



Convention on the Rights of the Child

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Committee on the Rights of the Child

Concluding observations on the report submitted by Czechia under article 12 (1) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*

I. Introduction

1. The Committee considered the report of Czechia (CRC/C/OPSC/CZE/1) at its 2353rd meeting (see CRC/C/SR.2353), held on 22 January 2019, and adopted the present concluding observations at its 2370th meeting, held on 1 February 2019.
2. The Committee welcomes the submission of the report of the State party and the written replies to the list of issues (CRC/C/OPSC/CZE/Q/1/Add.1). The Committee expresses appreciation for the constructive dialogue held with the multisectoral delegation of the State party.

II. General observations

Positive aspects

3. The Committee notes with appreciation the State party's ratification of:
 - (a) The Optional Protocol to the Convention on the Rights of the Child on a communications procedure, in 2015;
 - (b) The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, in 2014;
 - (c) The Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, in 2013;
 - (d) The United Nations Convention against Transnational Organized Crime, in 2013;
 - (e) The Council of Europe Convention on Action against Trafficking in Human Beings, in 2017;
 - (f) The Council of Europe Convention against Trafficking in Human Organs, in 2017;

* Adopted by the Committee at its eightieth session (14 January–1 February 2019).



(g) The Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, in 2016;

(h) The Convention on Cybercrime, in 2013.

4. The Committee welcomes the various measures taken by the State party in areas relevant to the implementation of the Optional Protocol, including:

(a) The amendment to the Criminal Code that enables, in relation to the conviction of a person, the confiscation of any material profit or other item that probably derives from a criminal offence, in March 2017;

(b) The amendment to the Crime Victims Act that establishes the obligation to question vulnerable victims at specially designated facilities, in April 2017.

5. The Committee notes with appreciation the progress achieved in the creation of institutions and the adoption of national plans and programmes that facilitate the implementation of the Optional Protocol, including the National Strategy to Combat Trafficking in Human Beings for the period 2016–2019, the national strategy for the prevention of risky behaviour among children and young people for the period 2013–2018, and the National Strategy to Protect Children’s Rights adopted in 2012 and its associated action plan for 2012–2015.

III. Data

Data collection

6. The Committee notes the amendment to the Act on Social and Legal Child Protection, in force since 2013, which allows for the authorities responsible for the social and legal protection of children to coordinate procedures, exchange information and organize conferences on individual cases. The Committee regrets, however, the absence of a centralized system for the compilation of data within all the State party’s agencies and the fact that such data are not used as a basis for informing policies, strategies and plans relating to the implementation of the Optional Protocol.

7. The Committee recommends that the State party develop and implement a comprehensive, coordinated and effective system of data collection, analysis, monitoring and impact assessment on all areas covered by the Optional Protocol, including on the sale of children, child prostitution, child pornography and sexual exploitation of children in travel and tourism.

8. **The Committee recommends, in particular, that the State party:**

(a) **Disaggregate data by, inter alia, sex, age, nationality and ethnic origin, region and socioeconomic status;**

(b) **Collect data on how children access and use digital and social media and their impact on children’s lives and safety, and on factors that affect children’s resilience to online risks as they access and use information and communications technology. Such data should be collected with due respect for children’s right to privacy;**

(c) **Collect data on the number of cases reported (to the police but also to health-care and school systems), on prosecutions, convictions and sanctions, and on redress provided to child victims, disaggregated by the type of offence, including with regard to online and offline activity, the type of perpetrator and the sex, age, nationality and ethnic origin, region and socioeconomic status of the victims;**

(d) **Analyse the data collected and use it as a basis for designing policies and strategies to implement the Optional Protocol while assessing progress achieved towards that objective.**

IV. General measures of implementation

Legislation

9. While welcoming the efforts to integrate various provisions of the Optional Protocol into the legislation of the State party, the Committee is concerned that those efforts have focused almost exclusively on trafficking in human beings. The sale of children, a concept that is similar, but not identical, to trafficking in children, has not been taken into account. The Committee is also concerned that sexual exploitation of children in travel and tourism is not addressed in the State party's legislation.

10. The Committee recommends that the State party ensure that all acts and activities referred to in the Optional Protocol are fully covered under domestic criminal law, including all forms of sale of children and sexual exploitation of children in travel and tourism.

