty</i>	<i>Aggravating circumstances</i>
	witness behaviours of a sexual nature that may affect his or her psychosexual development (art. 8 of the of 2018).		<p>The sentence is between 7 and 10 years' imprisonment when:</p> <ol style="list-style-type: none"> 1. The person is 14 years of age or younger. 2. The victim was in a situation of vulnerability that prevented him or her from exercising his or her free will. 3. The act is committed with the participation of two or more people or in front of third-party observers. 4. The act is committed by means of deception, violence, intimidation, abuse of authority or abuse of trust, or of payment, or any other promise of reward, made to the victim. 5. The perpetrator is a relative of the victim by blood, by marriage or by adoption, or is his or her guardian or any other person involved in his or her education or overall development or in his or her custody, guardianship or care. 6. The victim was infected with a sexually transmitted infection. 7. The victim fell pregnant. <p>In the case of item 5, the perpetrator loses the right to parental authority, guardianship or custody, as applicable.</p>

<i>Offence</i>	<i>Material elements</i>	<i>Minimum penalty</i> <i>Maximum penalty</i>	<i>Aggravating circumstances</i>
Sexual servitude	Using, even partially, threats or violence to keep a person in sexual servitude (Criminal Code, art. 182).	Maximum penalty: 5 years' imprisonment. Minimum penalty: 3 years' imprisonment.	
Sex tourism	Promotion, management, organization, advertising, invitation, facilitation or arrangement, by any means of individual or mass communication, local or international sex tourism, involving the recruitment of a person of between 14 and 18 years of age, in order to sexually exploit him or her, even if this is not ultimately carried out or completed (Criminal Code, art. 190).	Maximum penalty: 10 years' imprisonment. Minimum penalty: 8 years' imprisonment.	
Failure to report an offence	Any person who, having knowledge of the use of minors in the commission of any of the above-mentioned offences, whether such knowledge was obtained by reason of his or her occupation, position, business or profession, or from any other source, fails to report it to the competent authorities, will be punished (Criminal Code, art. 189).	Maximum penalty: 2 years' imprisonment. Minimum penalty: 6 months' imprisonment.	
Penalties for owners of establishments	Criminal penalties are imposed on the owner, lessor or manager of an establishment or premises used for the commission of any of the offences covered by the Optional Protocol	Maximum penalty: 15 years' imprisonment. Minimum penalty: 10 years' imprisonment.	

<i>Offence</i>	<i>Material elements</i>	<i>Minimum penalty</i> <i>Maximum penalty</i>	<i>Aggravating circumstances</i>
Trafficking in persons	<p>(Criminal Code, art. 191).</p> <p>Promotion, management, organization, financing, advertising, invitation or arrangement, using any medium of individual or mass communication, or in any other way, facilitating the entry to or exit from the country, or the transportation within the national territory, of a person of either sex, to perform one or more acts of prostitution or to subject that person to exploitation, sexual or labour servitude, enslavement or slavery-like practices, forced labour or service, servile marriage, begging, illicit extraction of organs or irregular adoption (Criminal Code, art. 456-A).</p> <p>Deliberate use of movable or immovable property to commit the offence of trafficking in persons (Criminal Code, art. 456-B, first paragraph).</p> <p>Use or permitting the use of, by its owner, lessor, possessor or administrator, of a publicly accessible commercial establishment or premises for the commission of that offence (Criminal Code, art. 456-B, second paragraph).</p> <p>Unlawful possession, transportation, storage, reception, delivery, offering,</p>	<p>Maximum penalty: 20 years' imprisonment.</p> <p>Minimum penalty: 15 years' imprisonment.</p>	<p>Provision is made for an aggravated criminal offence of trafficking in persons, which carries penalties of 20 to 30 years' imprisonment, when (Criminal Code, art. 546-A, second paragraph):</p> <ol style="list-style-type: none"> 1. The victim is a minor, is vulnerable, has a disability or is incapable of consenting. 2. The victim is used in acts of exhibitionism through obscene photographs, films or recordings. 3. The act is committed by means of deception, coercion, violence, threat, fraud or the theft or withholding of passports or immigration or identity documents. 4. The act is committed by a close relative or guardian of the victim or by whoever is responsible for his or her guardianship, upbringing, education or instruction. 5. The act is committed by a public servant.

