



Convention on the Rights of the Child

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Committee on the Rights of the Child

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Item 4 of the provisional agenda

Consideration of reports of States parties

List of issues in relation to the report submitted by Turkmenistan 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

Addendum

Replies of Turkmenistan to the list of issues*

[Date received: 9 December 2014]

Replies to the questions raised in the list of issues

1. Through its Constitution, Turkmenistan has declared the human being to be the most valuable asset of society and the State. Turkmenistan is working hard to protect the rights and legitimate interests of children, including by: actively ensuring the protection of human rights; providing the necessary assistance in coordinating the efforts of the international community; fully supporting the aims of the third millennium; and actively participating in their implementation.

2. This is exemplified by the State's accession to a range of key international instruments including the World Declaration on the Survival, Protection and Development of Children, the Convention on the Rights of the Child and the Hague Convention on the Civil Aspects of International Child Abduction. On 28 March 2005, Turkmenistan acceded to the major international anti-trafficking instruments: the United Nations Convention against Transnational Organized Crime, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and the Protocol against the Smuggling of Migrants by Land, Sea and Air. Such a move shows that Turkmenistan has taken action on the Declaration it adopted on the international human rights obligations of

* The present document is being issued without formal editing.



neutral Turkmenistan, the Constitutional Act on the permanent neutrality of Turkmenistan and the Foreign Policy Framework of Turkmenistan as a neutral State.

3. In order to fulfil its international human rights obligations and to coordinate the work of the relevant ministries and departments, Turkmenistan established an interdepartmental commission for ensuring compliance with its international human rights obligations and international humanitarian law.

4. Trafficking in persons is not a serious problem in Turkmenistan. No offences involving the sale of children have been recorded. The accession of Turkmenistan to international anti-trafficking instruments marks a new phase in the organization of the work of the national authorities and services responsible for preventing and combating trafficking-related offences.

5. In the interests of protecting the individual, society and the State, Turkmenistan prosecutes persons involved in trafficking, including in cases in which such offences or aspects thereof were committed abroad and caused harm to citizens of Turkmenistan or foreign nationals, as well as other cases provided for in international agreements to which Turkmenistan is a party.

6. Given the transnational nature of trafficking in persons, efforts to combat the offence can only succeed through cooperation with the International Criminal Police Organization, (ICPO-INTERPOL). The national office of INTERPOL in Turkmenistan considers one of its main tasks in this area to be the provision of assistance to ensure strict controls through the exchange of information on the movements and activities of persons involved in human trafficking, including for the purpose of prostitution at the international level.

7. Turkmenistan attaches great importance to the protection of children against all forms of exploitation and ensures that children are protected against all forms of abuse, including of a sexual nature. The amended version of the Criminal Code, in force since 1 July 2010, establishes criminal liability for offences against minors, in cases where, as determined by the article, the victim is a minor: enticement of a minor to commit an offence (art. 155); enticement of a minor to commit antisocial acts (art. 156); infection of a minor with a sexually transmitted disease (art. 117, para. 2); rape (art. 134); sodomy against a minor (art. 135, para. 3 (y) and art. 135, para. 4 (a)); gratification of depraved sexual urges with a minor (girl or boy) (art. 136, para. 3); enticement of a minor into prostitution, (art. 139, para. 2 (y)); sexual intercourse with a person under 16 years of age (art. 143); indecent assault against a person under 16 years of age (art. 144).

Number of offences recorded under the above-mentioned articles of the Criminal Code from 2011 to 2013

<i>Number</i>	<i>Article of the Criminal Code</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>
1.	Article 117, para. 2	-	8	3
2.	Article 134, para. 2 (f)	11	12	13
3.	Article 134, para. 3 (b)	14	13	29
4.	Article 135, para. 3 (y)	-	5	2
5.	Article 135, para. 4 (a)	12	5	10
6.	Article 136, para. 3	31	49	62
7.	Article 139, para. 2 (y)	-	4	2
8.	Article 143	97	137	161
9.	Article 144	4	12	9

