

COMMITTEE ON THE RIGHTS OF THE CHILD

50th 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: The Kingdom of the Netherlands

1. The Committee considered the initial report of the Kingdom of the Netherlands (CRC/C/OPSC/NLD/1) at its 1378th meeting held on 16 January 2009, and adopted at its 1398th meeting, held on 30 January 2009 the following concluding observations.

Introduction

2. The Committee welcomes the submission of the State party's initial report, as well as the replies to its list of issues submitted in a timely fashion. It also appreciates the presence of a large high-level and cross-sectoral delegation and the frank and open dialogue with the delegation.
3. The Committee reminds the State party that these concluding observations should be read in conjunction with its concluding observations adopted on the State party's third periodic report on 30 January 2009 (CRC/C/NLD/CO/3).
4. The Committee notes that the State party report did not provide information on the implementation of the Optional Protocol in all parts of the Kingdom, in particular Aruba and the Netherlands Antilles. These concluding observations should be implemented in the whole State party.

I. General Observations

Positive aspects

5. The Committee notes with appreciation the adoption of the National Action Plan to Combat Trafficking in Human Beings in 2004 and the support provided by the State party to the various regional and international cooperation activities with other States with a view to preventing and combating the sale of children, child prostitution and child pornography.

6. The Committee further commends the State party's ratification of the United Nations Convention against Transnational Organized Crime in 2004, and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, in 2005.
7. The Committee welcomes that amendments to the Criminal Code regarding sexual offences under the Protocol eliminate the dual criminality requirement. The Committee further welcomes that extradition is possible to all State parties to the Optional Protocol.

II. Data

Data Collection

8. The Committee welcomes the replies to the list of issues, including data on cases of child pornography and children trafficked to and from the Netherlands and Aruba, but regrets the lack of statistics on prosecution of such cases, and on recovery and reintegration assistance and compensation to victims of the offences under the Optional Protocol. It also regrets the lack of statistics on child sex tourism.
9. **The Committee recommends that the State party elaborate statistics on prosecution of offences, recovery and reintegration assistance, compensation for child victims and child sex tourism, as indicated in article 9, paragraphs 3 and 4 of the Optional Protocol.**

III. General measures of implementation

National Plan of Action

10. While welcoming the National Action Plan to Combat Trafficking in Human Beings, the Committee is concerned that this plan does not make specific reference to the sale of children, child prostitution and child pornography, and at the lack of information on budget allocated for the implementation of the action plan.
11. **The Committee recommends that the State party take all necessary measures to ensure the implementation of the specific obligations arising from the Optional Protocol in its national strategies and programmes in consultation and cooperation with relevant stakeholders, by taking into account the outcome documents from the First, Second and Third World Congresses against Commercial Sexual Exploitation of Children (Stockholm 1996; Yokohama 2001; Rio de Janeiro 2008). In this regard, the Committee recommends that the State party ensure allocation of sufficient resources to ensure full implementation of all existing national strategies and programmes.**

Coordination and evaluation

12. The Committee notes with concern the absence of a specific mechanism responsible for the coordination of policies related to the sale of children, child prostitution and child pornography among the various ministries and governmental bodies involved, including local authorities.
13. **The Committee recommends that the State party establish a coordinating body to coordinate and evaluate the State party's implementation of the Optional Protocol including at the local level, with active participation of children, including, inter alia, the Youth Council. Furthermore, it is recommended that the State party provide the coordinating body with specific and sufficient human and financial resources to enable it to be fully operational.**

Dissemination and training

14. The Committee notes the organization of awareness campaigns related to trafficking. However, the Committee remains concerned at insufficient efforts to raise awareness about the specific provisions of the Optional Protocol among relevant groups of professionals and the public at large throughout its territory, and to provide adequate training in all areas of the Optional Protocol.
15. **The Committee recommends that the State party allocate adequate and earmarked resources for the development of training materials and courses in all parts of the Kingdom for all relevant groups of professionals including social workers, police officers, public prosecutors, judges, medical staff, immigration officials and other professionals involved in the implementation of the Optional Protocol. Furthermore, in light of article 9, paragraph 2, of the Optional Protocol, the Committee recommends that the State party make the provisions of the Optional Protocol widely known, particularly to children and their families, through, inter alia, school curricula and long-term awareness raising campaigns, including the media and training on the preventive measures and harmful effects of all offences referred to in the Optional Protocol.**

Allocation of resources

16. The Committee is concerned about the lack of resources available to the police for the investigation of complaints of sexual exploitation.
17. **The Committee recommends that the State party strengthen the capacity of the police to receive and investigate complaints of sexual exploitation inter alia by increasing human and financial resources.**

Independent monitoring

18. The Committee welcomes the draft bill on the creation of a Children's Ombudsman within the office of the Netherlands Ombudsman.
19. **The Committee recommends the swift passage of the Children's Ombudsman legislation in the Netherlands. The Committee recommends**

that this office be accessible to children and their representatives at the national and local levels, that it conform with the Paris Principles and take into account General Comment No. 2 (2002) on the Role of Independent National Human Rights Institutions in the Protection and Promotion of the Rights of the Child (CRC/GC/2002/2). Furthermore, the Committee recommends that in addition to investigating complaints, the Children's Ombudsmen have the responsibility to monitor the implementation of and promote the Convention and the Optional Protocol.

