

COMMITTEE ON THE RIGHTS OF THE CHILD

Fifty-first session

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 12 (1) OF THE OPTIONAL PROTOCOL TO THE CONVENTION ON
THE RIGHTS OF THE CHILD ON THE SALE OF CHILDREN, CHILD
PROSTITUTION AND CHILD PORNOGRAPHY**

CONCLUDING OBSERVATIONS: SLOVENIA

1. The Committee considered the initial report of Slovenia (CRC/C/OPSC/SVN/1) at its 1408th meeting, held on 29 May 2009, and, on 12 June 2009, adopted the following concluding observations:

Introduction

2. The Committee welcomes the submission of the State party's initial report under the Optional Protocol on the sale of children, child prostitution and child pornography, and the replies to its list of issues (CRC/C/OPSC/SVN/Q/1/Add.1) submitted in a timely fashion. The Committee also appreciates the constructive and informative dialogue held with the State party's high-level cross-sectoral delegation.

3. The Committee reminds the State party that these concluding observations should be read in conjunction with its previous concluding observations adopted on the State party's second periodic report on 26 February 2004 (CRC/C/15/Add.230), and the concluding observations adopted on the State party's initial report under the Optional Protocol on the involvement of children in armed conflict on 12 June 2009 (CRC/C/OPAC/SVN/CO/1).

I. General Observations

Positive aspects

4. The Committee notes with appreciation the adoption of the following legislative and other measures:

- (a) The amendments of the Penal Code in 2004 and 2008 which, inter alia, introduced human trafficking as a criminal offence and broadened the scope of the offences related to child pornography;
 - (b) The appointment of a Deputy Human Rights Ombudsman dealing specifically with the protection of children rights that has competence to monitor violations of the rights of children, including violations of the provisions of the Optional Protocol, deal with complaints and request information.
5. The Committee commends the State party on its accession to, or ratification of:
- (a) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, in 2004;
 - (b) The International Convention on the Rights of Persons with Disabilities and its Protocol, in 2008;
 - (c) The United Nations Convention against Transnational Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, in 2004;
 - (d) The 1993 Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, in 2002; and
 - (e) The International Labour Organization Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, in 2001.

II. Data

6. While welcoming the statistical data provided in the State party's report and the replies to the list of issues, the Committee regrets the lack of data related to the Optional Protocol disaggregated by, inter alia, age, sex, origin, urban/rural areas, and the most vulnerable groups. While noting the research carried out on the issue of domestic violence and trafficking in persons, the Committee regrets the lack of research on the specific areas covered by the Optional Protocol.

7. The Committee recommends that the State party develop and implement a comprehensive and systematic mechanism of data collection, analysis, monitoring and impact assessment of all the areas covered by the Optional Protocol. The data should be disaggregated, inter alia, by nature of the offence and by sex, age, national and ethnic origin, urban/rural areas, socio-economic status, with particular attention to the most vulnerable groups of children. The Committee further recommends that the State party undertake research into the issues covered by the Optional Protocol to identify the causes and extent of sale of children, child prostitution and child pornography.

III. General measures of implementation

General Principles of the CRC (arts. 2, 3, 6 and 12)

8. The Committee notes that the four general principles of the Convention on the Rights of the Child have been mostly taken into account in the measures of implementation adopted by the State party under the Optional Protocol. However, the Committee is concerned at

discriminatory attitudes faced by some vulnerable children, including Roma children, asylum seekers and children born in Slovenia without nationality, which may affect their protection and prevent their full enjoyment of the rights enshrined in the Optional Protocol.

9. The Committee recommends that the four general principles of the Convention of the Rights of the Child, in particular the principles of non-discrimination and best interests of the child, be included in all measures taken by the State party to ensure the implementation of the provisions of the Optional Protocol, including in the examination of asylum applications submitted by children as well as in judicial and administrative proceedings.

National Plan of Action

10. While noting the adoption of the Action Plan for the fight against human trafficking for the period 2008-2009, the Committee is concerned that there is no specific plan of action covering all aspects of the Optional Protocol.