<i>Offence</i>	<i>Material elements</i>	<i>Minimum penalty</i> <i>Maximum penalty</i>	<i>Aggravating circumstances</i>
	sale, purchase or transfer in any way of human organs, tissues or bodily fluids (Criminal Code, art. 456-C). Use of force, deception, coercion or threats to compel persons of either sex to perform work or services (Criminal Code, art. 456-D). The fact that the victim of trafficking has given consent does not exempt the perpetrator from criminal responsibility.		
Subjection to forced labour		Maximum penalty: 10 years' imprisonment. Minimum penalty: 6 years' imprisonment.	In cases of subjection to forced labour, the penalties will be increased from 10 to 15 years' imprisonment if the victim is a minor, is vulnerable or has a disability (Criminal Code, art. 456-D, second paragraph).

Attempts to commit and complicity or participation in the above-mentioned offences

147. The penalty established in law for the offence in question is applicable to perpetrators, instigators and direct accomplices. A penalty of not less than half the minimum or more than half the maximum penalty established in law for the punishable act in question, in accordance with the general rules laid down in the Criminal Code, is applicable to indirect accomplices.¹²

148. Likewise, the Criminal Code prescribes a penalty of not less than half of the minimum or more than two thirds of the maximum applicable penalty for attempts to commit one of those offences.¹³

Law concerning the criminal liability of legal persons

149. The general provisions of the Criminal Code establish the following penalties for legal persons used or created to commit offences:

150. "Article 51. When a legal person is used to commit an offence, or established for that purpose, even if it does not benefit from that offence, any of the following penalties must be applied:

- (a) Cancellation or suspension of licence or registration for a period not exceeding five years;

¹² Criminal Code, arts 80–81.

¹³ Criminal Code, art. 82.

- (b) Fine of no less than 5,000 balboas and no more than double the loss or than the financial benefit;
- (c) Total or partial loss of tax benefits;
- (d) Disqualification from contracting with the State, directly or indirectly, for a term not exceeding five years, in conjunction with any of the above penalties;
- (e) Dissolution of the company;
- (f) Fine of no less than 25,000 balboas and no more than double the loss or than the financial benefit, if the legal person provides a transport service that is used to smuggle drugs into national territory”.

Bilateral and multilateral acts applicable to adoptions

151. Regarding intercountry adoptions in Panama, no bilateral or multilateral agreements or acts have been concluded that are applicable to adoption cases. Therefore, such processes are governed by the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption.¹⁴

Legal and other measures taken to prevent illegal adoptions

152. The General Adoption Act prohibits direct and voluntary adoption, the adoption of unborn children and the adoption of the children of unemancipated pregnant teenagers, provided that they have support from family within the second degree of consanguinity. It also provides for investigations into the blood relations of the pregnant woman wishing to give up her child for adoption and for the establishment of a guidance programme, through which advice on the rights and scope of adoption can be provided.¹⁵

153. The National Adoptions Directorate conducts training sessions focused on the protection of the rights of children and adolescents who might be adopted.

154. The Directorate provides the following training:

- (a) Training once every two months for prospective adoptive mothers and fathers;
- (b) Training for future foster families;
- (c) Follow-up training for foster families, in which they are given guidance on the rights of children and adolescents.

155. The State has taken measures to regulate the activities of entities involved in intercountry adoptions, recognizing the accreditation of only those duly registered by the central adoption authority of the receiving country and the country of origin.¹⁶

156. Entities involved in intercountry adoptions are governed by Executive Decree No. 69 of 25 September 2002 regulating the recognition of such entities, by the Convention on Protection of Children and Cooperation in respect of Intercountry Adoption and by Act No. 46 of 17 July 2013, the General Adoption Act.

157. Any person who offers, possesses, consents to, acquires or induces the sale of a child or adolescent for the purposes of illegal adoption, in violation of the legal instruments in force, is liable to between 5 and 10 years’ imprisonment (Criminal Code, art. 207).

