

STATE PARTY EXAMINATION OF ARMENIA'S INITIAL REPORT ON THE OPTIONAL PROTOCOL ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY

63RD SESSION OF THE COMMITTEE ON THE RIGHTS OF THE CHILD

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Armenia ratified the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (OPSC) on 30 June 2005. On 30 May 2013, the Committee on the Rights of the Child (the Committee) examined the initial periodic report of Armenia.

Opening Comments

The delegation of Armenia was led by H.E. Mr. Yegishe Kirakoysan, Deputy Minister of Justice. He was supported by a delegation of representatives from the Ministry of Education and Science, the Ministry of Foreign Affairs, the Ministry of Health, the Ministry of Defence, the Department of Family, Mother and Children's Issues, the Criminal Investigation Department, the National Assembly and the Deputy Permanent Representative of Armenia to the United Nations in Geneva.

Ms Kirakoysan indicated that the implementation of OPSC, ratified in 2005, had started in Armenia, yet acknowledged that much work remained to be done to complete its application in law and practice.

Ms. Sara De Jesús Oviedo Fierro, one of the Country Rapporteurs for the OPSC, agreed with the Head of Delegation that outstanding issues around the OPSC mostly concerned its concrete application, as well as matters relating to dissemination and prevention.

General Measures of Implementation

Legislation

The Committee asked whether the sale of children for the purpose of adoption, as well as the possession of pornographic materials, had been incorporated into the Criminal Code of Armenia. The delegation replied that child pornography was a crime punishable under the Criminal Code and that the possession of pornographic supports, documents, images and

films, including those stored on computers, had also been criminalised under article 263(2) of the Criminal Code. The delegation added that a specialised police unit had been created to manage the detection and prevention of child pornography. There had been one case of child pornography in 2012 and three in 2010.

The delegation also indicated that the sale of children was explicitly criminalised under article 128 of the Criminal Code, which included a basic sentence of two to five years imprisonment that could be raised to a maximum of eight years. There was no separate provision on the sale of children for the purpose of adoption, which was included in article 128. There had been one known case of sale of a child in 2011 and two cases in 2010.

The delegation added that the Criminal Code would be fully revised in the near future and that this revision would enable the State to bring the Code fully in line with Armenia's international obligations.

The Committee was concerned that despite the decriminalisation of prostitution, administrative fines and fees were requested of children recovered from situations of prostitution, thus effectively treating them as offenders and not as victims. The delegation indicated that all children subjected to any form of exploitation were treated as victims and received the necessary support, rehabilitation and education. Fines still applied to people from the age of 16 years old engaged in prostitution; however, the appropriateness of those fines was currently being discussed within the government.

The Committee asked for clarification on the how statutory rape had been defined in law. It understood that it constituted sexual relations between a child under 16 and a person 16 years or over and sanctioned by a fine, as well as two years' imprisonment. The Committee asked whether the facts of the age of the persons involved were considered sufficient by the State to punish the crime. The delegation clarified that there were two distinct offences or crimes: sexual activities and rape. Both crimes had aggravating circumstances when committed against children under the age of 14 years.

Dissemination and training

The Committee asked what measures had been taken to disseminate – and raise awareness about – the OPSC, especially among children. The Committee asked how the State had empowered youth groups to discuss those issues as a form of prevention. The delegation indicated that the government had carried out public awareness campaigns, especially on trafficking. A specific programme had been adopted to combat trafficking, which included the on-going training of professionals working with children.

Coordination and Monitoring

The Committee asked how the State's implementation of the OPSC was being monitored. The Committee asked how the programmes of different institutions were being coordinated.

Budget

The Committee asked what percentage of the budget had been allocated to prevention activities. It also asked how institutions and services for the protection of children were funded. The delegation indicated that professionals working with children were members of police forces and were as such paid by the State.

Data collection

The Committee indicated that data given in the State report on the number of cases of trafficking and sexual exploitation did not match data received from other sources. It noted that for example, the data of international organisations showed much higher numbers. It asked how data was being collected and by which institution.

The Committee pointed out that vagrancy or begging by children might not be recorded by the States services but that these children were usually experiencing some form of exploitation and were particularly vulnerable to the offences under the OPSC. The delegation indicated that the government worked in cooperation with non-governmental organisations and international organisations, and that the police, in charge of compiling data, also worked in cooperation with non-governmental organisations and the Ministry of Social Development.

Prevention

Prevention programmes

The Committee asked whether prevention programmes existed and were applied to avoid trafficking and sexual exploitation, especially in the view of the significant number of refugees in the country. The Committee also asked whether the institutional infrastructure existed to prevent child pornography and other forms of exploitation, taking into account the fact that children and adolescents were the most vulnerable to those crimes.

The Committee also asked how the State envisaged changing the mind-sets of the society that viewed women and girls as objects, which often led to instances of sexual violence, as well as exploitation for prostitution and pornography.

