



Convention on the Rights of the Child

Distr.: General
3 October 2012

Original: English

Committee on the Rights of the Child Sixty-first session

Summary record of the 1736th meeting

Held at the Palais des Nations, Geneva, on Monday, 24 September 2012, at 10 a.m.

Chairperson: Mr. Zermatten

Contents

Consideration of reports of States parties (*continued*)

Combined third and fourth periodic reports of Austria

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of this document* to the Editing Unit, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

The meeting was called to order at 10.05 a.m.

Consideration of reports of States parties (*continued*)

Combined third and fourth periodic reports of Austria (CRC/C/AUT/3-4; CRC/C/AUT/Q/3-4 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Austria took places at the Committee table.*
2. **Mr. Tichy** (Austria) said that he would begin by outlining the basic principles of his country's children's rights policy. The Constitution assigned competence for the implementation of international treaties such as the Convention to the Federation or the Länder. There were coordinating bodies such as the human rights coordinators of the federal ministries while the Länder, while the Rights of the Child Department of the Federal Ministry of Economics, Family and Youth, whose head was also the Federal Ombudsman for Children, ensured coordination with the ombudsmen of the Länder.
3. Before describing the major steps his country had taken to implement the Committee's recommendations, he wished to point out that although public expenditure had been frozen — but not reduced — during the period 2009–2012 as a result of the global economic crisis, programmes involving families and children remained relatively unscathed.
4. The Federal Constitutional Law on the Rights of the Child, adopted in 2011, incorporated many of the fundamental principles and rights enshrined in the Convention. Perhaps the two most important provisions of the new law were article 1, which stipulated that all measures concerning children must have the best interests of the child as a primary consideration, and article 4, according to which children's views must be given due weight in all matters affecting them. In addition to serving as binding parameters for federal legislation and guiding principles for Government action, the law's provisions increased awareness of children's rights among the general public and children in particular. Federal constitutional law also enshrined the rights of the child guaranteed by article 24 of the Charter of Fundamental Rights of the European Union.
5. Starting in January 2013, all legislative and administrative measures would be preceded by a comprehensive child impact assessment. By taking into account elements such as potential effects of such measures on future generations of children, the assessment would reflect the principle of intergenerational justice established in article 1 of the new law.
6. Recalling that when ratifying the Convention Austria had entered reservations to articles 13, 14 and 17, he said that his Government did not believe that those reservations affected the substance of the Convention, as they did not conflict with the European Convention on Human Rights. Nevertheless, the Government was reviewing the need for those reservations with all concerned ministries and with representatives of civil society.
7. The lowering of the minimum voting age from 18 to 16 in 2007 had provided young people with an opportunity to participate more actively in society.
8. The banning of violence against children, both in schools and in the home, in 1989 had led to a clear decline in children's exposure to violence in those settings. However, violence against children, including bullying on the Internet, continued to be a major concern and therefore remained high on the political agenda. Following a series of reports of physical, sexual and psychological violence in children's homes and boarding schools in recent decades, all Länder were working to eliminate violence against children in such establishments. To tackle the problem of sexual abuse of children by Austrians abroad, the Government had established partnerships with other countries and the private sector to

combat sex tourism. Austria had recently ratified two relevant Council of Europe conventions: the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse and the Convention on Cybercrime. Austria's Criminal Code and other relevant laws had been amended to enhance the protection of children against physical and sexual violence.

9. The child health strategy adopted in 2011 laid the foundation for sustainably improving the health of all children in Austria. The Government was working to improve the access of children whose mother tongue was not German to various institutions and services, including health care. The recent increase in the availability of childcare helped promote children's integration and equal opportunities for all children. Policies to reconcile work and family life reduced the risk of poverty for young families. Since 2010 all children were obliged to attend kindergarten for one year before entering primary school so that those with linguistic or other deficits would be ready for school. The educational system was continually being reformed to address classroom diversity by reducing class size and facilitating personalized learning, taking into account differing performance capacities, learning styles, mother tongues and social backgrounds. Improving the integration of children with disabilities into regular schools was also a policy priority.