8. The offences in the first row, and in rows 6 to 9 of the table, are in addition to the main offence and constitute further offences with which the accused were charged to ensure that full charges were brought against them.
9. In an effort to prevent child pornography, the Department for Combating Organized Crime of the Ministry of Internal Affairs of Turkmenistan monitors websites which contain or promote child pornography designed to involve Turkmen citizens in criminal activities; the aim of the Department is to suppress and prevent the dissemination of such material. Efforts are also under way to control the production and dissemination of pornographic material, which constitute offences under article 164 of the Criminal Code. Pornographic material is usually disseminated through networks of commercial outlets which sell DVDs containing video recordings. There were 15 offences recorded under this article of the Criminal Code in 2011, 34 in 2012 and 15 in 2013.
10. Concerning the Committee's question about whether all elements of the offences of the sale of children, child prostitution and child pornography, as defined in articles 2 and 3 of the Optional Protocol, were covered by the Criminal Code, and which provision of the Criminal Code prohibits improperly inducing consent, as an intermediary, for the adoption of a child, in violation of applicable international legal instruments, it is worth noting that, under article 129¹, of the Criminal Code (adopted on 10 May 2010 and in force since 1 July 2010) trafficking in persons, including children is a criminal offence. In accordance with the article, trafficking in persons, namely, the purchase or sale of human beings, or their recruitment, transportation, harbouring or transfer to another person, for the purpose of their exploitation is punishable by deprivation of liberty for 4 to 10 years.
11. The same act is punishable by deprivation of liberty of up to 15 years if committed: against two or more persons; against a person known to be a minor; with the use of official powers; in connection with the illegal removal or detention of the abducted person beyond the State borders; with the use or threat of violence; or for the purpose of extracting organs or tissue from the abducted person for transplantation.
12. Turkmenistan is party to the United Nations Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.
13. Furthermore, the Criminal Code establishes criminal liability for the production or dissemination of pornographic material. Under article 164 of the Criminal Code, the production of printed material or other pornographic items for the purpose of displaying or disseminating them, as well as displaying, buying and selling or disseminating such material by other means are punishable by fines of between 20 and 40 times the average monthly wage or a punitive deduction of earnings for up to two years.
14. The same acts if committed repeatedly, by an organized group or criminal organization are punishable by deprivation of liberty of up to 5 years, with or without confiscation of property.
15. As part of its efforts to prevent and combat trafficking in persons, on 14 December 2007, the parliament of Turkmenistan adopted the Act on the Prevention of Trafficking in Persons. Pursuant to the Act, State policy on combating trafficking in persons is aimed at: protecting the individual and society against trafficking in persons; preventing, detecting and suppressing activities related to trafficking in persons; creating favourable conditions for the physical, psychological and social recovery of victims of trafficking; and complying with the State's international obligations in the area.
16. All things considered, there are no theoretical or practical obstacles to the direct incorporation in national legislation of the provisions of the Optional Protocol to the

Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

Guarantees of the Rights of the Child Act

Article 40. Protection of children against indecent acts

(1) In Turkmenistan it is prohibited to produce, disseminate or advertise pornographic printed material, films, videos and cartoons, or any other items or materials of a pornographic nature; it is also prohibited to involve children in the production, dissemination or advertisement of such products.

(2) The State shall protect children against any abuse or violence of a sexual nature.

Article 45. Protection of children against abduction and trafficking

The State shall take all necessary steps to prevent the abduction or trafficking of children for any purpose and in any form.

Criminal Code of Turkmenistan

Article 129¹. Trafficking in persons

(1) Trafficking in persons, namely the purchase or sale of human beings, or their recruitment, transportation, harbouring or transfer to another person, for the purpose of their exploitation, is punishable by deprivation of liberty of 4 to 10 years.

(2) The same act, if committed:

(a) against two or more persons;

(b) against a person known to be a minor;

(c) with the use of official powers;

(d) in connection with the illegal removal or detention of the abducted person beyond the State borders;

(e) with the use or threat of violence; or

(f) for the purpose of extracting organs or tissue from the abducted person for transplantation, is punishable by deprivation of liberty of 8 to 15 years.

(3) If the acts referred to in paragraphs 1 and 2 of this article:

(a) resulted in the victim's death by negligence, caused grave bodily harm to the victim or had other serious consequences;

(b) were committed in a way endangering the lives and health of several persons;

(c) were committed by a criminal group or criminal organization; they are punishable by deprivation of liberty of 15 to 20 years.

Notes

(1) Persons who have committed the acts referred to in paragraph 1 and paragraph 2 (a) of this article, but who voluntarily free their victim and assist with the detection of the crime, are exonerated if they have not committed any other offence.

(2) In this article, exploitation of a person means his or her use by other persons for the purposes of prostitution or other forms of sexual exploitation, slave labour, services or servitude.

Article 139. Enticement into prostitution

(1) Enticement into prostitution is punishable by corrective labour of up to 2 years or deprivation of liberty of up to 2 years.

(2) The same act, if committed:

(a) repeatedly;

(b) by a group of people by prior conspiracy;

(c) against a minor;

(d) with the use or threat of physical violence;

(e) with the use of blackmail or deception, is punishable by deprivation of liberty of 3 to 8 years.

Article 164. Production and dissemination of pornographic material

(1) The production of pornographic printed material or other items in order to display or disseminate them, as well as displaying, buying and selling or disseminating such material by other means is punishable by fines of between 20 and 40 times the average monthly wage or a punitive deduction of earnings for up to two years.

(2) The same acts if committed repeatedly, by an organized group or criminal organization are punishable by deprivation of liberty of up to 5 years, with or without confiscation of property.
