



Convention on the Rights of the Child

Distr.: General
25 November 2009
English
Original: French

Committee on the Rights of the Child Fifty-second session

Summary record of the first part (public)* of the 1378th meeting

Held at the Palais Wilson, Geneva, on Friday, 16 January 2009, at 10 a.m.

Chairperson: Ms. Lee

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* No summary record was prepared for the second part (closed) of the meeting.

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The meeting was called to order at 10.10 a.m.

Consideration of the reports of States parties (*continued*)

Initial report of the Netherlands under the Optional Protocol on the sale of children, child prostitution and child pornography (CRC/C/OPSC/NLD/1); core documents: the Netherlands (HRI/CORE/1/Add.66), Netherlands Antilles (HRI/CORE/1/Add.67), Aruba (HRI/CORE/1/Add.68/Rev.1); list of issues (CRC/C/OPSC/NLD/Q/1); written replies by the State party to the list of issues (CRC/C/OPSC/NLD/Q/1/Add.1)

1. *At the invitation of the Chairperson, the members of the delegation of the Netherlands resumed places at the Committee table.*

2. **Ms. Herczog** (Country Rapporteur) welcomed the adoption of the National Action Plan to Combat Trafficking in Human Beings but expressed regret at the lack of a similar action plan on the sale of children, child prostitution and child pornography. She noted the absence of a mechanism for coordinating policies relating to the issues covered by the Optional Protocol. She wished to know to what extent children and civil society had helped to draft the Report. She further wished to know why there were no precise statistics on sex tourism, human trafficking within and to the country, and the rehabilitation of victims.

3. The delegation should explain why the definitions contained in Dutch criminal law were only partially compliant with those of the Optional Protocol. It should also provide information on the training received by those caring for victims and describe the role of the media and the Internet in raising awareness among children and their parents. The delegation should provide further information on prevention and awareness-raising activities in schools.

4. **Mr. Kotrane** asked whether the definition of the sale of children in Dutch criminal law covered the forced labour of children and the act of improperly inducing consent in cases of adoption. He asked how the provisions relating to child pornography were applied in practice, whether any legal proceedings had been initiated in such cases, and what measures were being taken to combat virtual pornography.

5. **Ms. Aidoo** wondered whether sufficient emphasis had been placed on the sale of children, child prostitution and child pornography in information and awareness-raising activities in the State party, which seemed to focus more on human trafficking. She asked how much information was directly available to children.

6. The delegation should indicate what was being done to collect data on sex tourism and describe any preventive measures taken to combat it, particularly any cooperation with the tourism industry.

7. **Ms. Smith** said she wished to know which articles of the Criminal Code or other legislative provisions penalized forced labour. She expressed concern at the treatment of victims with no identity documents, whose illegal status left them unprotected.

8. **Mr. Parfitt** wished to know more about the guarantees and forms of protection provided for in the bilateral agreements concluded by the Netherlands with regard to the repatriation of victims of human trafficking to their country of origin. He asked whether the term “virtual pornography”, as defined in the Netherlands, included cartoons, which were used by paedophiles.

9. **Mr. Filali** asked whether there was a national institution other than the Inter-ministerial Committee on Trafficking in Human Beings that extended beyond the governmental sphere to encompass civil society, and what mechanisms were in place to coordinate efforts to combat human trafficking at the regional level. He requested more information regarding the manner in which legal inquiries were conducted, the activities of

the Expertise Centre, the status of the independent national Rapporteur, and any action that had been taken to implement the rapporteur's recommendations.

10. It seemed that articles 3 and 6 of the European Convention on Human Rights were applied rigorously in extradition procedures involving European countries. He wondered whether that was also the case when non-European Union countries were involved.

11. **Mr. Citarella** (Country Rapporteur) expressed concern that publicity relating to the sale of children or child pornography on the Internet and elsewhere was not expressly prohibited.

12. **The Chairperson** asked for more information on the issue of adoption in the context of the sale of children. She asked why no data had been provided regarding child victims who had benefited from rehabilitation services. Had the State party encountered problems in recording the data, or had no cases been reported? She asked what measures had been implemented to identify and recover unaccompanied children who disappeared from shelters for asylum-seekers.

The meeting was suspended at 10.30 a.m. and resumed at 10.50 a.m.

13. **Mr. Rouvoet** (Netherlands) said that, in the past 10 years, the Dutch Government had taken steps to bring domestic legislation into line with the international instruments ratified by the Netherlands. Current legislation criminalized all the acts covered by the Optional Protocol. The parliament was considering an amendment to increase the severity of the punishments described in subparagraph (f) of article 273 of the Criminal Code.