10. A State Secretary for Integration had been appointed within the Federal Ministry of the Interior in 2011. Austria's integration policy had been updated and focused on strengthening migrants' participation in the education system; promoting intercultural dialogue, particularly in schools; and helping migrant children to overcome integration difficulties.

11. Pursuant to the recommendation made by the Committee in its concluding observations following its consideration of Austria's initial report (CRC/C/15/Add.251, para. 57), Austria had made its reports to the Committee and the respective concluding observations available to the public. The Government had entered into a structured dialogue with civil society in connection with the preparation and follow-up of the universal periodic review, and those discussions also covered the implementation of recommendations addressed to Austria in the area of children's rights. Austria was committed to improving the situation of children worldwide and had made children's rights a priority for its membership on the Human Rights Council during the period 2011–2014.

12. **Mr. Gastaud** (Country Rapporteur) commended the State party for the high quality of its report but observed that while the report pointed to positive trends such as the incorporation in the Constitution of certain principles relating to the Convention, it also revealed areas that were in need of further work.

13. The Committee had on several occasions recommended that Austria should withdraw its reservations to the Convention, and would appreciate an update on that matter. The Committee had also recommended that Austria should strengthen coordination among government bodies dealing with children's issues. While the report cited the federal system as an obstacle to such coordination, coordination did not in fact mean centralization or uniformity, but rather the harmonization of criteria and of methods and areas of investigation. In reading the report he had been struck by the fact that the Länder operated very differently. As the report did not specify the purview of the federal ministry responsible for coordination, it was not possible to evaluate the effectiveness of such coordination. Absence of coordination was contrary to the principle set out in article 3 of the Convention that the best interests of the child should be a primary consideration.

14. He wished to know the State party's intentions regarding the National Action Plan for the Rights of Children, which had apparently not yet been implemented. He noted that the State party had taken some well-targeted actions in the area of international

cooperation, and asked whether such intensive cooperation would continue despite the difficult economic climate.

15. Turning to the issue of data collection, he said that the lack of a specific focus on children's issues in the collection of data relating to human rights issues seemed to be an obstacle to achieving goals. He asked how the results of various data-collection exercises could be correlated.

16. Drawing attention to article 12 of the Convention, he asked whether the measures cited in the report allowing children to express their views did not in fact promote collective rather than individual expression. He requested information on measures to protect and promote children's right to individual expression of their views – for example, during administrative or legal proceedings involving them.

17. Regarding children's right to preserve their identity, he said that the use of "baby flaps" (CRC/C/AUT/3-4, para. 116) was a form of child abandonment and that, while there might be psychological and legal justification for their use to safeguard the right to life, it contravened various rights involving the preservation of family ties.

18. **Ms. Varmah** (Country Rapporteur) agreed that while the State party had been thorough in its written replies, some of the Committee's recommendations in its most recent concluding observations had been addressed incompletely or had not been addressed at all. For example, while much had been done to promote awareness of the values embodied in the Convention, no systematic training on children's rights was provided for teachers, social workers, law enforcement officials or others working with children. More efforts were needed in that area. She asked whether children's rights education was included in school curricula at all levels and in teacher training curricula, and enquired what measures were taken to inform and educate parents about the issues involved.

19. While the State party had taken measures to combat racism and xenophobia, those phenomena persisted with regard to certain groups in the population. The Committee had received reports that some media outlets contributed to keeping those phenomena alive. She asked the delegation to comment on the persistence of those problems. Noting that children with disabilities and migrant and refugee children experienced particular discrimination, she asked what measures were taken to protect children from discrimination and how discriminatory acts were punished. Were accurate data available on the various ethnic groups living in Austria and any grievances they might have?

20. Turning to the issue of access to appropriate information and noting that the initiation of online contact with children was currently not punishable by law, she requested information on the bill on that issue that was currently before Parliament. Information about the potential dangers of Internet use should be integrated into school curricula, and parents and teachers needed to be sensitized to the legal consequences of Internet misuse by children. She asked whether the State party took measures to prevent children's access to online "suicide forums".