11. The Committee recommends that the State party develop, in consultation and cooperation with all relevant stakeholders, a national plan of action aimed at addressing sale of children, child prostitution and child pornography, and provide adequate human and financial resources for its implementation. In doing so, the State party is invited to take particular attention to the implementation of all provisions of the Optional Protocol taking into account the Declaration and Agenda for Action and the Global Commitment adopted at the First, Second and Third World Congresses against Sexual Exploitation of Children held in Stockholm, Yokohama and Rio de Janeiro in 1996, 2001 and 2008 respectively.

Coordination and evaluation

12. The Committee, while noting the appointment, in 2003, of an inter-ministerial working group for combating trafficking in human beings, composed by representatives of ministries, government bodies, and NGOs, is concerned at the lack of a national entity adequately resourced and mandated to coordinate all areas covered by the Optional Protocol.

13. The Committee encourages the State party to strengthen coordination among the relevant agencies, governmental departments and NGOs to ensure a systematic and coherent approach to address the issues covered by the Optional Protocol as well as to ensure the periodic evaluation of its implementation. Furthermore, the Committee recommends that a mechanism is in place and that such a mechanism undertake coordination of strategy, policy development and implementation in the areas covered by the Optional Protocol and that is provided with sufficient human and financial resources to enable it to be fully operational.

Dissemination and training

14. The Committee notes with appreciation the various training and dissemination activities undertaken by the State party in the fields of trafficking in human beings and violence against children. However, the Committee is concerned that the State party is not undertaking adequate dissemination and awareness-raising activities in systematic and

targeted manner among relevant professional categories and the public at large, in particular children, on all areas covered by the Optional Protocol.

15. The Committee recommends that the State party strengthen its training and dissemination activities, including the systematic development of training materials and courses, covering all areas of the Optional Protocol, for all relevant professionals including police officers, public prosecutors, judges, medical staff, media and other professionals involved in its implementation. The Committee further recommends, in the light of article 9, paragraph 2, of the Optional Protocol, that the State party make the provisions of the Optional Protocol widely known, particularly to children and their families, through, inter alia, media, school curricula, awareness-raising campaigns and training on harmful effects of all offences referred to in the Optional Protocol.

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

Measures adopted to prevent offences referred to in the Protocol

16. The Committee welcomes the State party's efforts, in collaboration with the European Commission, professionals and the civil society, to prevent offences referred to trafficking in human beings, child abuse, violence against children, and child pornography. The Committee welcomes as well the financing of the Project against human trafficking and sex and gender violence (PATS); however, the Committee regrets the lack of a systematic and comprehensive strategy to address all the areas of the Optional Protocol, in particular in relation to certain groups of vulnerable children, such as Roma, street children and children with disabilities.

17. The Committee recommends that the State party undertake targeted measures to prevent the sale of children, child prostitution and child pornography and pay increased attention to the situation of the groups of children who are at particular risk of being victims of offences referred to in the Optional Protocol. In this respect, it recommends that the State party allocate adequate human and financial resources for the implementation of such programmes.

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

Existing criminal or penal laws and regulations

18. The Committee notes with appreciation the amendments to the relevant legislation which significantly strengthen the protection of children against the offences covered by the Optional Protocol, including the 2008 amendment to the Penal Code to criminalize the mere possession of child pornography. However, the Committee remains concerned that the State party's legislation does not criminalize all the acts constituting offences in compliance with the definition of offences contained in articles 2 and 3 of the Optional Protocol.

19. The Committee recommends that the State party review its legislation, in particular its Penal Code, with a view to bringing it into full conformity with the Optional Protocol, including articles 2 and 3.

20. The Committee is also concerned that the State party's legislation does not criminalize the production or dissemination of materials advertising the sale of children, child prostitution or child pornography.

21. The Committee recommends that the State party criminalize the production or dissemination of materials advertising the sale of children, child prostitution or child pornography, in line with article 9, par. 5, of the Optional Protocol.