14. The Government was preparing to ratify the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (the Lanzarote Convention), which it had signed in 2007. To that end, measures were being taken to strengthen Dutch legislation with regard to child pornography and the sexual exploitation of children by criminalizing the psychological manipulation of children for sexual purposes and to extend the extraterritorial jurisdiction of Dutch courts.

15. In addition to those legislative measures, the Netherlands had adopted a number of policies and strategies, some of which were of a general nature, such as the plan entitled "Every opportunity for every child", while others were more specific, such as the 2006 national action plan to combat trafficking in human beings. Information, awareness-raising and prevention had been the focus during implementation of the Optional Protocol. The Ministry of Health had developed a programme to promote children's sexual health, while a number of other programmes were aimed at increasing awareness among children of the risks of sexual exploitation and prostitution and the activities of pimps, who were often minors.

16. **Mr. Planken** (Netherlands) said that the majority of plans and programmes had been discussed at the inter-institutional level, both centrally and regionally. A high-level special team was responsible for liaising with regional and local authorities.

17. The Netherlands had adopted two measures to combat sex tourism involving children. Firstly, extraterritorial jurisdiction had been extended to make it possible to take legal action against Dutch citizens who committed child pornography offences abroad. Secondly, the authorities had adopted a tougher approach towards individuals suspected of committing sexual offences involving minors while abroad. The authorities were cooperating with customs officials and the police in order to identify such individuals at the national airport and ascertain whether they were in possession of pornographic films or images of minors. In many cases, images had been seized and legal proceedings initiated.

18. Awareness-raising work had been carried out in cooperation with the tourism industry, particularly with airlines serving destinations such as Thailand. The national

airline, KLM, intended to publish relevant information in its in-flight magazine and make a video to be shown during the flight.

19. **The Chairperson** said that such videos should be shown on all flights, not only on those bound for Thailand.

20. **Mr. Citarella** (Country Rapporteur) asked whether there had been any cases of legal action being taken against individuals who had engaged in sex tourism abroad. If so, what punishments had been handed down by the courts?

21. **Mr. Planken** said that information relating to eight cases could be found in the report of non-governmental organizations (NGOs). However, there had not been many such cases in the Netherlands, and the authorities were currently considering how to intensify their efforts in that regard.

22. The interdepartmental Council for combating trafficking held regular consultations attended by representatives from various ministries, including the Ministry of Justice, the Ministry of Foreign Affairs, the Ministry of Internal Affairs and from NGOs. Anti-trafficking efforts were coordinated by the Ministry of Justice.

23. The post of national Rapporteur had been created by the parliament in 2000. Although the Rapporteur had offices in the Ministry of Justice, he or she remained independent in terms of drafting policy. The current national Rapporteur had adopted a broad approach to upholding human rights; she focused on prevention as well as assistance, legal inquiries and procedures, both at the national and international level. Her conclusions and recommendations were published annually. Since there was a link in the Netherlands between the exploitation of minors working as prostitutes and human trafficking, the Rapporteur focused on the latter issue as well.

24. The Government had recently decided to step up its efforts to combat organized crime, particularly human trafficking. In addition, the Government was placing emphasis on prevention by organizing extensive media campaigns on the Internet. A hotline and a website had been set up for children.

25. **The Chairperson**, noting that the State party's initial report concerned the prohibition of trafficking in children, recalled that the Optional Protocol did not relate to trafficking in children but rather to the sale of children.

26. **Mr. Citarella** (Country Rapporteur) stressed that human trafficking and the sale of human beings were distinct legal concepts. However, it seemed that the sale of children did not constitute a criminal offence in the Netherlands. Was that correct?

27. **Mr. Kotrane** said the delegation should indicate clearly whether the State party considered the forced labour of children to be a form of sale of children, and whether it was criminalized accordingly.

28. **Mr. Alink** (Netherlands) said that subparagraph (f) of article 273 of the Criminal Code made it a criminal offence to recruit or accommodate an individual for the purposes of exploitation. The Criminal Code contained a very broad definition of the concept of exploitation, which was defined as the act of subjecting another person to prostitution or other forms of sexual exploitation, to forced labour, slavery and similar practices, or servitude. It was also a punishable offence to profit from such exploitation.

29. The sale of children for the purposes of exploitation was a criminal offence under subparagraph (f) of article 273 of the Criminal Code. The sale of children for purposes other than exploitation constituted an illegal form of adoption that was criminalized by legislation governing the adoption of foreign children. In every case, therefore, the sale of children constituted a criminal offence under Dutch legislation.

30. In addition to subparagraph (f) of article 273 of the Criminal Code, which criminalized the act of inciting a child to prostitution, it was important to note subparagraph (b) of article 248, which provided for the punishment of clients of child prostitutes.

