



Convention on the Rights of the Child

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Committee on the Rights of the Child

Optional Protocol on the sale of children, child prostitution and child pornography

Concluding observations on the initial report of Slovakia adopted by the Committee at its sixty-second session (14 January – 1 February 2013)

1. The Committee considered the initial report of Slovakia (CRC/C/OPSC/SVK./1) at its 1770th and 1771st meetings (see CRC/C/SR.1770 and CRC/C/SR.1771) held on 23 January 2013, and adopted at the 1784th meeting, held on 1 February 2013, the following concluding observations.

I. Introduction

2. The Committee welcomes the submission of the State party's initial report (CRC/C/OPSC/SVK/1) providing detailed information on legislative, administrative, judicial and other measures applicable in the State party regarding the rights guaranteed by the Optional Protocol. The Committee also appreciates the written replies to its list of issues (CRC/C/OPSC/SVK/Q/1/Add.1) as well as the constructive dialogue held with the multisectoral delegation of the State party.

3. The Committee reminds the State party that these concluding observations should be read in conjunction with its concluding observations on the State party's second periodic report under the Convention on the Rights of the Child and initial report under the Optional Protocol on the involvement of children in armed conflict, contained in CRC/C/SVK/CO/2 and CRC/C/OPAC/SVK/CO/1, respectively.

II. General observations

Positive aspects

4. The Committee notes with appreciation the State party's ratification of:
- (a) The Council of Europe Convention on Cybercrime in January 2008;
 - (b) The Hague Convention No. 28 on the Civil Aspects of International Child Abduction, in November 2000.

5. The Committee welcomes 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 Action Plans on Combating People Trafficking (2006-2007, 2008-2010, 2011-2014), a comprehensive national strategy to combat trafficking, and Act No. 215/2006 on compensation to victims injured by violent crimes and other provisions.

III. Data

Data collection

6. The Committee notes the creation of a working group to establish an information system on human trafficking. However, it is concerned that this data collection system does not cover all offences under the Optional Protocol and is not coordinated for all agencies involved in child protection matters related to the Optional Protocol.

7. The Committee recommends that the State party establish a comprehensive information system in order to ensure that data, disaggregated, inter alia, by age, sex and ethnic or social origin, are systematically collected on all crimes covered under the Optional Protocol, and that the data be analysed and utilised as essential tools for assessment, policy development and implementation.

IV. General measures of implementation

Legislation

8. While welcoming efforts to integrate various provisions of the Optional Protocol into the legislation of the State party, the Committee is concerned that such efforts have focused mostly on trafficking and not on the Optional Protocol.

9. The Committee requests the State party to take all necessary measures to ensure the full incorporation of the Optional Protocol in its domestic legal system. The Committee recommends that the State party ensure that the definition of sale of children, which is similar to but not identical to trafficking in persons, is included in the national legislation in order to adequately implement the provision on sale contained in the Optional Protocol.

National plan of action

10. The Committee takes note of the National Action Plan for Children 2009-2012 and the National Action Plan on Combating People trafficking 2011-2014. However, it is concerned about the absence of a strategy or a national plan of action specifically addressing all the issues covered under the Optional Protocol, and that a sectorial approach to the Convention leads to fragmentation of its implementation.

11. The Committee recommends that the State party develop a national plan of action aimed at addressing specifically all issues covered under the Optional Protocol, provide adequate human and financial resources for its implementation, and regularly assess and evaluate the progress achieved. In doing so, the State party should pay 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 notes that the Ministry of Interior is the responsible authority for the coordination, monitoring and evaluation of implementation of the Optional Protocol. However, it is concerned at the prioritisation of activities targeting child trafficking as opposed to other prohibited practices defined in the Optional Protocol, and the lack of identifiable mechanisms for evaluating the impact of activities.

13. **The Committee recommends that the State party:**

(a) Strengthen the role of the Ministry of Interior as an institutional mechanism for effective coordination between all relevant ministries, departments and bodies and local authorities, in order to create systematic and coherent approaches to addressing all issues covered under the Optional Protocol; and

(b) ensure that the Ministry of Interior proceed with the periodic monitoring and evaluation of the measures taken and use the results for further strategy and policy development on all areas covered by the optional protocol.

