



Convention on the Rights of the Child

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Written replies submitted by the Government of Ecuador to the list of issues (CRC/C/OPSC/ECU/Q/1) to be taken up in connection with the consideration of the initial report of Ecuador (CRC/C/OPSC/ECU/1) submitted 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*

[Replies received on 24 November 2009]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

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1. Please provide statistical data (disaggregated by sex, age, ethnic group and urban or rural residence) for 2006, 2007 and 2008 on the number of:

(a) Reports of sales of children, child prostitution and child pornography, with additional information on the type of follow-up provided on the outcome of the cases, including the prosecution and sanctioning of perpetrators;

(b) Child victims provided with recovery assistance or compensation, in accordance with the provisions of articles 9, paragraph 3, and 9, paragraph 4, of the Optional Protocol.

In the absence of such information, please explain the plans to improve relevant investigation and statistical information systems, in particular those relating to the most vulnerable groups.

1. Ecuador has begun setting up systems of various kinds to gather information on special protection. These include the Child Labour Module, a system for receipt of complaints by the cantonal rights protection boards, and a system for registration of support bodies. The aim is to coordinate all these systems in order to have up-to-date information available at all times, which can be sent to the Integrated System of Social Indicators of the Coordinating Ministry for Social Welfare, for the System of Social Indicators on Children and Adolescents module.

2. In mid-2008, the National Council for Children and Adolescents (CNNA) helped prepare the National Strategic Plan for the Development of Statistics in Ecuador, a plan for collection of the main statistics Ecuador needs to generate, and implementation of which is now under way; the various data-gathering instruments include the basic variables for children and adolescents that will provide indicators of the human rights and protection situation of children and adolescents in Ecuador.

3. Under the Strategic Plan, the National Secretariat of Planning and Development is developing the National Information System on Children and Adolescents, which coordinates all State and private-sector bodies that contribute to the National Statistics System.

4. The information system of the cantonal rights protection bodies received 13,800 complaints of threats to or violation of children's and adolescents' rights in 41 cantons between 2007 and 2009. The boards, it should be noted, are now operating and are working on the restitution of rights where these are threatened or violated. CNNA is working on a directive establishing a mechanism for the collection of complaints in order to generate statistics on physical, psychological and institutional abuse in Ecuador.

5. The information system of the Office of the Attorney-General records child pornography and prostitution and the sale of children as sexual exploitation offences (see table).

Criminal offences by province**Sexual exploitation, January-September 2009**

<i>Province</i>	<i>Not flagrante delicto</i>	<i>Percentage</i>	<i>Flagrante delicto</i>	<i>Percentage</i>	<i>Total</i>	<i>Percentage</i>
Azuay	7	6.36 %	2	10.00 %	9	6.92 %
Bolívar	0	0.00 %	0	0.00 %	0	0.00 %
Cañar	1	0.91 %	0	0.00 %	1	0.77 %
Carchi	1	0.91 %	2	10.00 %	3	2.31 %
Cotopaxi	0	0.00 %	0	0.00 %	0	0.00 %
Chimborazo	0	0.00 %	0	0.00 %	0	0.00 %
El Oro	27	24.55 %	5	25.00 %	32	24.62 %
Esmeraldas	3	2.73 %	2	10.00 %	5	3.85 %
Guayas	20	18.18 %	1	5.00 %	21	16.15 %
Imbabura	0	0.00 %	1	5.00 %	1	0.77 %
Loja	1	0.91 %	0	0.00 %	1	0.77 %
Los Ríos	1	0.91 %	0	0.00 %	1	0.77 %
Manabí	2	1.82 %	1	5.00 %	3	2.31 %
Morona	1	0.91 %	0	0.00 %	1	0.77 %
Napo	1	0.91 %	0	0.00 %	1	0.77 %
Pastaza	0	0.00 %	0	0.00 %	0	0.00 %
Pichincha	41	37.27 %	0	0.00 %	41	31.54 %
Tungurahua	1	0.91 %	1	5.00 %	2	1.54 %
Zamora	0	0.00 %	0	0.00 %	0	0.00 %
Galápagos	0	0.00 %	0	0.00 %	0	0.00 %
Sucumbios	2	1.82 %	4	20.00 %	6	4.62 %
Orellana	0	0.00 %	0	0.00 %	0	0.00 %
Santo Domingo	0	0.00 %	0	0.00 %	0	0.00 %
Santa Elena	1	0.91 %	1	5.00 %	2	1.54 %
Total	110	100.00 %	20	100.00 %	130	100.00 %

Source: Office of the Attorney-General.

