

Annex VII

**GUIDELINES REGARDING INITIAL REPORTS TO BE SUBMITTED
BY STATES PARTIES UNDER ARTICLE 12, PARAGRAPH 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 at its 777th meeting
(twenty-ninth session) on 1 February 2002**

I. Introduction

1. Pursuant to article 12, paragraph 1, of the Optional Protocol, each State party shall, within two years following the entry into force of the Optional Protocol for that State party, submit a report to the Committee on the Rights of the Child providing comprehensive information on the measures it has taken to implement the provisions of the Optional Protocol. Thereafter, pursuant to article 12, paragraph 2, of the Optional Protocol, States parties shall include in the reports they submit to the Committee on the Rights of the Child in accordance with article 44, paragraph 1 (b), of the Convention any further information with respect to the implementation of the Optional Protocol. States parties to the Optional Protocol that are not parties to the Convention shall submit a report every five years.
2. The Committee may, in the light of article 12, paragraph 3, of the Optional Protocol, request from States parties further information relevant to the implementation of the Optional Protocol.
3. Reports should provide information on:
 - (a) The legal status of the Optional Protocol in domestic law and its applicability in domestic jurisdictions;
 - (b) When relevant, the intention of the State party to withdraw existing reservations made to the Optional Protocol;
 - (c) The governmental departments or bodies competent for the implementation of the Optional Protocol and their coordination with regional and local authorities as well as the civil society, the business sector, the media, etc.;
 - (d) The dissemination to the public at large, including children and parents, of information, through all appropriate means, education and training, about the provisions of the Optional Protocol;

(e) The dissemination of the Optional Protocol and the appropriate training offered to all professional groups working with and for children and all other relevant groups (immigration and law enforcement officers, social workers, etc.);

(f) The mechanisms and procedures used for the periodic evaluation of the implementation of the Optional Protocol and the main challenges encountered so far.

4. In reporting to the Committee, States parties should indicate how the implementation of the Optional Protocol is in line with the general principles of the Convention on the rights of the Child, namely non-discrimination, best interests of the child, right to life, survival and development, and respect for the views of the child. The States parties also should elaborate on how and to what extent the implementation of the Optional Protocol contributes to the implementation of the provisions of the Convention on the Rights of the Child, in particular articles 1, 11, 21, 32, 33, 34, 35 and 36 (see preamble of the Optional Protocol). Moreover, the process of preparation of the report should be described to the Committee, including the involvement of governmental and non-governmental organizations/bodies in its drafting and dissemination.

5. Moreover, *for all areas raised in these guidelines*, the Committee invites States parties to provide it with:

(a) Information on the progress made in the enjoyment of the rights set forth in the Optional Protocol;

(b) An analysis of the factors and difficulties, if any, affecting the degree of fulfilment of the obligations under the Optional Protocol;

(c) Information on the budget allocated to the various activities of the State party related to the Optional Protocol;

(d) Detailed disaggregated data;

(e) Copies of the principal legislative, administrative and other relevant texts and judicial decisions and relevant research.

II. Prohibition of the Sale of Children, Child pornography and child prostitution

6. Please provide information on existing criminal or penal laws and regulations covering and defining the acts and activities enumerated in article 3, paragraph 1, of the Optional Protocol. In this respect, please provide information on:

(a) The age limit used for defining a child in the definition of each of these offences;

(b) The penalties which apply to each of these offences and what the aggravating or attenuating circumstances applicable to them are;

- (c) The Statute of Limitation for each of these offences;
- (d) Any other acts or activities which are criminalized under the penal or criminal laws of the State party and which are not covered by article 3, paragraph 1, of the Optional Protocol;
- (e) The liability of legal persons for the acts and activities enumerated in article 3, paragraph 1, of the Optional Protocol, indicating the definition of a legal person in the State party; and
- (f) The status, under the criminal or penal law of the State party, of attempts to commit and complicity or participation in any of the offences referred to previously.

7. With regard to adoption (art. 3, para. 1 (a) (ii)), please indicate the bilateral and multilateral agreements which are applicable to the State party and how the State party ensures that all persons involved in the adoption of the child act in conformity with these international agreements.

III. Penal/criminal procedure

Jurisdiction

8. Please indicate the measures adopted, including of a legislative, judicial and administrative nature, to establish the State party's jurisdiction over the offences referred to in article 3, paragraph 1, of the Optional Protocol when:

- (a) These offences are committed in its territory or on board a ship or aircraft registered in the State party;
- (b) The alleged offender is a national of the State party or a person who has his/her habitual residence in its territory;
- (c) The victim is a national of the State party;
- (d) The alleged offender is present in its territory and it does not extradite her/him to another State party on the ground that the offence has been committed by one of its nationals. In that case, please indicate if an extradition request is required prior to the State party establishing its jurisdiction.

9. Please indicate any other measures at the national level, including of a legislative, judicial and administrative nature, which establish other rules concerning criminal jurisdiction by the State party.

Extradition

10. Please provide information on the State party's extradition policy related to the offences referred to in article 3, paragraph 1, of the Optional Protocol with specific attention to the various situations enumerated in article 5 of the Optional Protocol. For each situation relevant to the State party, in light of the disaggregated data requested under paragraph 5 (d) of these guidelines, please indicate the number of extradition requests received from or sent to the States concerned, and provide disaggregated data about the offenders and the victims (age, sex, nationality, etc.). Please also provide information on the length of the procedure, and on cases of extradition requests which have been sent or received and which did not succeed.