Legal and administrative measures taken to prevent the theft of children and adolescents and to prevent fraudulent birth registration, including applicable criminal sanctions

158. The Criminal Code establishes the deletion or alteration of the identity of a minor in the civil registry records as an offence and punishes his or her delivery to any person who is

¹⁴ Act No. 33 of 28 May 1998 ratifying the Convention on Protection of Children and Cooperation in respect of Intercountry Adoption, concluded at The Hague on 29 May 1993. *Gaceta Oficial* No. 23557 of 4 June 1998.

¹⁵ Act No. 46 of 17 July 2013, arts. 33, 34 and 46.

¹⁶ Act No. 46 of 17 July 2013, art. 104.

not his or her parent or authorized to receive him or her with 3 to 5 years' imprisonment.¹⁷ If the delivery is made for unlawful purposes or by unlawful means, the maximum penalty is increased to 6 years' imprisonment.¹⁸

159. Likewise, the removal, transfer or holding of minors, or attempts to take such actions by means of abduction or of consent obtained by fraud or force, or the delivery or receipt of unlawful gains, with a view to securing the consent of the parents or of the person or institution responsible for the child, carries a penalty of 8 to 10 years' imprisonment.¹⁹

Laws in force prohibiting the production and dissemination of material advertising any of the offences described in the Optional Protocol

160. The Criminal Code establishes penalties of 5 to 10 years' imprisonment for anyone who produces and disseminates any material that publicizes the offences described in the Optional Protocol:²⁰

- Manufacture, preparation by any means or production of pornographic material, or the offering, marketing, exhibiting, publication, advertising, dissemination or distribution, via the Internet or any national or international mass medium of communication or information, presenting or representing virtually one or more underage persons in activities of a sexual nature, whether real or simulated.

161. Penalties of 6 to 8 years' imprisonment apply to anyone who:²¹

- Uses email, global information networks or any other medium of individual or mass communication to incite or encourage minors to engage in cybersex or offer their sexual services, or to use such conduct to make minors simulate such acts over the telephone or in person.

Extraterritorial jurisdiction of the State over such offences, under article 4 (2)

162. As a general rule, Panamanian criminal law applies to punishable acts committed in the national territory and in other places subject to the State's jurisdiction (Criminal Code, art. 18).

163. For offences related to trafficking in persons, Panamanian criminal law is applicable, even if the offence was committed abroad (Criminal Code, art. 19).

164. The Panamanian legal system provides that domestic criminal law is to apply, regardless of the provisions in force in the place where the offence was committed or the nationality of the accused, to any persons who commit punishable acts provided for in the international treaties ratified by Panama (Criminal Code, art. 21), including the offences provided for in the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

Competent law enforcement and judicial bodies

165. Within the Public Prosecution Service, there are prosecutors specializing in the investigation of sexual offences in all provinces of the country. In the metropolitan area, the Specialized Unit for Sexual Offences has been established within the Section for Case Investigation and Follow-up.

166. The Judicial Investigation Directorate of the National Police has a Sexual Offences Division, which is responsible for investigating sexual offences. However, at the provincial level, each Judicial Investigation Subdirectorates maintains a staff with expertise in investigating such cases.

¹⁷ Criminal Code, art. 205.

¹⁸ Criminal Code, art. 206.

¹⁹ Criminal Code, art. 208.

²⁰ Criminal Code, art. 184.

²¹ Criminal Code, art. 187, second paragraph.

Extradition of persons prosecuted for offences related to the sale of children, child prostitution and child pornography

167. In Panama, extradition is governed by the treaties to which the country is a party and, in the absence of any such treaty, by the provisions of the Code of Criminal Procedure or by the international principle of reciprocity.

168. Extradition is granted for the purpose of prosecution or for the enforcement of a sentence in respect of an extraditable offence. In the absence of an extradition treaty or agreement, extradition may be requested on the basis of the international principle of reciprocity, in which case the process will be governed by the provisions of the Panamanian legal system.