Prepared by: Office of the Attorney-General.

2. Please inform the Committee about the role of the National Council for Children and Adolescents with regard to monitoring and promoting implementation of the provisions of the Optional Protocol.

6. The following steps have been taken by the national technical secretariat of the National Plan to Combat Human Trafficking, Smuggling of Migrants, and Sexual and Labour Exploitation of Women, Children and Adolescents.

7. An agreement has been signed between CNNA and the International Development Bank (IDB) (2007–2009) covering the following points:

(a) Preparation of an analysis of the current situation of human trafficking and smuggling in Ecuador, a review of steps taken on the issue, consultations with agencies and recommendations (2008);

(b) Training of trainers in government agencies that deal with human trafficking and smuggling. This point included a training needs assessment for State agencies and the production, for each agency, of a curriculum and training plan covering the provisions of the Optional Protocol. These events were also attended by representatives of the Decentralized National System of Comprehensive Protection of Children and Adolescents;

(c) Elaboration of a State policy on special support;

(d) Training for justice officials and auxiliaries on prevention of trafficking and sexual exploitation and on protection.

8. The Ministry of Justice and the Ministry of the Interior are training 2,500 police in human rights issues and specifically human trafficking.

9. The Ministry of the Interior, in coordination with the National Institute for Children and the Family (INNFA), provided training to justice officials in 2008. The outcome will be a protocol for action in this sector.

10. The Ministry of Justice and the National Council for Women (CONAMU) provided training in 2008 to justice officials at the national level on the introduction of the gender perspective in their work. One of the topics dealt with in the course is all forms of human trafficking.

11. The police force, the National Police Department for Children and Adolescents and CNNA organized the December 2008 Andean Region meeting of senior police officers to combat human trafficking for the purpose of begging, which was attended by Ecuador, Colombia, Peru, Venezuela (Bolivarian Republic of) and Chile.

12. The task of the technical secretariat of the Plan is to coordinate with all agencies involved in investigation, field operations and policy development, and with support units, in order to combat these criminal offences and in particular to redress victims' rights.

13. To that end, and in accordance with the task with which it has been entrusted, Ecuador has been responsible for drawing up the Regional Action Plan, which has the following components:

(a) Operation of the Task Force, i.e., mechanisms for making decisions in accordance with the goals of the Plan;

(b) Agreement on the establishment of a multidisciplinary and multisectoral support committee in each country, to monitor progress with the action plan, implementation, and monitoring of a best-practices instrument;

(c) International awareness-raising course at the regional level: trainer training in combating commercial sexual exploitation of children and adolescents in the tourism and travel sector;

(d) National trainer-training course in combating commercial sexual exploitation of children and adolescents in the tourism and travel sector;

(e) Creation of a website for the regional task force as a permanent forum for communication between the countries; creation and distribution of links to the task force website from local and international organizations' web pages on the subject;

(f) Presentation of best practices and experiences in tourism in the region – regional task force (second year);

(g) Development of partnerships with universities and private tourism training institutes, to incorporate prevention of commercial sexual exploitation in the tourism and travel sector into their study programmes;

(h) Promotion of the involvement of children and adolescents in the regional task force. The idea here is to work with children's rights organizations, networks and forums to find solutions to the problem by involving them as advisers and counsellors on policy and action;

(i) Preparation of a statute to be put to the other members of the task force, covering, among other things, the task force's media strategy and strategies to encourage other countries to join.

14. Under the fourth component of the regional action plan, the trainer-training process on prevention and eradication of commercial sexual exploitation of children and adolescents in the tourism and travel sector was launched with an international workshop in Quito, Ecuador, in June 2009.

15. In accordance with the third component of the regional action plan, Ecuador has set up a multisectoral committee, the Inter-Agency Committee for the Prevention and Eradication of Sexual Exploitation in Travel and Tourism, comprising the Ministry of Tourism, the Ministry of the Interior, the Coordinating Ministry of Internal and External Security, the Ministry of Education, the Ministry of Economic and Social Inclusion, the Office of the Attorney-General and the National Federation of Chambers of Tourism.