Comprehensive policy and strategy

11. The Committee welcomes the National Strategy to Combat Trafficking in Human Beings for the period 2016–2019 and the Action Plan for the Fulfilment of the National Strategy to Protect Children's Rights. It is nevertheless concerned at the lack of a comprehensive plan to address all issues covered under the Optional Protocol.

12. The Committee recommends that the State party develop a national plan of action aimed at addressing specifically all the issues covered under the Optional Protocol, and provide adequate human and financial resources for its implementation. In doing so, the State party should pay particular attention to the implementation of all provisions of the Optional Protocol, taking into account the outcomes of the World Congresses against Commercial Sexual Exploitation of Children.

Coordination

13. The Committee notes the establishment of the Interministerial Coordination Group for Combating Trafficking in Human Beings, whose work does include areas relating to the sale of children as defined in the Optional Protocol. The Committee is, however, concerned that the focus on trafficking weakens local and national cooperation and coordination efforts relating to other issues under the Optional Protocol.

14. The Committee recommends that the State party ensure better coordination between its authorities and that it give priority to all issues under the Optional Protocol. It also recommends that the State party establish a unit capable of providing leadership and effective general oversight for the monitoring and evaluation of activities to implement the rights under the Convention and its Optional Protocols across sectoral ministries and at the central and local government levels.

Dissemination, awareness-raising and training

15. While noting that the State party has supported various awareness-raising campaigns relating to trafficking, such as the campaign organized together with La Strada International in order to prevent trafficking in human beings, the Committee remains concerned that the efforts to disseminate and raise awareness of the issues covered by the Optional Protocol are insufficient. The Committee is also concerned that training programmes on the Optional Protocol for all personnel working for or with children are insufficient and not mandatory.

16. The Committee recommends that the State party take the measures necessary to disseminate and raise awareness of the principles and provisions of the Optional Protocol among the public at large and children in particular. The Committee also recommends that the State party establish systematic, multidisciplinary and mandatory training programmes on the Optional Protocol for all personnel working for or with children, including teachers, health-care and social workers, judicial and law enforcement officers, and those involved in travel and tourism, sport, culture and leisure.

Allocation of resources

17. While the Committee notes that the general budgets of ministries, agencies, municipalities and local authorities cover issues relevant to children, it regrets that the State party has not allocated adequate and specific funding to the relevant bodies for the implementation of the Optional Protocol.

18. **The Committee urges the State party, when planning its national budget, to allocate adequate financial and human resources specifically for the implementation of the Optional Protocol to cover the critical areas of research, policy and strategy development, awareness-raising and training, and prevention and protection.**

V. Prevention of the sale of children, child prostitution and child pornography (art. 9 (1) and (2))**Measures adopted to prevent offences prohibited under the Optional Protocol**

19. While noting with appreciation the measures taken by the State party to target vulnerable groups of children, the Committee is concerned at the absence of programmes to specifically target certain vulnerable groups of children.

20. **The Committee encourages the State party to establish special programmes to target Roma children, children living in public housing, foster care and government institutions, children who are victims of sexual abuse or domestic violence, and migrant, refugee, asylum-seeking and stateless children.**

Sexual exploitation of children in travel and tourism

21. **The Committee urges the State party to conduct advocacy with the tourism industry on the harmful effects of the sexual exploitation of children in travel and tourism, widely disseminate the Global Code of Ethics for Tourism of the United Nations World Tourism Organization among travel agents and tourism agencies, and encourage these enterprises to become signatories to the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism. It also urges the State party to impose appropriate penalties on the perpetrators of sexual exploitation of children in travel and tourism.**

Measures to prevent and address online child sexual exploitation and abuse

22. The Committee is concerned about the reported increase in cases of online child sexual exploitation and abuse.

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

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

(b) **A strategy for preventing online child sexual exploitation and abuse, including a public education programme to raise awareness and mandatory school education on online behaviour and safety, and for increasing knowledge and reporting of online child sexual exploitation and abuse offences; the participation of children in the development of policies and practices; industry engagement to block and remove online content involving child sexual exploitation and abuse, report incidents to law enforcement authorities and to develop innovative solutions; close cooperation with**

organizations working to end child sexual exploitation online; and ethical and informed media reporting;

