

COMMITTEE ON THE RIGHTS OF THE CHILD

42nd Session (15 Geneva, May – 2 June 2006)

Reports of States

Iceland (initial periodic report on Optional Protocol on sale of children, child prostitution and child pornography)

Information submitted to the Committee

Iceland submitted its initial report¹ on the implementation of the *Optional Protocol on the sale of children, child prostitution, and child pornography* (OPSC) due in 2004. Furthermore, the State party submitted written answers² to the Committee's list of issues³. The main focus of the report is on describing the legal framework protecting children in the State party. The information submitted is quite detailed and has explicit focus on the areas of criminal procedure and protection of child victims. The report does not present statistical data to illustrate the level of implementation of the Optional Protocol. However, some statistical data is provided in the written replies.

No NGO parallel reports were submitted.

Iceland has ratified the *Convention on the Rights of the Child* (the Convention); its *Optional Protocol on sale of children, child prostitution and child pornography* (OPSA); and its *Optional Protocol on the involvement of children in armed conflict* (OPAC). Iceland has made declarations under Article 9 and Article 37 of the Convention and Article 3 paragraph 2 of the OPAC. The declaration relating to OPAC declares that a minimum age for recruitment is not applicable, as the State party has no armed forces.

Themes and Issues

Noting that Iceland in general did not have a lot of issues concerning sale of children, child prostitution and child pornography the Committee focused discussion on particular subjects of interest.

Legal issues

The Committee identified the areas of: criminal liability of legal entities for crimes relating to children; extraterritorial jurisdiction; prohibition of buying sexual services; and the statute of limitation on cases concerning sexual offences against children as key areas of interest. On the question of criminal liability the delegation answered that the penal code did not cover this area. However, this area should soon be covered by a proposed amendment to the penal code, relating the implementations of the *Council of Europe Convention on Cybercrime*, to be adopted in parliament this spring. The Committee expressed concern that buying sexual services is not prohibited by the penal code. In reply the delegation clarified that acquiring sexual services from children is prohibited. The Committee also sought information on the statutes of limitations⁴ in cases of sexual offences against children. It noted that children subjected to sexual offences often temporarily erase their memory of the offence. The provision of the rule limiting the time within which legal action can be brought against an individual or company could be a problem if they prevented such cases from being brought before the courts. In reply, the delegation stated that the statutes of limitation was applied from when the child reached the age of 18 but that this age was still under discussion. However, eliminating the statute of limitation was not the preferred solution. In general these areas did not spike any major controversy between the delegation and the Committee. A more delicate legal issue was touched upon when the Committee enquired about the extraterritorial jurisdiction of the penal code. The delegation replied that principally the extraterritorial applicability of the penal code required double criminality⁵ but in certain cases of war crimes this had not been the case. Furthermore, double criminality was not required in cases of female genital mutilation. However, these exceptions could not be applied to children in general. This very interesting issue was unfortunately not discussed any further.

¹ CRC/C/OPSA/ISL/1

([http://www.unhcr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/6892618128716357c12570bc006efaf8/\\$FILE/G0542798.pdf](http://www.unhcr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/6892618128716357c12570bc006efaf8/$FILE/G0542798.pdf))

² CRC/C/OPSC/Q/1/add.1 available at

<http://daccessdds.un.org/doc/UNDOC/GEN/G06/422/06/PDF/G0642206.pdf?OpenElement>

³ CRC/C/OPSC/Q/1 available at [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/CRC.C.OPSC.ISL.Q.1.En?OpenDocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/CRC.C.OPSC.ISL.Q.1.En?OpenDocument)

⁴ Statutory rule limiting the time within which legal action can be brought against an individual or company. In criminal cases the time frame may vary according to the seriousness or the crime committed.

⁵ The principle of double criminality provides that in order for a crime committed outside the territory of the State to be punishable it has to be criminalised both within the territory of the State and on the territory where the crime is committed.

Iceland (OPSC)

Additionally the Committee expressed concern about the lack of a monitoring and implementation mechanism and the fact that the age of sexual consent is 14 years of age.

All of the concerns voiced by the Committee were reiterated in its concluding observations⁶. The Committee recommended that the State party abolished the requirement for double criminality in its penal code.

Implementation

The main issues of the Committee were: awareness raising; Internet Service Providers; and child helplines. Regarding awareness raising and the child helpline the delegation explained that Save the Children (NGO) and a new NGO is working on raising awareness in schools. Furthermore, Save the Children is running a child helpline specifically focused on victims of child pornography. A few committee members, enquiring about the role of the press in awareness raising, apparently opining that the State party had an obligation to make the press disseminate information and do positive education on the rights of the child. The State party did not feel that they were in a position to put such obligations on the press but by stating that the press exercised a high level of self restraint the delegation avoided a clash with the Committee on this issue. On the issue of Internet Service Providers the Committee and the State party had differing opinions. The Committee felt that the State party should take legal measures to make Internet Service Providers cooperate in ensuring protection of children's rights. On the contrary the approach of the State party was constructive dialogue with the Internet Service Providers. The delegation hoped that a solution through dialogue was only a few months away.

In its concluding observations the Committee did not comment on the issues of internet service providers and awareness raising through the media.

Conclusions and next steps

The State party's human rights record left few issues for the Committee to discuss. In its concluding observations and recommendations the Committee commented broadly on most of the issues touched upon during the discussion. However, two subjects of disagreement were addressed in very different ways. During the discussion the Committee kept returning to the issue of the State party's obligation to make the media disseminate information and do positive education on the rights of the child. The Committee, however, neglected to mention this in their Concluding Observations. Another important issue was the question of double criminality. While the Committee neglected to follow up on this subject during the discussion, the Concluding Observations express concern and recommends the abolishment of this principle. This strong opinion expressed by the Committee was somehow surprising considering the lack of follow-up during the session and the diverse application of this principle.

In general the level of engagement in the discussion by both State party and the Committee was very high, and despite disagreement on a few points there seemed to be a common understanding on how protection of children should be carried out under the scope of the convention.

⁶ CRC/C/OPSC/ISL/CO/1, available at <http://www.ohchr.org/english/bodies/crc/docs/co/CRC.C.OPSC.ISL.CO.1.pdf>