21. With regard to the right to freedom of expression, she said that the Committee was concerned at reports of politicians engaging in hate speech that targeted migrants, asylum seekers, refugees, persons of African origin and members of other minority groups. What actions had the State party taken to counter any tendency, especially on the part of politicians, to target, stigmatize, stereotype or profile people on the basis of race, colour, descent and national or ethnic origin or to use racist propaganda in politics?

22. The Committee noted with concern that corporal punishment was still being practised in Austrian families, despite the fact that constitutional law guaranteed a childhood free of violence. In his introductory statement Mr. Tichy had said that violence against children remained a problem. Given that fewer than 30 per cent of Austrians had

heard of the legal prohibition against corporal punishment, she wished to know whether preventive education campaigns had been conducted at the federal or regional level. What measures were taken to inform children and parents about the prohibition, and what complaint mechanisms and safeguards were available to children?

23. **Mr. Madi** commended the State party for its comprehensive approach to the issue of corporal punishment; nevertheless, more efforts were needed, as a culture of corporal punishment did to some extent exist in the country. He asked whether a complaint mechanism existed and, if so, whether the delegation could provide information about the number of complaints reported to the authorities, how many had been seriously investigated, how many of those cases had gone to trial and the outcome of those trials.

24. **Mr. Koompraphant** asked how the concepts of “child” and “youth” were defined at the federal and Land levels, and whether legal protection for “children” was more extensive than that afforded to “youth”. What steps had the State party taken to harmonize relevant laws and regulations at the federal, Land and municipal levels?

25. **Ms. Sandberg** said that while the principle of the child’s best interest was well integrated in Austrian legislation, the Committee was concerned that in certain cases the best interests of a child might not be treated as a primary consideration. She therefore wished to know how the principle was implemented in practice. Regarding children’s right to privacy, she asked what steps the State party took to prevent children from posting personal information on the Internet. She also wondered what measures were taken to protect the privacy of child victims of sexual abuse or violence, given that their identities were often disclosed in media reports or were otherwise easy to discover.

26. **Mr. Guráň**, referring to the issue of children’s participation in society and decision-making, requested additional information about any steps contemplated or taken to strengthen the mandate of the Federal Children’s and Young People’s Ombudsman. Noting that Austria had already received recommendations in that regard in the context of the universal periodic review, he requested more information on the status of the regional ombudsmen and how easy it was for children to gain access to them. Regarding the “youth parliaments” mentioned in the report, he asked whether all children, including those from migrant families, had opportunities to take part in that initiative. He would welcome more information about the impact of the decision to lower the minimum voting age. He asked whether a comprehensive programme was in place to ensure that that change had a positive impact on society, and whether schoolchildren were taught the tenets of democratic citizenship.

27. **Ms. Aidoo**, commending the State party on its proactive stance, fiscal consolidation measures and efforts to foster international cooperation, requested information on resources allocated for children’s issues. She asked what specific budgetary allocations were made in that area and what resources had been earmarked at the federal, Land and municipal levels. The Convention called for the allocation of the maximum available resources, and she wished to know how the State party was pursuing that objective. She also wished to know whether the State party had any mechanisms in place for responsive budgeting in the field of children’s rights so that the impact of budgetary allocations could be monitored and assessed. Was there a system for earmarking and protecting budgets for particularly vulnerable children, such as those from marginalized communities?

28. She expressed concern that the National Action Plan for the Rights of Children and Youth and the National Action Plan against Human Trafficking were not linked to specific budgetary allocations. She requested further information on the allocation and management of resources, such as those earmarked for the psychosocial recovery and social reintegration of child trafficking victims, including details of how plans were funded and evaluated.

29. **Ms. Al-Asmar** asked whether there was a specific body responsible for monitoring coordination efforts. She also asked what steps the State party was taking to ensure that stable funding would be provided to the Austrian Federal Youth Representative Council during the period of economic crisis.