(c) **Appropriate support services for children, including integrated services during investigation, prosecution and aftercare; trained professionals working with and for children; and accessible procedures for complaints, compensation and remedies;**

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

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

Criminal or penal laws and regulations in force

24. The Committee notes that child prostitution is defined in the Criminal Code and prosecuted as sexual abuse or incitement to sexual intercourse. It is concerned, however, that the State party has not criminalized in its Criminal Code the sale of children as defined in articles 2 and 3 of the Optional Protocol. The Committee is concerned, inter alia, that the engagement of a child in forced labour and illegal intermediation for the adoption of a child, in violation of the applicable international legal instruments on adoption, are not criminalized as cases of sale of children.

25. **The Committee calls upon the State party to take immediate measures to revise its Criminal Code and bring it into full compliance with articles 2 and 3 of the Optional Protocol. In particular, the State party should criminalize:**

(a) **The sale of children by offering, delivering or accepting, by whatever means, a child for the purposes of sexual exploitation, transfer of the organs of a child for profit, engagement of a child in forced labour, or improperly inducing consent, as an intermediary, for the adoption of a child in violation of the applicable legal instrument on adoption;**

(b) **Offering, obtaining, procuring or providing a child for prostitution;**

(c) **An attempt to commit any of these acts and complicity or participation in them.**

Impunity

26. The Committee welcomes the efforts made by the State party to increase prosecutions for crimes covered by the Optional Protocol. The Committee is, however, concerned at:

(a) Reports that trafficking crimes and the sale of children are sometimes prosecuted under the pimping statute when they involve the initial consent of the victim;

(b) Reports that in some cases, courts have suspended the sentences of convicted traffickers;

(c) The absence of information regarding prosecutions relating to the sale of a child for engagement in forced labour or sexual exploitation of children in travel and tourism.

27. **The Committee recommends that the State party take all measures necessary to ensure that cases of trafficking and sale of children are prosecuted as such, regardless of the victim's initial consent. The Committee urges the State party to effectively investigate all acts under the Optional Protocol, including the sale of a child for engagement in forced labour and sexual exploitation of children in travel and tourism,**

and to ensure that perpetrators are prosecuted and punished with appropriate sanctions commensurate with the gravity of their crimes.

Extraterritorial jurisdiction and extradition

28. The Committee regrets that extraterritorial jurisdiction for acts prohibited under the Optional Protocol is subject to the requirement of double criminality.

29. **The Committee urges the State party to remove the requirement of double criminality when exercising extraterritorial jurisdiction for offences covered by the Optional Protocol. The Committee recommends that the State party consider using the Optional Protocol as a legal basis for extradition for those offences in cases where there is no bilateral extradition treaty with the country concerned.**

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

30. While noting the progress made by the State party to protect the victims of acts covered by the Optional Protocol, the Committee remains concerned that:

(a) The national referral mechanism for identifying child victims under the Optional Protocol is inadequate and insufficient;

(b) Despite their right to compensation, child victims of offences under the Optional Protocol are frequently incapable of seeking such reparation owing to their fear of retribution or high fees;

(c) Only child victims who are willing to cooperate with law enforcement officers are eligible for the protection programme for victims of trafficking of the Ministry of the Interior and for long-term residency in the State party.

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

(a) **Improve and expand the national referral mechanism for identifying child victims and develop procedures for the early identification of child victims of all offences under the Optional Protocol;**

(b) **Ensure that those who are responsible for identifying child victims, including law enforcement officers, border and immigration authorities, judges, prosecutors, social workers and medical staff, are trained in children's rights, child protection and child-sensitive interviewing skills;**

(c) **Ensure that all children have access to efficient, safe and free procedures for seeking compensation and redress;**

(d) **Guarantee the same rights and protection to all child victims under the Optional Protocol, regardless of their cooperation with law enforcement officers.**

VIII. International assistance and cooperation (art. 10)

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

IX. Implementation and reporting

A. Follow-up and dissemination

33. The Committee recommends that the State party take all appropriate measures to ensure that the recommendations contained in the present concluding observations are fully implemented, including by transmitting them to the relevant government ministries, the parliament and the national and local authorities for appropriate consideration and further action.

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

B. Next periodic report

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