(a) Requirement of the existence of an extradition treaty with the requesting State

169. Panama is a party to the Inter-American Convention on Extradition, which is the basis for submitting a request for extradition to a State. In such cases, bilateral extradition treaties have been concluded with some States. The reciprocity principle can serve as a substitute for bilateral or multilateral extradition treaties in cases where, for example, Panama receives an extradition request from a State with which it has no extradition treaty. Extradition requests must be substantiated and have as their basis bilateral agreements or the Convention. However, since not all States are parties to the Convention, extradition requests can be submitted on the basis of other conventions, depending on the offence that is the subject of the request.

(b) Extradition conditional on the existence of an extradition treaty in force

170. Existing bilateral extradition treaties are not the only basis on which extradition can take place. In addition to existing bilateral extradition treaties with States, there are conventions under which States can also request the extradition of any person who has committed any of the offences provided for in those conventions. Equally, in order for an extradition request to be issued or granted, it must be duly substantiated and be submitted on the appropriate basis.

171. As for requests by another State for the extradition of a Panamanian national, article 24 of the Constitution provides that “the State may not extradite its nationals or foreign nationals for political offences”. Under article 518 of the Code of Criminal Procedure, and the Extradition Act, extradition may be refused on the grounds that:

- The requested person is a Panamanian national.
- The courts of Panama are, under Panamanian law, competent to try the person whose extradition is being requested for the offence that is the basis of the request.
- In the opinion of the Government, the person sought may be tried in the requesting State for an offence other than the one for which the request was made or by a court of special jurisdiction or ad hoc court, unless the competent authorities of the requesting State provide sufficient assurances that the person will be tried in a court normally authorized under the rules of judicial administration to rule on criminal matters.
- It had been previously denied in respect of the same offence and person, on the same grounds.
- The person sought has, in the requesting State or in Panama, served the applicable sentence, or been pardoned or benefited from an amnesty, for the offence serving as the basis for the extradition request.
- Under the law of Panama or of the requesting State, the criminal proceedings or the penalty that would have been imposed on the person sought was statute-barred prior to the submission of the extradition request.
- The persons being sought are, in the opinion of the Government, being persecuted for political offences or are the subject of a politically motivated extradition request. In this event, offences will not be deemed to be political if Panama has taken on an

obligation, by means of a multilateral convention or of a bilateral treaty or agreement, not to consider them political offences for the purposes of extradition:

- Homicide.
- Infliction of serious bodily harm.
- Offences related to terrorism and its financing, offences against public safety, offences against individual liberty and offences against the public authorities.
- The use of explosive or incendiary substances or devices in circumstances in which human life will likely be endangered, or substantial material damage will be caused.
- Attempts or conspiracy to become involved or be an accessory after the fact in connection with any of the above-mentioned acts.
- The offence carries the death penalty in the requesting State. 9 The person sought is being tried or is serving a sentence in Panama.
- The person sought has been tried in Panama for the offence that is the basis of the extradition request.
- The offence that is the basis of the extradition request is a military offence, defined in military law, and does not constitute an offence under ordinary criminal law.
- The executive branch (Ministry of Foreign Affairs) so decides, stating its reasons.

172. In the scenario covered by article 518 (9), Panama may grant extradition on a deferred basis until the criminal proceedings are completed.

173. If extradition is refused on any of the grounds given in article 518 (1), (2), (3) or (8), the offence is deemed to have been committed in Panama.

174. Article 3 of the Convention on Extradition provides that the State is not obliged to grant extradition.

Extradition treaties concluded or under negotiation

175. If the State has concluded an extradition treaty that covers the offences for which the person is being sought, extradition is granted. Alternatively, if there are conventions defining the offences for which the person is being sought and both States are parties to and have duly ratified them, the extradition may take place on that basis.

176. With respect to policies and practices relating to the extradition of persons accused of the offences of the sexual exploitation of minors, the sale of children, the trafficking of children and adolescents, child prostitution, child pornography and other related offences, Panama has concluded bilateral agreements with the United Kingdom of Great Britain and Northern Ireland, the United States of America, Mexico, Spain, Uruguay, Ukraine, Costa Rica, Colombia, Paraguay and Brazil. In addition, Panama is a party to multilateral treaties, such as the Inter-American Convention on Extradition and the United Nations Convention against Transnational Organized Crime, instruments which allow for the extradition of persons accused and convicted of the above-mentioned offences.