30. **Mr. Pollar** drew attention to article 6 of the Convention and asked what measures were being taken to foster child development in the family, in schools and within the framework of the health services, as well as the measures in place to protect children at risk and prevent street violence, especially with regard to marginalized children. He asked what measures the State party was taking to combat child mortality linked to infectious diseases, and requested the corresponding data. He asked whether the State party had a system in place for registering child deaths, and how deaths occurring in suspicious circumstances were investigated. He would also welcome data on accident-related deaths and suicides.

31. **Ms. Wijemanne** asked, with regard to the issue of anonymous births and the use of baby hatches or “flaps”, what support or opportunities were available to vulnerable mothers and pregnant women, including access to services during pregnancy. Births should be registered and the identity of the parents recorded, and those records should be made available to the child at a suitable date. She asked whether a helpline existed for pregnant women who did not wish to reveal their condition.

32. She wished to know what system existed for monitoring the implementation of the Convention at the federal level and what resources had been allocated to that end. She wondered whether any mechanisms existed to allow children to report human rights violations, including violations relating to corporal punishment, and whether children were aware of their rights and existing complaints procedures.

33. **The Chairperson**, speaking on the issue of cybergrooming and noting that the State party had ratified the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse but had yet to ratify the Council’s Convention on Cybercrime, asked what plans the State party had in that regard.

34. **Mr. Tichy** (Austria) said that, in his view, Austria’s reservations to the Convention on the Rights of the Child had no impact on the substance of the Convention, and were simply designed to ensure coherence with regard to international and regional human rights protection, in line with the European Convention on Human Rights, which had the force of constitutional law in Austria. As he had noted in his introductory statement, the State party was aware that the issue was problematic and was in the process of reviewing its reservations.

35. **Ms. Nores de García** asked whether those reservations were compatible with measures such as the recent reduction in the legal voting age.

36. **Mr. Tichy** (Austria) said that the reservations permitted the application of the relevant articles if they did not contravene the provisions of articles 10 and 11 of the European Convention on Human Rights, which allowed for certain restrictions. In practice, however, there had been no instances of the rights conferred under the Convention being curtailed as a result of those reservations.

37. **The Chairperson** recalled that Austria was the only country in Europe which had made such reservations, which the Committee felt were redundant. However, the Committee was aware that they did not restrict the rights of the child in practice.

38. **Mr. Tichy** (Austria), speaking on the issue of coordination, explained that the federal system involved the division of competences between the State and the nine federal regions, or Länder. Cooperation efforts had to respect the various spheres of competence. Existing mechanisms included meetings between federal and regional representatives, such

as meetings of human rights coordinators within ministries and, at the political level, coordination meetings between federal and regional ministers.

39. Efforts were being made to improve Austria's financial support for international cooperation during the current economic crisis notwithstanding budgetary restrictions, and an additional 6.6 million euros had recently been added to the development budget for 2013, which stood at 77 million euros.

40. The Austrian Government was aware of the recommendations made by the various human rights treaty bodies with regard to data collection, and a meeting involving a group of experts and the Director of the Austrian Statistical Office would be held in December with a view to finding a solution. One of the problems associated with the collection of data was the fact that persons belonging to historical minorities — namely the Slovenian, Croatian, Hungarian, Roma, Czech and Slovak communities — resisted being counted, so that no precise data on those populations were available. However, the Government did have access to data on the use of foreign languages in schools.

41. **Mr. Filler** (Austria) said that most issues relating to the rights of the child, which had to do with such areas as health, criminal law, benefits, health and education, fell within the remit of the federal authorities. Activities dealt with at the Land level included youth protection regulations, kindergarten care and efforts to combat child poverty. In order not to end up with nine different standards, the Federal Government and the Länder had relied on article 15 (a) of the Constitution when drawing up agreements to ensure that the same standard of services was applied throughout Austria. For example, a negotiated framework had been prepared to harmonize the working conditions of kindergarten staff, training and nursery opening times throughout the country. Although the Federal Government worked hard to obtain support at the Land level, it could not interfere in Land affairs, as any centralized solution would require a constitutional amendment. As a result, Austria had no centralized authority with a constitutional mandate in the area of children's rights nor any general coordinating body having the power to issue binding decisions. Whenever appropriate, the Federal Ministry for Family, Economic Affairs and Youth coordinated cross-cutting activities relating to child protection. In his capacity as the Federal Children's Ombudsman and human rights coordinator, he was also responsible for coordination efforts at various levels. A recent cross-cutting project had involved the introduction of a tool to assess the impact from the standpoint of children's rights of any major new legislative bills or amendments at the federal level.