3. Please indicate whether the Office of the Ombudsman or other independent mechanisms for monitoring respect for the rights of the child are authorized to receive complaints regarding violations of the Optional Protocol directly from children, or on their behalf, and what action is taken on those complaints.

16. The Office of the Ombudsman is empowered by the relevant organization Act to receive complaints, which it then refers to the competent bodies. It is also an observer in criminal proceedings against perpetrators and may become a party to such proceedings; as to representation in the cases brought to its attention, the Office acts as a guarantor of due process, not as a representative of one of the parties.

4. Please provide information on how action plans relating to the Optional Protocol, such as the National Plan to Combat Human Trafficking, the National Tourism Plan, the National Plan for the Eradication of Gender-Based Violence against Children, Adolescents and Women, and the 10-Year National Comprehensive Child and Youth Protection Plan, are being implemented. Please also indicate whether these plans take into consideration all the offences covered by the Optional Protocol, in terms of both preventing and eliminating them.

17. CNNA, as the lead agency in the Decentralized National System for Comprehensive Protection of Children and Adolescents, helps with implementation of these action plans by taking part in working groups, technical committees and special advisory bodies to ensure that the plans contain rights-based policies.

18. The plans include actions to prevent and eradicate the offences covered by the Optional Protocol, and extensive awareness-raising campaigns have been organized by the Ministry of Economic and Social Inclusion and the National Institute for Children and the Family, supported by the Ministry of the Interior and the Police, the provincial governments and other sectoral bodies.

19. An inter-agency commission has been working on a protocol on support services for children and adolescents in situations of sexual exploitation and their families.

20. The Ministry of Justice and Human Rights is developing a proposal to establish a victim support unit to provide comprehensive protection for victims.

21. The Ministry of Foreign Affairs is developing a protocol on identification of, and support for, victims of trafficking abroad, for the use of Ecuadorian consulates in other countries.

22. CNNA and the Ministry of the Interior organized a national conference involving various social actors, with a view to developing Ecuador's position to be presented by CNNA at the third World Congress against Commercial Sexual Exploitation of Children, which was held in Rio de Janeiro, Brazil, from 25 to 28 November 2008.

23. As to prevention of sexual exploitation in tourism, the Ministry of Tourism has drawn up codes of conduct for establishments providing tourist services, with a view to preventing sex tourism.

5. Please indicate whether national criminal legislation prohibits improperly inducing consent, as an intermediary, for the adoption of a child in violation of applicable international legal instruments on adoption (article 3, paragraph 1 (a) (ii), of the Optional Protocol).

24. Domestic law (Children's and Adolescents' Code) contains the standards and guarantees needed to ensure that consent to adoption, whether national or intercountry adoption, takes account of the child's best interests.

25. In accordance with one of the rights of children set forth in the Code — the right to be consulted on all matters that affect them — it is established that children and adolescents should be consulted in all adoption proceedings: in the case of children their opinions will be given the weight appropriate to their degree of social and emotional maturity; in the case of adolescents, they must themselves give consent and that consent must be taken into account in the adoption process (Children's and Adolescents' Code, art. 153).

26. The Code also specifies which other persons apart from adolescents are authorized to give their consent during adoption proceedings. These include the parents of the child or adolescent to be adopted, provided they have not been deprived of their parental authority; the guardian of the child or adolescent; the spouse or partner of the person adopting, provided their marriage or partnership meets the legal requirements; and the parents of an adolescent father or mother who has agreed to have their child adopted (art. 161). Under the Civil Code, "Where one of the parents is deceased or legally prevented from expressing their wishes, the consent of the other will suffice. Where the parents are separated or divorced, the consent of the parent who has parental authority will suffice ... and the other parent should be given the opportunity to express their agreement or otherwise with the adoption" (Civil Code, art. 321).