Dissemination and awareness-raising

14. The Committee welcomes the State party's initiatives to raise awareness about the optional protocol through the promotion campaign on the existence of human trafficking. The committee is nevertheless concerned that these have been limited to prevention of trafficking and that the Optional Protocol has not been sufficiently promoted and disseminated in particular among implementing agencies, the public at large and children; and at the absence of education programmes for children.

15. **The Committee recommends that the State party continue to disseminate the Optional Protocol among implementing agencies and make its provisions widely known to the public at large and children in particular, through, inter alia, developing and implementing long-term awareness-raising campaigns and educational programmes, including school curricula, on the preventive measures and harmful effects of all offences covered therein.**

Training

16. The Committee appreciates the numerous training activities provided by the State party. The Committee remains concerned, however, that efforts to provide adequate training to professionals working with and for children, in particular among judges, prosecutors, law enforcement officers, education and health professionals, and social workers, are not systematic and do not include all areas covered by the Optional Protocol.

17. **The Committee recommends that the State party strengthen training activities and allocate adequate resources for the development of training programmes on all areas covered by the Optional Protocol for all professional categories involved in its implementation, including judges, the Public Defender, public prosecutors, police officers, social workers, health-care staff and other categories of professionals working with and for children and the media.**

Allocation of resources

18. The Committee notes that the State party report does not include information on the allocation of resources for the implementation of the provisions of the Optional Protocol, particularly with regard to resources for research and data collection, prevention of the offences covered by the Optional protocol, criminal investigations, legal assistance and physical and psychological recovery measures for victims.

19. **The Committee urges the State party to ensure that sufficient resources are allocated for the implementation of all areas covered by the Optional Protocol, by providing, in particular, the necessary human and financial resources for the development and implementation of programmes aimed at prevention, protection, physical and psychological recovery and social reintegration of victims, as well as the investigation and prosecution of the offences covered by the Optional Protocol.**

Cooperation with Civil society

20. The Committee regrets that the civil society was not consulted in the preparation of the initial report and that civil society organizations, which have developed knowledge and expertise in areas relevant to the Optional Protocol, have not been involved in the design of policies and activities for the implementation of the Optional Protocol.

21. **The Committee recommends the State party to strengthen its collaboration with the civil society in all matters concerning the implementation of the Optional Protocol, not only by supporting NGOs in their efforts to provide adequate services to child victims, but also by increasing the role of NGOs in the development and monitoring of policies and services.**

V. Prevention of the sale of children, child prostitution and child pornography (art. 9, paras. 1 and 2)

Measures adopted to prevent offences prohibited under the Protocol

22. The Committee notes the efforts undertaken by the State party aimed at preventing offences under the Optional Protocol. However, the Committee is concerned that targeted preventive measures against the exploitation of children, including their engagement in forced labour, prostitution and pornography, and measures to identify and address the root causes of the offences and extent thereof remain limited.

23. **The Committee encourages the State party to:**

(a) **Undertake research on the extent and root causes of the exploitation of children, including prostitution and pornography, in order to identify children at risk and assess the extent of the problem.**

(b) **Undertake targeted preventive measures including against exploitation over the Internet, and cooperate with international intergovernmental and non-governmental organizations concerning the implementation of awareness-raising campaigns in all areas covered by the Optional Protocol.**

Child sex tourism

24. The Committee is concerned at the lack of concrete information on policies to prevent child sex tourism and on the steps taken to ensure that the tourism industry protects children from becoming victims.

25. **The Committee urges the State party to ensure adequate regulations for prohibiting child sex tourism and commensurate sanctions against perpetrators of it. Furthermore, the Committee urges the State party to conduct dialogue and advocacy with the tourism industry on the harmful effects of child sex tourism, widely disseminate the United Nations World Tourism Organisation Global Code of Ethics for Tourism 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.**

Programmes targeting particular groups

26. The Committee takes note of the various measures taken by the State Party to pay particular attention to children who are especially vulnerable, in particular children in situation of poverty, Roma children and unaccompanied children. However, the Committee regrets the absence of measures and programmes targeting more particularly girls, children in street situations, children in residential care, children among refugees and asylum-seekers.