42. It was unfortunate that negotiations between the Federal Ministry for Family, Economic Affairs and Youth and the governments of the Länder on harmonization efforts in the field of children's rights had yet to bear fruit. Nevertheless, progress had been made in areas such as protection from violence. The State party had extensive data on the impact of the 1989 legislation prohibiting violence against children, based on studies carried out by research teams in 1991 and 2009. Those data revealed a reduction in violence against children, including corporal punishment, and a greater level of awareness of the problem of violence and of the relevant legislation in force. However, given that 49 per cent of all Austrian adults condoned the occasional use of corporal punishment, much remained to be done.

43. **Ms. Herczog** asked about the relationship between domestic violence and corporal punishment: she wished to know whether the State party had any data indicating an overlap between families at risk of domestic violence and those in which corporal punishment was applied.

44. **Mr. Filler** (Austria) said that Austria considered that the problem of domestic violence could not be reduced to a family issue, namely something that took place only in the home, and that the country's legislation in that area, which had been updated in 2009,

needed to have a much broader scope. Although current research did not focus on the cross-cutting aspect of domestic violence and corporal punishment, the State party would look into the matter as a possible subject for future research.

45. **Mr. Cardona Llorens** said that although the Committee understood the need to respect the competences of the Länder, it was important to bear in mind that the State party had certain international responsibilities and was obliged to guarantee the same levels of protection throughout the country.

46. **Mr. Tichy** (Austria) said that certain matters, such as justice, fell within the sphere of competence of the State. The legislation of the Länder covered issues such as curfews for children and the legal drinking age, namely matters unrelated to areas such as protection against violence, racism, or discrimination. The divergences between Länder did not affect the most important areas of legislative decision-making.

47. **Mr. Filler** (Austria) said that while certain spheres of competence fell to the Federal Ministry for Family, Economic Affairs and Youth and the Ministry of Social Affairs, much of their work involved negotiations aimed at winning support from decision makers in the Länder for harmonized solutions to problems in all major fields of action, such as child poverty. A similar approach had been taken in the youth protection sector and, although it had thus far proved unsuccessful, it was possible that further attempts would be made in the future.

48. The Federal Government and the Länder had concluded level 15 (a) treaties aimed at harmonizing standards in other areas, such as the provision of health care. Progress was definitely being made despite certain institutional hurdles.

49. **The Chairperson** requested information on the scope of the new Federal Constitutional Act on the Rights of the Child, which enshrined children's rights under the Austrian Constitution. The legislation appeared to be declaratory in nature, referring to general principles but with little mention of services or socioeconomic and cultural rights. He also asked whether the legislation might serve as a basis for the harmonization of efforts in the field of children's rights.

50. **Mr. Filler** (Austria) said that the Federal Constitutional Act on the Rights of the Child focused on civil and political rights. While the Government was confident that economic and cultural rights were guaranteed under several other federal and regional legislative instruments, there was no bill of rights that included an individual complaints mechanism.

51. **Ms. Orthofer** (Austria) said that most of the measures included in the National Plan of Action for the Rights of Children and Youth had been implemented within the three years of the plan's duration. Since then, the Government had chosen to mainstream children's rights into the relevant policy fields such as education, health, justice and migration. The current Government had established its priorities for the period 2011–2013 in its workplan, which included children's rights issues, and they had been integrated into the relevant national action plans and strategies. All such plans were financed by the relevant implementing ministries.