31. Legislation governing virtual child pornography had been amended in 2002 based on the provisions of international human rights instruments, including the Optional Protocol. Extensive debate had taken place in the parliament on whether the criminalization of virtual child pornography should apply only to photographic or simulated photographic images, or whether it should also apply to images such as cartoons. The first legal case involving virtual pornographic images of children on the Internet had been brought in 2008 under the new legislation, and a sentence had been handed down under article 240 (b) of the Criminal Code.

32. The Government took the view that the provision of the Optional Protocol relating to the dissemination of material advertising the offences described in the Optional Protocol did not make it mandatory for States parties to criminalize explicitly the publication of such documents; the Government therefore favoured a preventive approach such as that outlined in the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, which contained similar provisions. Although the Netherlands had mechanisms in place to prevent the dissemination of such material on the Internet or in the media, the Government was considering amending legislation to reflect that particular provision of the Optional Protocol.

33. Dutch legislation was based on the provisions of the Optional Protocol with regard to the extradition of persons who committed offences under the Optional Protocol in a State that had also ratified the Optional Protocol. However, the Netherlands was also bound by the Convention for the Protection of Human Rights and Fundamental Freedoms and, as a result of articles 3 and 6 of that Convention, the Dutch authorities could not authorize the extradition of a person at risk of being subjected to torture or who was not guaranteed a fair trial in the State to which he or she was to be extradited.

34. **Ms. Ortiz** asked whether the sale of children through intermediaries, when carried out with the consent of parents with a view to adoption, was considered an offence. She also asked whether the Government was considering modifying its legislation with regard to “weak” adoption.

35. She wished to know whether the legislation on adoption was more likely to be breached in the cases where surrogate mothers had been used. There appeared to have been some cases where surrogate mothers had demanded that their child be returned to them. She asked how the authorities made sure that the rights of the child were respected in that context. She also asked what legislative and administrative measures had been put in place in the Netherlands Antilles to combat the sale of children for adoption.

36. **Ms. Leeftang** (Netherlands Antilles) said that the Netherlands Antilles was seriously considering ratifying the Optional Protocol before they were dissolved. The Netherlands Antilles had not ratified the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption. Adoptions were subject to the decision of a civil court, and any adoption that took place outside that framework was prohibited by law.

37. **Ms. Ten Hoorn-Boer** (Netherlands) said that “weak” adoption was still possible in the Netherlands, particularly in cases where children were being adopted from Muslim countries. A committee mandated to review Dutch legislation on adoption had proposed to ban such adoptions because they permitted the continuation of the legal links between the biological parents and the child, which was not necessarily in the best interests of the child. The proposal was currently being considered by the parliament.

38. If the countries of origin of children to be adopted were not parties to the Hague Convention, the Dutch authorities nevertheless made every effort to uphold its principles, but not all countries were prepared to do likewise. The Third Judicial Conference on Cross-Frontier Family Law Issues, to be held in Malta in March 2009, would provide an opportunity to make progress on the issue.

39. **Ms. Ortiz**, citing the example of Paraguay, said that the problem of “weak” or simple adoption was that intermediaries tried to convince biological mothers who could not meet the needs of their children that adoption was a temporary measure. However, once in the host country, simple adoption was converted into full adoption.

40. **Mr. Kramer** (Netherlands) said that, in order to prevent the disappearance of undocumented child migrants, the Netherlands had been implementing a two-year pilot programme since January 2008 to place unaccompanied and undocumented children at risk of being trafficked in small-scale secure shelters where they would receive personalized care. Child victims of exploitation or sexual violence were granted a Dutch residence permit.

41. Although the pilot programme had undoubtedly helped to reduce the number of disappearances among certain groups of children — most notably girls of Nigerian origin and boys of Indian origin — the authorities had been unable to eliminate the phenomenon entirely. As soon as a child disappeared, the police were informed and inquiries launched. The Expertise Centre, which worked in partnership with the National Crime Squad, was responsible for gathering information on human trafficking so as to make it available to investigating units.

42. A child could not be returned to his or her country of origin unless proper care was available. If it was too dangerous for the child to return to the country of origin or if no measures were in place to care for the child, a temporary residence permit was issued. In 2008, only three children who had been cared for in the secure shelters had gone back to their countries of origin. If the child could not return to his or her family because it had played a role in exploiting the child, the Dutch authorities attempted to reach an agreement with an NGO in the country of origin so that they could organize care for the child.

43. **Mr. Parfitt** asked whether cooperation with social services in other countries in organizing the repatriation and care of children was based on bilateral informal agreements.

44. **Ms. Smith** asked how many undocumented children were currently detained in the Netherlands.