Helpline

The Committee asked whether there was a free 24-hour hotline in place that was accessible to children. The delegation indicated that there were two hotlines available to children. The number to call was widely advertised in the mass media. The number of children calling the hotline had increased from 2010 to 2012, which showed the increasing awareness of children about the existence and accessibility of those hotlines.

Sale of organs

The delegation indicated that the police worked on a daily basis to prevent the sale of organs but that no such cases had yet been detected.

Trafficking

The Committee observed that statistics on trafficked children showed that the number of cases was low, yet cases of trafficked Armenian children had been identified in Turkey and in the United Arab Emirates. The delegation indicated that a survey had been carried out in 2003 and that alleged cases of Armenian girls trafficked to other countries had been refuted. The Armenian government worked in close cooperation with the States of the Commonwealth of Independent States, which had thus far resulted in fifty Armenian children being brought back to Armenia from Russia.

The delegation added more generally that anti-trafficking measures had for some time been one of the priorities of the government and that several reforms had been carried out throughout the years in this area. The system to combat trafficking was based on the three pillars of “prevention, prosecution and protection”. The legislation, such as the Anti-

Trafficking Act, had been gradually improved to combat different forms of trafficking, and to implement international legal instruments of the United Nations and of the Council of Europe on trafficking, which had been ratified by Armenia. The government was actively cooperating with international organisations in this regard.

Prohibition and Related Matters

Paedophilia

The Committee asked the delegation whether the condemnation of a high profile State representative for acts of paedophilia had enabled the State to test the efficiency of the legal system and to identify gaps in its legislation. The delegation indicated that this case had been very negatively received in the society of Armenia and that the legal system had been very efficient in tackling the case.

Corruption

The Committee asked whether there had been cases of corruption whereby government officials were acting as intermediaries to facilitate illegal adoption that would constitute the sale of a child. The delegation indicated that no such cases had been identified. In addition, the risk of corruption through bribes to intermediaries had been minimised since all adoptions went through the national coordination mechanism of the government. There had been two cases of corruption in adoption cases which had been followed up on and resolved and the affected children and families had received appropriate assistance.

Prosecution of legal entities

The Committee asked whether the criminal legislation established the criminal liability of legal entities.

Extradition

The Committee asked whether the OPSC was considered by the legal system as a sufficient basis to extradite citizens and foreign nationals for crimes contained in the OPSC committed abroad. The delegation answered that the Constitution contained a principle of non-extradition of national citizens, unless provided for otherwise in treaties ratified by Armenia.

Extraterritorial jurisdiction

The Committee asked whether the principle of dual criminality applied in Armenia for the extraterritorial application of the Criminal Code when a crime contained in OPSC was committed abroad by a citizen of Armenia, a resident of Armenia or against an Armenian citizen or resident. The delegation indicated that the criteria of dual criminality did apply for ordinary crimes, as provided by article 15 of the Criminal Code; however, regarding crimes prescribed by international treaties ratified by Armenia, or for grave crimes, such as genocide or war crimes, the principle of dual criminality did not apply, and Armenia could prosecute the commission of crimes contained in OPSC even where they would not be criminalised in the State where the crime had been committed.

Protection of the Rights of Victims, Recovery and Reintegration

Support for child victims

The Committee asked what the procedure was to protect child victims of crimes and offences contained in OPSC. The delegation answered that victims of those crimes were supported by social workers and the police; that as an immediate response, they were taken into shelters. The government cooperated with non-governmental organisations to provide services for victims, such as medical and psychological support services and education. Where possible, work with the victim's family was also central to understanding root causes and to work towards the victim's rehabilitation. Staff working with victims of such cases received specific training.

Protection of the child victim during criminal proceedings

The Committee asked whether a child victim received special protection during court proceedings. The delegation indicated that there were provisions in the Code of Criminal Procedure for victim protection, for instance during interrogation and during the process to avoid intimidation of the victim. The government understood the importance of this protection in cases of crimes contained in OPSC.

Concluding Remarks

Mr Cardona, one of the Country Rapporteurs for OPSC, thanked the delegation for its efforts to respond to the questions of the Committee and bring clarifications, which reflected the good will of the government to uphold their obligations. Many questions were answered, while others could not be answered because of the lack of time. The Committee would analyse all the information given and issue recommendations to ensure that the children of Armenia would be protected from offences contained in the OPSC.

Mr. Kirakoysan thanked the Committee and Rapporteurs for the dialogue. He noted that the session had been useful for the State to understand in more detail its obligations under the OPSC. Armenia had been consistently concerned with fuller implementation of the OPSC. Mr. Kirakoysan expressed his gratitude to the Committee for their support, cooperation and questions. He added that Armenia was ready to provide written responses to pending questions to facilitate the drafting of the Concluding Observations by the Committee.