52. The introduction of the so-called "baby flaps" had been the result of an initiative by a non-governmental organization (NGO). The Government's priority was to ensure that everyone had access to sexual and reproductive health education and to provide services for vulnerable pregnant women at the country's many family counselling centres. In addition, NGOs provided accommodation for pregnant women and girls who could not afford to have their babies, with funding provided by the federal and regional authorities. The youth welfare services encouraged women and girls who wished to give birth anonymously to put their babies up for open adoption, which allowed the children to maintain links with

members of their birth families. Data from 2002 indicated that many women and girls had accepted that solution.

53. **Ms. Herczog** requested data on infanticide in the State party. She asked whether there was an outreach programme that enabled the authorities to identify and assist pregnant women and girls who were at risk but did not seek help. It would be useful to learn whether data were available on the women who were most at risk for anonymous births. She wished to know whether abandoning a baby or a child other than in a baby flap was considered a crime in the State party and whether there was a maximum age at which babies could be left in the baby flaps. She also asked how the State party knew that it was the babies' mothers who left them in the baby flaps.

54. **Ms. Orthofer** (Austria) said that the authorities did not promote the availability of baby flaps or anonymous births. They did advertise the services available at the family counselling centres, including the availability of open adoption.

55. **Ms. Aidoo** asked what steps were taken to monitor whether the authorities responsible for children's rights at all levels allocated the necessary budgetary resources to the strategies they developed in that regard. In particular, it would be useful to know whether the social welfare authorities were allocated sufficient resources to ensure that social reintegration services were available to all child victims under the National Action Plan against Human Trafficking.

56. **Mr. Aigner** (Austria) said that leaving babies in baby flaps was not a criminal offence. It was, however, a last resort provided for in the legislation of some Länder; there was no federal legislation in that regard. Since 2001, some 20 babies had been abandoned using the baby flap at a major Vienna hospital. The Government did not encourage the use of baby flaps but recognized that they could constitute a viable alternative to infanticide in extreme cases and, as such, upheld the right to life.

57. The Federal Ministry of Health, in cooperation with the health authorities in the nine Länder, had been rolling out a major vaccination campaign to protect children from birth through the end of compulsory education. Children living in poverty enjoyed vaccination coverage under the social security system. Pregnant women were given free health care in order to uphold their babies' right to the highest attainable standard of health. The Ministry of Health worked with key partners on measures to promote children's health.

58. **Ms. Varmah** asked how the State party ensured the best interests of the child in the event that Austrian citizens adopted children from countries that had not ratified the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption. She requested additional details on the scope and nature of the legislative amendment to section 194 of the Criminal Code. She wished to know the age at which children acquired the right to consent to adoption, and how young children could exercise that right.

59. She would be interested to see any available data on child and adolescent health. She asked whether the State party planned to increase the health budget for children and young people and to include the right to health and an adequate standard of living in the Federal Constitutional Act on the Rights of the Child. In addition, she wished to know what specific measures were being taken to prevent young people's use of drugs, alcohol and tobacco. Were those products readily available to minors?

60. Despite the fact that female genital mutilation was a punishable offence, it continued to be practised in the State party and in the countries of origin of Austria's immigrant communities. The Committee would welcome data on the results of the implementation of the National Plan of Action to Prevent and Eliminate Female Genital Mutilation in Austria 2009–2011. She asked whether a new action plan had been prepared and what measures the State party would take to implement the law and put an end to that practice. In addition, she

would welcome details of measures being taken to prevent forced marriages and to support those who were threatened and affected by that phenomenon.

61. **Mr. Gastaud** requested details of any education reforms in the State party in addition to those mentioned by the head of the delegation in his opening remarks. It would be useful to hear the delegation's comments concerning the apprenticeship system in the State party. He failed to understand how the labour inspectorate could effectively monitor the amount of time children spent working in family businesses.

62. He commended the State party for the range of alternative sentences it applied in the juvenile justice system. He would welcome additional details concerning the rehabilitation services available to juvenile delinquents. It would also be interesting to have data on the amount of time juveniles spent in pretrial detention, particularly given that the maximum period could be extended to one year in exceptional circumstances. In light of the overcrowded conditions in the juvenile units at the Vienna-Josefstadt prison, he asked whether the State party planned to build another prison for young offenders.