27. **The Committee urges the State party to pay increased attention to children particularly at risk of becoming victims of any of the offences under the Optional Protocol, especially girls, children in situation of poverty, Roma children, children in street situations, children in residential care, children among refugees and asylum-seekers, and unaccompanied and separated children. The State party should especially put in place mechanisms to monitor the situation of risks of all vulnerable children.**

VI. Prohibition of the sale of children, child prostitution and child pornography and related matters (arts. 3; 4, paras. 2 and 3; 5; 6 and 7)

Existing criminal or penal laws and regulations

28. While appreciating the provisions of the Criminal Code stipulating the prohibition of trafficking in human beings and child trafficking, as well as the series of provisions that prohibit sexual abuse of the child, supply of child's organs or employment of a child in forced labour, the Committee remains concerned that the Criminal Code does not adequately specify all offences under the Optional Protocol.

29. **The Committee recommends that the State party revise the Criminal Code in order to criminalize:**

(a) **the sale of children by offering, delivering or accepting, by whatever means, a child for the purpose of sexual exploitation, transfer of organs of the child for profit, or engagement of the 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 child prostitution;**

(c) **producing, distributing, disseminating, importing, exporting, offering, selling, possessing or knowingly accessing/viewing child pornography including virtual child pornography, suggestive representations of children which do not depict children engaged in explicit sexual activity (child erotica);**

(d) **an attempt to commit any of these acts and complicity or participation in any of these acts;**

(e) **the production and dissemination of material advertising any of these acts.**

Prosecution

30. The Committee welcomes the steps taken by the State party to combat child trafficking, including the adoption of the National Plan of Action on Combating People

Trafficking as well as the national strategy to combat trafficking, but remains concerned at the persistence of human trafficking in Slovakia and at the lack of information on the results of its struggle. The Committee also notes with appreciation that the State party set up a specific unit to investigate and prosecute organized corruption among police. However, the Committee regrets that there is no specific law in place for ensuring effective enforcement actions and sanctions against organized crime and corruption perpetrated by police.

31. **The Committee recommends the State party to:**

(a) **Effectively implement its National Plan of Action on Combating People Trafficking and ensuring its full compatibility with the Protocol;**

(b) **Evaluate the phenomenon of trafficking in children and compile systematic disaggregated data to better combat it;**

(c) **Enact a law to suppress organized crime and corruption, including by police personnel, and adopt the United Nations Convention against Transnational Organized Crime including its Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children.**

Impunity

32. The Committee noted information in the State party report that persons convicted of an offence under section 181 of the Criminal Code (for the trafficking of children) shall be subject to imprisonment for a period of between 4 and 25 years. However, the Committee is seriously concerned that the majority of persons convicted of trafficking in 2008 were given suspended sentences and served no time in jail or prison sentences.

33. **The Committee recommends that the State Party take all necessary measures to combat the impunity that perpetrators of offences under the optional protocol enjoy, and to this aim draw the attention of law enforcement officials, including judges, to the sanctions that may be imposed on them in case of inaction and corruption, and to the need to ensure that persons convicted of trafficking children receive penalties commensurate to the gravity of the offence committed. It also requests the State party to ensure that the law is enforced in practice and to train the law enforcement officials in this matter.**

Liability of legal persons

34. The Committee is concerned that legal persons, including corporations are not criminally liable under the State party's legislation for offences covered by the Optional Protocol.

35. **The Committee recommends that the State party revise the draft amendment of the Criminal Code to ensure the full and direct criminal liability of legal persons for offences covered by the Optional Protocol.**

Extraterritorial Jurisdiction and Extradition

36. The Committee, while welcoming the fact that the State party can establish its jurisdiction over crimes committed abroad by or against its citizens, nevertheless regrets that passive personal jurisdiction in relation to child victims has not yet been established. The Committee is also concerned that the State party does not consider article 5 of the Optional Protocol as a legal basis for extradition, in the absence of bilateral or multilateral treaty of extradition

37. The Committee recommends that the State party take steps to ensure that domestic legislation enables it to establish and exercise extraterritorial jurisdiction over all crimes covered by the Optional Protocol and consider article 5 of the Optional Protocol as a legal basis for extradition, in the absence of bilateral or multilateral treaty of extradition.

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

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

38. The Committee welcomes the adoption of training programmes on the identification of victims of trafficking. Nevertheless, the Committee is concerned that such efforts are insufficient and have not been adequately institutionalized, in particular in view of the State party's data provided in its written replies on the very low number of child victims.