IV. 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

20. The Committee welcomes initiatives for preventive action against sale of children, child prostitution and child pornography both within the State party and abroad, such as the tightened criminal provisions on child pornography, corrupting children and grooming, but is concerned at the lack of a comprehensive national strategy to prevent sale of children, child prostitution and child pornography.
21. **The Committee recommends that the State party strengthen its efforts to reduce and prevent the sale of children, child prostitution and child pornography, through, inter alia, ensuring a uniform register and undertaking a comprehensive study of the occurrence and the dimension of the problem, design and implement comprehensive preventive strategies and policies, ensure the prosecution of perpetrators and train law enforcement officials, social workers and prosecutors on how to receive, monitor and investigate complaints and prosecute perpetrators in a child-sensitive manner.**
22. The Committee is concerned about the existence of child sex tourism involving Dutch nationals, and the lack of an adequate response.
23. **The Committee recommends that the State party undertake measures to prevent child sex tourism, in particular by earmarking additional funds for public campaigns, including the participation of children, for this purpose. The State party should also, through relevant authorities, strengthen cooperation with the tourism industry, NGOs and civil society organisations in order to promote responsible tourism by the dissemination of the Code of Conduct of the World Tourist Organisation among employees within the tourism industry as well as awareness raising campaigns for the general public.**

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

Existing criminal or penal laws and regulations

24. The Committee is concerned that the State party's legislation does not criminalise the production or dissemination of materials advertising the sale of children, child prostitution or child pornography, but notes information from the State party that it is currently working to decide whether supplementary legislation is desirable to ban such advertisement.
25. **The Committee recommends that the State party take further measures to bring its Criminal Code into full compliance with articles 2 and 3 of the Optional Protocol. In particular, the Committee recommends that the State party criminalise the production or dissemination of materials advertising the sale of children, child prostitution or child pornography.**

Legal aspects of adoption

26. The Committee is concerned that a number of cases of illegal adoptions have been reported recently, and that improperly inducing consent in cases of adoption is not covered by the penal legislation.
27. **The Committee recommends that the State party take all necessary measures to ensure that the national legislation complies with articles 2 and 3 of the Optional Protocol, in particular, that the definition of sale (article 2 (a) and improperly inducing consent in cases of adoption (article 3, para. 1 (a) (ii) as stipulated in the Optional Protocol are incorporated in the legislation.**

VI. 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

28. The Committee welcomes that the State party provides permanent residency permits to child victims of sale and trafficking and that it will only repatriate victims if, after investigation, it is determined to be in their best interests. However, the Committee is concerned about the reception, supervision and provision of care to child victims of offences prohibited under the Optional Protocol.
29. **The Committee recommends that the State party**
 - a) **Ensure specific shelter and care facilities for child victims;**
 - b) **Improve the safety of the reception centres for unaccompanied foreign children;**
 - c) **Ensure special attention to the children in a manner appropriate for their age, and provide support services when hearing victims;**

- d) Enhance child rights knowledge and skills of professionals in shelters and care facilities dealing with children who are victims; and
- e) Take into consideration the Committee's General Comment no 6 on the treatment of unaccompanied and separated children outside their country of origin (CRC/GC/2005/6).

VII. International assistance and cooperation (art.10)

International assistance

- 30. The Committee welcomes the State party's support for international cooperation projects relating to the Optional Protocol, and urges the State party to continue to strengthen its efforts in this regard.

Law enforcement

- 31. The Committee encourages the State party to continue its efforts to strengthen international cooperation by multilateral, regional and bilateral arrangements for the prevention, detection, investigation, prosecution and punishment of those responsible for acts involving the sale of children, child prostitution, child pornography and child sex tourism.

VIII. Follow-up and dissemination

Follow-up

- 32. 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 members of the government at national and local levels and Parliament for appropriate consideration and further action.

Dissemination

- 33. 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, the media, youth groups and professional groups in order to generate debate and awareness of the Optional Protocol, its implementation and monitoring. Furthermore, the Committee recommends that the State party make the Optional Protocol widely known to children and their parents through, inter alia, school curricula and human rights education.

IX. Next report

34. In accordance with article 12, paragraph 2, the Committee requests the State party to include further information on the implementation of the Optional Protocol in its fourth periodic report under the Convention on the Rights of the Child, in accordance with article 44 of the Convention, due on 6 March 2012.