Refusal by the State to comply with requests for extradition of persons subject to its jurisdiction

177. Since the entry into force of the Optional Protocol, the State has not refused to comply with any extradition requests, unless the offences for which the person was being sought by the requesting State were not classed as offences in Panamanian law.

Number of extradition requests

178. To date, no extradition requests have been received in respect of the offences covered by the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

Extradition requests by the State

179. The Ministry of Foreign Affairs is not currently dealing with any requests for extradition for any of the offences covered by the Optional Protocol.

Legislative amendments on the matter of extradition

180. Panama amended its Criminal Code and, by means of Act No. 35 of 2013, laid down the procedure for extradition in its Code of Criminal Procedure.

VI. Rights of participants in criminal proceedings

1. Rights of child victims and child witnesses during criminal proceedings

181. Under the Code of Criminal Procedure adopted pursuant to Act No. 63 of 28 August 2008, the Public Prosecution Service is responsible for ensuring that victims are protected throughout criminal proceedings. For this purpose, the Public Prosecution Service relies on the Secretariat for the Protection of Victims, Witnesses, Experts and Other Participants in Criminal Proceedings, whose responsibilities include supervising, in line with technical criteria, the conduct of the individual units responsible for the protection of victims, witnesses, experts and other participants in criminal proceedings operating in different regions around the country.

182. Each unit has an interdisciplinary team made up of psychologists, social workers and lawyers. At the request of prosecutors, the team works from the outset with the victim and other persons indirectly affected, even accompanying them to hearings and monitoring the protection measures put in place for them. There are currently 10 units nationwide, each of which has a general code of conduct and a protocol for providing comprehensive assistance to victims and witnesses of offences against sexual integrity and freedom. In addition, six Gesell chambers have been set up around the country to reduce the risk of revictimizing persons affected by such offences.

- The protocol applied by the units for the protection of victims, witnesses, experts and other participants in criminal proceedings sets forth several guiding principles for their work, including respect for human rights, the best interests of the child, non-discrimination, avoidance of revictimization, an interdisciplinary approach, respect for privacy and the need to obtain informed consent.
- Information on the Gesell chamber user manual employed by the Public Prosecution Service was provided in a digital format in the context of the submission of the combined fifth and sixth periodic reports of Panama to the Committee on the Rights of the Child.

2. Ensuring the best interests of the child within the criminal justice system

183. Children and adolescents involved in criminal proceedings are heard in an initial interview conducted in a Gesell chamber. Interdisciplinary staff from the Unit for the Protection of Victims, Witnesses, Experts and Other Participants in Criminal Proceedings provide support to the victim at this initial stage; the Gesell chamber is used as a protective measure, because it provides a reassuring and protective environment. Throughout the process, the minor is accompanied by a psychologist, who provides further protection and can intervene in the event of a crisis. Throughout the interview, the principles of respect for human rights and the best interests of the child and the need to protect and ensure the safety of victims to defend their rights, to avoid revictimization and to adopt an interdisciplinary approach are respected and observed at all times.

3. Measures to ensure the inviolability of private life and to prevent disclosure of the identities of child victims

184. Article 391 of the Code of Criminal Procedure provides that, when testimony is to be received from a minor or any other person in special circumstances of vulnerability, the prosecutor or the court, as the case may be, may order that he or she be heard in private and with the support of family members or specialized experts.

185. The Gesell chamber is a child-friendly space that provides an atmosphere of safety, trust and privacy. It is designed to avoid causing any further stress or anxiety for victims and witnesses, especially children and adolescents. Article 4 of the Constitution is consonant with the rules of international law and the Republic of Panama, as a State party, is committed to respecting the right of the child to preserve his or her identity.

186. Article 489 of the Family Code sets forth the fundamental rights of minors.

187. Paragraph 13 of the aforementioned article provides for the protection of minors against arbitrary or illegal interference in their private life, family, honour or reputation.

Age determination

188. Article 486 of the Family and Minors Code provides that, in case of doubt as to the age of a minor, he or she must be presumed to be a minor until it is proven otherwise.