27. Adoption in Ecuador is a social and legal procedure that can be carried out only through an Ecuadorian court, specifically the juvenile court, since it is a measure that severs the relationship between the adopted person and their biological family or their family of origin (although any impediments to marriage resulting from those ties of kinship remain). Under Ecuadorian law, for a child to be found legally eligible for adoption, it is not enough for the father or mother, or both, being in full possession of parental authority, to give the required consent to adoption, for, notwithstanding that parental right, the juvenile court, in order to find a child or adolescent legally eligible for adoption, is still required to make enquiries to establish whether there are any other relatives (up to the third degree of consanguinity) who could offer the child care and protection. The court can find the child eligible for adoption only provided they have no such relatives or that such relatives are unable to offer permanent, stable care and protection (Children's and Adolescents' Code, arts. 151, 158 and 217).

28. Ecuadorian law also contains special provisions, in the Children's and Adolescents' Code, governing the adoption procedure, including the manner in which consent to

adoption is given, so as to provide the necessary safeguards. In this regard, the juvenile court judge is required not only to establish personally, at the relevant hearing, that consent has been given freely and spontaneously, but also to arrange for procedures for specific purposes at various agencies, one of these being the Adoptions Unit of the Ministry of Economic and Social Inclusion (formerly the Ministry of Social Welfare), an interdisciplinary body that will provide free counselling to the person giving consent on the significance and consequences of the adoption. The Adoptions Unit is then required to prepare a report for submission to the competent juvenile court (Children's and Adolescents' Code, arts. 161, 162 and 289).

29. Although the Children's and Adolescents' Code stipulates that adoption in Ecuador is full and unconditional, and irrevocable once it has been made final, and moreover that "any condition imposed by those required to give consent shall be disregarded and shall not affect the validity of the adoption", the Code nevertheless gives possible grounds for the annulment of an adoption by the juvenile court, including failure to obtain the consent of persons with the right to give consent, and irregularities in the consent required from persons authorized by law. In this regard, an application for annulment may be made by the adopted person, the persons whose consent was not obtained, or the Office of the Ombudsman; the right of action for annulment shall lapse two years from the date of entry of the adoption decision in the civil registry (Children's and Adolescents' Code, arts. 177 and 178).

6. Please inform the Committee whether the State party has taken such measures as may be necessary to establish its jurisdiction over all the offences referred to in the Optional Protocol, in accordance with article 4. Please indicate whether an adequate budget has been allotted for that purpose, whether staff training has been included and whether a system of victims' services has been set up.

30. The Ecuadorian State has defined the following offences in its legal order.

31. The Victim and Witness Protection Programme of the Public Prosecutor's Office has dealt with 27 victims of trafficking, in coordination with governmental and non-governmental organizations, by providing police protection, medical and psychological care, financial support and help with employment.

32. A 36-member police unit has been set up to provide better protection to victims and witnesses. The Programme has been implemented in local public prosecutor's offices around the country.

33. Policy 3 of the National Plan to Combat Human Trafficking, Smuggling of Migrants, Sexual and Labour Exploitation reads as follows:

Policy 3: The Ecuadorian State shall guarantee comprehensive protection inside the country to all victims and outside the country to all victims of Ecuadorian nationality and shall strengthen the response capability of public and private institutions and families and the State in providing comprehensive, personalized support services that include coordinated structures for communication, education, support and social rehabilitation in order to improve the individual's social integration and standard of living, thereby facilitating reparation and restitution and full enjoyment of their rights.

(a) Strategic objective 1: To develop and implement comprehensive, personalized support services such as to prevent revictimization and ensure reparation and restitution and proper conditions for the full enjoyment of rights;

(b) Strategic objective 2: To ensure inter-agency coordination in order to guarantee comprehensive support, the restitution and enjoyment of rights and social rehabilitation;

(c) Strategic objective 3: To promote the implementation of international cooperation policies on the rescue and repatriation of victims, the prevention of revictimization and the protection of rights.

34. Each institution represented on the Plan commission has its own budget for implementation of the Plan. During this period the agencies have been working on tasks in their own jurisdictions. CNNA has \$100,000 to develop training for the technical teams in the support units, promote the establishment of the bodies represented in the system (cantonal children's and youth councils, cantonal rights protection boards, community ombudsmen) and encourage their participation.

7. Please inform the Committee whether the State party may use the Optional Protocol as a legal basis for extraditions relating to those offences, taking into account that the nature of such crimes makes them extraditable.