Legal aspects of adoption

22. While the Committee notes the legislation on adoption in force in Slovenia, it regrets that improperly inducing consent in cases of adoption, as provided for in article 3, par. 1 (a) (ii) of the Optional Protocol, is not covered by the criminal legislation of the State party.

23. The Committee recommends that the State party take all necessary measures to ensure that the definition of improperly inducing consent in cases of adoption is incorporated into the legislation, as stipulated in article 3, paragraph 1 (a) (ii), of the Optional Protocol.

VI. Protection of the rights of child victims

Measures adopted to protect the rights and interests of child victims of offences prohibited under the Protocol

24. The Committee notes that the Social Assistance Act (Ur. RS No. 3/07 – official consolidated text 2, 23/07 – popr., 41/07 – popr., 114/06 – ZUTPG) provides for care, protection, education and training and other types of social services that should be available to assist individuals and their families in distress, and acknowledges the important role played by non-governmental organizations in providing these services. It also takes note of the Resolution on the national assistance programme 2006-2010 (UR.I. RS, No. 39/06) and of the various programmes co-financed by the Ministry of Labour, Family and Social Affairs intended for child victims of violence. However, the Committee notes with concern that there is no specific national care or support concept for victims of offences covered under the Optional Protocol.

25. The Committee recommends that the State party:

(a) Create a nationwide policy on coordination, care and support for the child victims of sale, prostitution or pornography in line with the requirements of the Optional Protocol;

(b) Continue developing medical and psychological care services for child victims; and take measures with the aim of ensuring all appropriate assistance to child victims, including their social reintegration and physical and psychological recovery as well as by ensuring access and availability of professionals working with child victims throughout the country;

(c) Continue and strengthen the collaboration with non-governmental organizations, in particular, by supporting their advocacy and efforts to ensure that adequate services are available for child victims;

(d) Ensure that the existing national child helpline is allocated sufficient resources; that it is accorded a 3-digit, 24-hour, toll-free number to assist child victims; that it is

fully accessible and known to all children; and that the calls receive adequate follow-up;

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

Criminal justice system protection measures

26. The Committee is concerned about the weak enforcement of legislation relating to offences referred to in the Optional Protocol, in particular, the prosecution and punishment of those responsible for acts involving the sale of children, child prostitution and child pornography.

27. The Committee recommends that the State party take the appropriate measures to expand training activities for the judiciary, prosecutors, police and other public officials so as to ensure the prosecution and punishment of perpetrators of acts prohibited by the Optional Protocol. The Committee further recommends that the State party undertake evaluation of all the cases that did not lead to sentences in order to identify the causes that prevented advancing in the prosecutions and punishments.

VII. International assistance and cooperation

28. While noting with appreciation the various regional and international agreements on international legal aid on criminal matters to which the State is a party and the bilateral cooperation established on human trafficking, the Committee is concerned about the insufficient number of initiatives to ensure the application of the Optional Protocol.

29. The Committee recommends that the State party take all necessary measures to strengthen its international cooperation by multilateral, regional and bilateral agreements for the prevention, detection, investigation, prosecution and punishment of those responsible for acts involving the sale of children, child prostitution and child pornography in accordance with the Optional Protocol.

VIII. Follow-up and dissemination

Follow-up

30. The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, inter alia, by transmitting them to relevant government ministries, the National Assembly and to national and local authorities, for appropriate consideration and further action.

Dissemination

31. The Committee recommends that the report and written replies submitted by the State party and related recommendations (concluding observations) adopted be made

widely available, including through the internet (but not exclusively), to the public at large, civil society organizations, youth groups, professional groups and children, in order to generate debate and awareness of the Optional Protocol, its implementation and monitoring.

IX. Next report

32. In accordance with article 12, paragraph 2, the Committee requests the State party to include further information on the implementation of the Protocol in its combined third and fourth periodic report under the Convention on the Rights of the Child, in accordance with article 44 of the Convention.