4. Remedies and procedures that may be used by child victims of the offences covered by the Optional Protocol to seek compensation for harm caused

189. The Criminal Code provides for civil liability deriving from criminal offences, in accordance with which damages must be paid to the victims of an offence.²²

190. Act No. 79 of 9 November 2011 provides specifically for the payment of damages to victims of the offence of trafficking in persons. The damages cover:

- (a) Cost of medical or psychiatric treatment;
- (b) Cost of physical and occupational therapy and rehabilitation;
- (c) Cost of transportation, temporary housing and childcare, as necessary;
- (d) Lost income or profits;
- (e) Emotional distress, pain or suffering;
- (f) Any other loss suffered by the victim;
- (g) Lawyer's fees.

VII. International cooperation and assistance

191. In August 2016, an agreement on cooperation in immigration matters and the prevention of trafficking in persons was concluded with a view to preventing and combating illegal immigration, trafficking in persons and transnational crime.

192. The agreement was signed by the Ministers of Foreign Affairs of Panama and the Republic of China (Taiwan) and will be executed by the National Migration Service of Panama and the National Migration Agency of the Ministry of the Interior of the Republic of China (Taiwan).

193. Under the agreement, the parties have undertaken to exchange counter-terrorism intelligence and information on efforts to prevent trafficking in persons and illegal immigration; exchange expertise related to monitoring the entry and exit of persons from

²² Criminal Code, arts. 128 and 129.

their national territories; facilitate cooperation between their migration agencies; organize programmes to train and educate migration officers; and participate in training seminars.

194. Panama is part of the Regional Coalition against Trafficking in Persons, which is made up of representatives of the national commissions against trafficking in persons of the different countries in the region. It is a forum for the exchange of information and the establishment of guidelines for common action.

VIII. Other legal provisions

International instruments ratified

195. Act No. 22 of 10 December 1993, approving the Convention on the Civil Aspects of International Child Abduction, done at The Hague on 25 October 1980 (Official Gazette No. 2433 of 15 December 1993).

196. Act No. 33 of 28 May 1998, approving the Convention on Protection of Children and Cooperation in respect of Intercountry Adoption, done at The Hague on 29 May 1993 (Official Gazette No. 23557 of 4 June 1998).

197. Act No. 37 of 25 June 1998, approving the Inter-American Convention on International Traffic in Minors, done at Mexico City, Federal District, on 18 March 1994 (Official Gazette No. 23576 of 1 July 1998).

198. Act No. 105 of 1998, approving the Inter-American Convention on Conflict of Laws concerning the Adoption of Minors, done at the city of La Paz, Bolivia, on 24 May 1984 (Official Gazette No. 23717 of 21 January 1999).

199. Act No. 17 of 15 June 2000, approving ILO Convention No. 138 concerning Minimum Age for Admission to Employment, adopted by the ILO General Conference on 26 June 1973 (Official Gazette No. 24077 of 19 June 2000).

200. Act No. 18 of 15 June 2000, approving ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, adopted by the ILO General Conference on 17 June 1999 (Official Gazette No. 24077 of 19 June 2000).

201. Act No. 14 of 13 March 2002, approving the Rome Statute of the International Criminal Court, done at Rome on 17 July 1998 (Official Gazette No. 24512 of 15 March 2002).

202. Act No. 23 of 7 June 2004, approving the United Nations Convention against Transnational Organized Crime and the protocols thereto, namely the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Protocol against the Smuggling of Migrants by Land, Sea and Air, adopted by the General Assembly of the United Nations on 15 November 2000 (Official Gazette No. 25095 of 16 July 2004).

203. Act No. 36 of 4 May 2013 on the Smuggling of Migrants and Related Activities (Official Gazette No. 27295 of 27 May 2013).

204. Act No. 79 of 22 October 2013, approving the Convention on Cybercrime (Budapest Convention) (Official Gazette No. 27403-A of 25 October 2013).

205. Act No. 61 of 30 November 2016, approving the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, adopted by the General Assembly of the United Nations on 19 December 2011.

List of annexes

Annex I	Criminal Code
Annex II	Judicial decisions
Annex III	Convictions and acquittals by the courts
Annex IV	Training for professionals working with children and adolescents
Annex V	National campaigns
Annex VI	Commission and the Panama Tourism Bureau commitment letter