35. Ecuadorian law allows extradition of Ecuadorian nationals to another country if the offence carries a sentence of long-term imprisonment, as human trafficking does. It is true that no extraditions have been carried out for such offences but the law permits it and the procedure is administered by the National Court of Justice. Clearly the provisions of the Convention could be used to provide additional legal grounds.

8. Please provide information on the specific budget allocations (national, regional and local) for implementing the Optional Protocol, in particular on the budget allotted for ensuring the social reintegration and the physical and psychosocial recovery of children who are victims of the offences covered by the Protocol, as well as information on the number of children who have received such assistance, as a proportion of the total complaints.

36. Investment of State resources in 2008 amounted to \$3,081,379, which was allocated to the National Plan for the Eradication of Gender-Based Violence against Children and Adolescents, which is a State policy. This budget was executed on an inter-agency basis and increases as the agencies represented in the technical secretariat implement their actions.

37. A four-year project is under way to provide additional training for Government and civil society bodies for the protection of children and adolescents, with special emphasis on child trafficking and smuggling. There is also an agreement with Save the Children, with a budget of €2,852,000.

38. In addition, in border areas, which are critical and where the threat to these rights is greatest, three national cooperation projects are under way to combat violence, with the following budgets:

(a) Publicity campaign: \$700,000;

(b) Project on protection and restitution of the rights of victims of gender-based violence in Ecuador: \$4.6 million;

(c) Project on strengthening the Decentralized National System of Comprehensive Protection of Children and Adolescents in Ecuador's northern and border regions (provinces of Esmeraldas, Carchi, Sucumbíos, Imbabura, Pichincha and Santo Domingo de los Tsachilas): \$85,000.

39. Special commissions are now in place to generate statistical data; pilot schemes are under way to gather information on the provinces of Imbabura and Manabí; and there is a proposal for a strategy of on-the-spot perception surveys.

9. Please inform the Committee about the measures taken to raise awareness of specific provisions of the Optional Protocol (in addition to the activities related to

human trafficking and smuggling, as mentioned in the State party's report). Taking into account the importance of civil society's participation in this regard, please indicate how such participation takes place in the context of the new Constitution. Please also indicate whether international organizations and civil society organizations contribute to efforts to improve knowledge of these subjects.

40. As part of the Plan to combat violence, a publicity strategy was devised comprising the following measures:

(a) Design and implementation of a media image of the Plan, to be developed in 2009 as part of a short-, medium- and long-term media strategy;

(b) The Ministry of Economic and Social Inclusion devised and broadcast a radio play for local radio stations, aimed at women in receipt of the voucher and the general public, to highlight the fact that violence is not normal;

(c) CNNA devised the code of conduct scheme for schools, which was piloted in Nueva Loja Provincia de Sucumbíos. In 2009, under the agreement with Save the Children, there is a project to reproduce the approach in other provinces;

(d) Over the coming two years a project on protection and restitution of the rights of victims of gender-based violence in Ecuador will be implemented with the cooperation of the United Nations Development Fund for Women (UNIFEM), the United Nations Population Fund (UNFPA), the United Nations Development Programme (UNDP) and the United Nations Children's Fund (UNICEF) and with a budget of \$4.6 million;

(e) CNNA has signed an agreement with the Ibero-American Children's Fund to execute a \$85,000-project on strengthening the Decentralized National System of Comprehensive Protection of Children and Adolescents in Ecuador's northern border regions (provinces of Esmeraldas, Carchi, Sucumbíos, Imbabura, Pichincha and Santo Domingo de los Tsachilas). A joint agenda will be drawn up with Colombia to address the issue of movement of people across the northern border by providing special training to persons working in violence-related fields and reinforcing the links between the various bodies participating in the System.

10. Please indicate whether special training, particularly legal and psychological training, is provided to professionals who come into contact with child victims of offences under the Optional Protocol, such as judges, social workers, medical personnel and police officers.

41. One of the pillars of prevention of offences under the Optional Protocol is Ecuador's national information and education campaign. Postcards, stickers and information material have been distributed in the provinces, backed up by radio commercials and billboard advertising.

42. The Office of the Attorney-General has prepared an information booklet giving an outline of, among other things, the victim and witness protection programme, personal security measures and means of preventing these offences.