39. **In the light of article 9, paragraph 3, of the Optional Protocol, the Committee recommends that the State party:**

(a) **Establish mechanisms and procedures for the early identification of child victims of the offences under the optional protocol, including by establishing cooperation mechanisms between law enforcement agencies and relevant ministries. It further recommends that personnel responsible for such identification are trained on child rights, child protection and with interviewing skills, including judges, prosecutors, the Public Defender, the police, social workers, medical staff and other professionals working with child victims;**

(b) **Issue clear instructions to all prosecutors to actively prosecute those cases;**

(c) **Ensure that complaint mechanisms are easily accessible and available to children whose rights have been violated;**

(d) **Ensure that the newly enacted language legislation (to limit the use of some EU members language in public institutions) does not restrict the use of the child victims' mother tongue by authorities through the identification and protection process.**

Criminal justice system protection measures

40. The Committee notes the initiative to incorporate child victims and witnesses protection into the criminal procedure law and welcomes the array of measures aiming at protecting child victims, child witnesses and collaborators through criminal procedures. The Committee is nevertheless concerned that special protection measures in relation to interrogation only cover children who are younger than the age of 15 and are often left to the discretionary power of the judge.

41. **The Committee strongly recommends that the State party ensure the application of special protection measures in criminal proceedings to all child victims and witnesses up to the age of 18 and are considered as mandatory. In particular, the Committee recommends that the State party ensure, through adequate legal provisions and regulations, that all children victims and/or witnesses of crimes at every age and group, e.g. children victims of abuse, domestic violence, sexual and economic exploitation, abduction, and trafficking and witnesses of such crimes, are provided with the protection required by the Convention and that the State party take**

fully into account the United Nations Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime (annexed to Economic and Social Council resolution 2005/20).

Recovery and reintegration of victims

42. The Committee is concerned about the absence of information on programmes of assistance for the recovery and reintegration of child victims under the Optional Protocol.

43. **The Committee recommends that the State party:**

(a) **Take all necessary measures to ensure that child victims of the offences under the optional protocol, particularly children of foreign origin, are provided with appropriate assistance, including for their full social reintegration and physical and psychological recovery, by, inter alia, effectively implementing its planned rehabilitation programmes;**

(b) **Guarantee that all child victims, including those who are not nationals or residents of the state party, have access to adequate procedures to seek, without discrimination, compensation for damages from those legally responsible, in accordance with article 9, paragraph 4, of the Optional Protocol, and establish a victims' compensation fund, for those cases where victims cannot obtain compensation from the perpetrator;**

(c) **Undertake measures to ensure that its rehabilitation and safe return programmes are available throughout its territory.**

Helpline

44. The Committee welcomes the establishment of the National helpline for victims of human trafficking. The Committee is nevertheless concerned that this helpline is limited to prevention of trafficking and does not cover all offences under the Optional Protocol and that there is a lack of appropriate resources to ensure national coverage and service accessibility, as well as to assist in long-term support of activities

45. **The Committee recommends that the state party review the mandate of the National helpline to cover all offences under the Optional protocol, and ensure that it covers the whole country, has an internet division/department, is accessible 24 hours, has an easy to remember 3-4 digital numbers and adequate financial and technical resources as well as personnel trained to respond to children and analyze the calls for appropriate action.**

VIII. International assistance and cooperation (art. 10)

Multilateral, regional, bilateral agreements

46. **In the light of article 10, paragraph 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 for and mechanisms to coordinate the implementation of such arrangements, with a view to improving prevention, detection, investigation, prosecution and punishment of those responsible for any of the offences covered under the Optional Protocol.**

IX. Ratification of the Optional Protocol on a Communications Procedure

47. The Committee, while noting with appreciation the efforts done by the State party to bring the drafting process of the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure (OPIC) to a successful conclusion under its chairmanship of the working group thereon, as well as being its 1st signatory, urges the State party to ratify OPIC as soon as possible in order to further strengthen its commitment to the fulfilment of children's rights.

X. Follow-up and dissemination

Follow-up

48. 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 the relevant Government ministries, the Parliament, and to national and local authorities, for appropriate consideration and further action.

Dissemination of concluding observations

49. 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, media professionals and children, in order to generate debate and awareness of the Optional Protocol, its implementation and monitoring.

IX. Next report

50. In accordance with article 12, paragraph 2, the Committee requests the State party to include further information on the implementation of the Protocol and the present concluding observations in its next consolidated third, fourth and fifth periodic report under the Convention on the Rights of the Child due by 30 June 2013, in accordance with article 44 of the Convention.