63. Turning to the Optional Protocol on the involvement of children in armed conflict, he asked about the precise nature of the work that could be undertaken by young people from the age of 17 in the armed forces. He also wished to know exactly what types of weapons students were taught to use at military schools.

64. **Ms. Sandberg** asked what age limits applied to the special rules for hearing child victims and witnesses in court, particularly for victims of sexual abuse. It would be useful to know whether the psychological and legal support available to minors in those circumstances was provided to all children, including migrant children who did not speak German. Were such children assigned an interpreter from the moment they first went to a hospital or clinic to seek treatment or report sexual abuse?

65. **Mr. Pollar** asked whether the Federal Constitutional Act on the Rights of the Child included the right to leisure, and whether children with disabilities also enjoyed that right. He would welcome additional information on any specifications for child- and youth-friendly dwellings and on any property planning and management regulations that provided for children to have space in which to enjoy the right to play and make noise.

66. **Ms. Nores de García** requested additional information under the Optional Protocol on the sale of children, child prostitution and child pornography. The State party should provide data on child victims disaggregated by age, gender, nationality and type of abuse. It would be useful to learn why two separate working groups had been set up to address trafficking in children and the sexual exploitation of children. She wished to know why the State party had not yet criminalized the pictorial depiction of child pornography. She asked whether there were plans to set up a fund for children who were victims of crimes under the Optional Protocol who could not receive compensation from the perpetrators of those crimes. She failed to understand why some Länder still treated child victims of prostitution as criminals.

67. **Mr. Madi** asked how the State party was able to monitor whether children did only occasional work when such work was done outside school hours and in a family business. He enquired whether the State party planned to raise the minimum age at which children could work to bring it into line with the end of compulsory education. It would be useful to know about the age limit for engaging in hazardous work.

68. With regard to the Optional Protocol on the involvement of children in armed conflict, he requested an explanation of the rationale for setting the minimum age for voluntary recruitment at 17 instead of 18. He asked whether children at military schools, particularly boarding schools, were subject to military discipline and trained in the use of firearms.

69. **Ms. Lee** drew attention to the concern that the Independent Expert in the field of cultural rights had expressed about the State party's parallel schooling system, which divided education after primary school into separate streams of vocational training and general education. The Independent Expert had said that the system might have an adverse impact on children with a migrant background. It would be useful to know whether children with disabilities who were members of minority groups enjoyed the right to education. Turning to the Optional Protocol on the involvement of children in armed conflict, she said that the Committee was concerned that children as young as 14 were being trained in the use of small firearms at the military boarding school in the State party.

70. **Mr. Kotrane** asked why refugee children between the ages of 14 and 18 were not afforded the same level of protection by the State party as those under the age of 14. He wished to know how children's rights, particularly the right to be presumed innocent, were protected when establishing the age of an unaccompanied minor. It would be useful to learn whether all migrant children were assigned a legal guardian to protect them as soon as they arrived in the State party.

71. Turning to the Optional Protocol on the sale of children, child prostitution and child pornography, he asked whether the State party had criminalized the possession of child pornography and whether the definition of child pornography had been amended to include cartoon representations of children, as the Committee had recommended in 2008. The Committee had also recommended that the definition of the sale of children in the State party's legislation should include a reference to improperly inducing consent in cases of adoption. He requested updated information in that regard. He drew attention to the fact that the Optional Protocol was more demanding in terms of definitions in criminal legislation than the relevant Council of Europe legislation, which the State party had cited in its periodic report. Notwithstanding the explanations provided in paragraphs 308 to 310 of the report, it appeared that the State party's legislation did not establish its jurisdiction over the offences under the Optional Protocol when the alleged offender was an Austrian national or a person who had his or her habitual residence in its territory. He asked whether the Optional Protocol was used as the sole basis for an extradition request, regardless of the existence of a bilateral extradition agreement.

The meeting rose at 1 p.m.