Seizure and confiscation of goods and proceeds, and closure of premises

11. Please provide information on the measures adopted, including of a legislative, judicial and administrative nature, related to:

- (a) The seizure and confiscation of goods and proceeds referred to in article 7 (a) of the Optional Protocol;
- (b) The closing, on a temporary or definitive basis, of premises used to commit offences as provided for in article 3, paragraph 1, of the Optional Protocol.

IV. Protection of the rights of child victims

12. In light of articles 8, 9 paragraphs 3 and 4, of the Optional Protocol, please provide information on the measures, including of a legislative, judicial and administrative nature, that have been adopted to protect the rights and interests of child victims of offences prohibited under the Optional Protocol at all stages of the criminal justice process while ensuring the rights of the accused to a fair and impartial trial. Please indicate the measures adopted:

- (a) To ensure that the best interests of the child is a primary consideration in the relevant domestic legislation and regulations governing the treatment of child victims by the criminal justice system;
- (b) To ensure that criminal investigations are initiated even in cases where the actual age of the victim cannot be established and indicate the means used for this determination;
- (c) To adapt the procedures so they are child sensitive, with special regard to the dignity and worth of the child and her/his cultural background, including the procedures used for investigation, interrogation, trial and cross-examination of child victims and witnesses; the right of a parent or guardian to be present; the right to be represented by a legal adviser or to apply for free legal aid. In that respect, please indicate what the legal consequences are for a child who has committed an offence under the law applicable to her/him as a direct result of the practices prohibited under the Optional Protocol;
- (d) To inform the child during the whole of the legal process and indicate the persons responsible for this task;

- (e) To allow the child to express her/his views, needs and concerns;
- (f) To provide appropriate support services to child victims, including psychosocial, psychological and linguistic support at every step of legal proceedings;
- (g) To protect, as appropriate, the privacy and identity of child victims;
- (h) To provide, in appropriate cases, for the safety of child victims, as well as of their families, witnesses on their behalf, and individuals/organizations dealing with the prevention and/or protection and rehabilitation of child victims from intimidation and retaliation;
- (i) To ensure that all child victims have access to adequate procedures to seek, without discrimination, compensation for damages from those legally responsible and to avoid unnecessary delay in the disposition of cases and the execution of orders or decrees granting compensation; and
- (j) To ensure that child victims receive all appropriate assistance, including for their full social reintegration and full physical and psychological recovery.

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

13. In light of article 9, paragraphs 1, 2, 5 and 10, and paragraph 1 of the Optional Protocol, please provide information on:

- (a) The measures, including of a legislative, judicial and administrative nature, and the policies and programmes adopted to prevent the offences referred to in the Optional Protocol. Reports should also give information on children concerned by these preventive measures and on the measures used to particularly target children who are especially vulnerable to such practices;
- (b) The means used to raise awareness within the population at large about the offences prohibited under the Optional Protocol. Please provide disaggregated information, including on:
 - i. The various types of awareness, educational and training activities;
 - ii. The public concerned;
 - iii. The involvement of governmental bodies and non-governmental organizations, the business sector, media professionals, etc.;
 - iv. The participation of children/child victims and/or communities;
 - v. The scope of these activities (local, regional, national and/or international);

(c) The measures adopted, including of a legislative, judicial and administrative nature, to effectively prohibit the production and dissemination of material advertising the offences described in the Optional Protocol, as well as the mechanisms established to monitor the situation.

VI. International assistance and cooperation

Prevention

14. In light of article 10, paragraph 3, of the Optional Protocol, please provide information on the activities of the State party to promote international cooperation to address the root causes, particularly poverty and underdevelopment, which contribute to the vulnerability of children to the sale of children, child prostitution, child pornography, and child sex tourism.

Protection of victims

15. In light of article 10, paragraph 2, of the Optional Protocol, please provide information on international cooperation to assist child victims in their physical and psychological recovery, social reintegration and repatriation.

Law enforcement

16. In light of articles 6 and 10 of the Optional Protocol, please provide information on the assistance and cooperation provided by the State party at all steps/parts of the penal or criminal procedure with regard to the offences as provided in article 3, paragraph 1, of the Optional Protocol (detection, investigation, prosecution, punishment and extradition proceedings). In light of article 7 (b) of the Optional Protocol, please provide information on requests received from another State party for seizure or confiscation of goods or proceeds referred to in article 7 (a) of the Optional Protocol.

17. Please indicate the relevant bilateral, regional and/or multilateral agreements, treaties or other arrangements which the State party concerned is party to, and/or any relevant domestic legislation in that respect. Finally, please indicate what cooperation/coordination has been set up between the State party's authorities, national and international non-governmental organizations, and international organizations.

Financial and other assistance

18. With reference to international cooperation, mentioned above, (paras. 14-17), please provide information on the financial, technical or other assistance provided and/or received through existing multilateral, bilateral or other programmes that have been undertaken to that end.

VII. Other legal provisions

19. Please indicate any relevant provisions of domestic legislation and international law in force in the State concerned which are more conducive to the realization of the rights of the child. Reports should also provide information on the status of ratification by the State concerned of the main international instruments concerning sale of children, child prostitution, child pornography and child sex tourism and on other commitments undertaken by that State concerning this issue, and on their implementation and challenges encountered.