45. **Mr. Kramer** (Netherlands) said that the Netherlands did not have any special agreements with the countries to which children returned. However, in two countries, including Angola, the Dutch Government ran a shelter for children whose families could not be traced. If a child wished to return to his or her country, the Dutch authorities would make contact with the family or with NGOs who could assist the child there.

46. Some children, such as undocumented children who were not seeking asylum and who showed no signs of physical abuse or exploitation, were not accepted into the secure shelters. They might be placed in detention, although only as a last resort prior to repatriation. There were currently 25 children in detention.

47. **Mr. Rouvoet** (Netherlands) said that, in order to combat child prostitution, information programmes had been launched by the Ministry of Education to warn young girls of the dangers of pimping. In addition, special programmes had been implemented to prevent sexual intimidation in schools, and a website for teaching staff offered a wide range of teaching materials in order to prevent the phenomenon.

48. Personalized care for victims of child prostitution aimed to help girls assert themselves and become less vulnerable, while the national programme, drawn up as part of the child protection policy that had been implemented since January 2008, aimed to train more specialized staff to treat individuals with serious behavioural problems. With regard to combating pimping and child pornography, cooperation with the private sector and NGOs was of fundamental importance, and new means of communication should be made available to victims for reporting any unusual circumstances. To that end, a hotline had been set up, and Internet service providers had agreed to block foreign websites containing materials relating to child pornography.

49. **Mr. Siddiqui** asked whether pimping carried out by minors, or pimp boys, began in school playgrounds by bullying the most vulnerable pupils, and whether any sociological studies had examined the origins of the phenomenon.

50. **Mr. Rouvoet** (Netherlands) said that minors who were pimps were highly organized, quasi-professional young people, and the phenomenon did not originate in school playgrounds.

51. **Ms. Herczog** (Country Rapporteur) asked whether police officers responsible for combating pimping, who had received sound training and were competent to make inquiries and provide support to victims, were present in sufficient numbers to contain the phenomenon.

52. **Mr. Filali** asked whether pimps were members of mafia groups with foreign connections.

53. **Mr. Planken** (Netherlands) said that the Netherlands had a shortage of trained staff capable of combating pimping and child pornography, but that the utmost was being done to solve the problem. Inquiries into offences relating to pimping and child pornography were now led by approved detectives, and in view of the fact that the majority of crimes were cybercrimes, forensic experts in information science were often called in; there was a shortage of both types of professionals. However, the competent authorities were doing everything within their power to promote the training of specialists, and police officers, prosecutors and judges were informed of problems relating to cybercrime. Judges underwent further training programmes, available in three or four languages, in particular aspects of child pornography.

54. Pimping in the Netherlands did not appear to be carried out by mafia groups with links to transnational organized crime, but by individuals who were occasionally minors. The problem was exacerbated by the fact that some young pimps shared with their peers ways of encouraging young girls to prostitute themselves.

55. **Mr. Alink** (Netherlands) said pimping was in no way comparable with playground bullying and was sometimes carried out by youths aged 17 who were far from innocent. When such youths were arrested and brought to justice, it was up to the judge to decide whether the particular circumstances of the case and the character of the defendant justified the application of the relevant law for adults.

56. Under the Public Health Act and the Social Support Act, local authorities were responsible for the provision of child protection activities in local youth and family centres. The regions were responsible for victims who are minors.

57. All actions, initiatives and programmes for children, regardless of the level at which they were implemented, were coordinated at the national level as part of the “Every opportunity for every child” programme.

58. **Mr. Kotrane**, referring to paragraph 27 of the report under consideration, wished to know whether the prison sentence of 12 years for abduction applied in situations where one

parent was keeping the child in a foreign country as a result of parental conflict, and whether the State party had concluded bilateral agreements with States not parties to the Hague Convention.

59. **Mr. Alink** (Netherlands) said that, in the context of paragraph 27, “abduction” referred to the abduction of a child by someone other than the child’s parents and who was not necessarily a blood relative.

60. **Mr. Citarella** (Country Rapporteur) welcomed the quality of the exchanges between the delegation of the Netherlands and the Committee, which now had a more accurate picture of the situation regarding the rights of the child in the State party.

61. He further welcomed the progress made by the Netherlands in implementing the Optional Protocol on the sale of children, child prostitution and child pornography, and invited the State party to continue its efforts, paying particular attention to combating the exploitation of children for sexual purposes, and following the example of other European countries in imposing sanctions on individuals guilty of engaging in sex tourism.

62. **Mr. Rouvoet** (Netherlands) thanked the members of the Committee for the interest they had shown in considering his country’s initial report under the Optional Protocol on the sale of children, child prostitution, and child pornography, and assured the Committee that he had taken note of its recommendations in order to improve implementation, particularly with regard to the adoption of provisions to combat the sale and trafficking of children.

The first part of the meeting (public) rose at 12.30 p.m.