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## Committee on the Rights of the Child

### **Concluding observations on the combined third to sixth periodic reports of Cuba\***

#### **I. Introduction**

1. The Committee considered the combined third to sixth periodic reports of Cuba at its 2596<sup>th</sup> and 2597<sup>th</sup> meetings, held on 11 and 12 May 2022, and adopted the present concluding observations at its 2630<sup>th</sup> meeting, held on 3 June 2022.

2. The Committee welcomes the submission of the combined third to sixth periodic reports of the State party and the written replies to the list of issues, which allowed for a better understanding of the situation of children's rights in the State party. The Committee expresses its appreciation for the constructive dialogue held with the high-level and multisectoral delegation of the State party.

#### **II. Follow-up measures taken and progress achieved by the State party**

3. The Committee welcomes the progress achieved by the State party in various areas, including the adoption of a new Constitution in April 2019 which recognizes children as the subject of rights and integrates the principle of the best interests of the child. The Committee welcomes the various legislative, institutional and policy measures taken by the State party to implement the Convention, including the allocation of 48,7% of the state budget to health and education, and the significant progress in reducing child mortality.

#### **III. Factors and difficulties impeding the implementation of the Convention**

4. The Committee notes the continuing negative economic and social effects of the embargo imposed by the United States of America, which limits children's enjoyment of their rights and the full implementation of the Convention.

#### **IV. Main areas of concern and recommendations**

5. The Committee reminds the State party of the indivisibility and interdependence of all the rights enshrined in the Convention and emphasizes the importance of all the recommendations contained in the present concluding observations. The Committee would like to draw the State party's attention to the recommendations concerning the following

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\* Adopted by the Committee at its ninetieth session (3 May – 3 June 2022).

areas, in respect of which urgent measures must be taken: freedom of association and peaceful assembly (para. 26), sexual abuse (para. 32), children deprived of a family environment (para. 35), nutrition (para. 41), inclusive education (para. 44) and child justice (para. 48).

6. **The Committee recommends that the State party ensure the realization of children's rights in accordance with the Convention and the Optional Protocol on the involvement of children in armed conflict and the Optional Protocol on the sale of children, child prostitution and child pornography throughout the process of implementing the 2030 Agenda for Sustainable Development. It urges the State party to ensure the meaningful participation of children in the design and implementation of policies and programmes aimed at achieving all 17 Sustainable Development Goals as far as they concern children.**

## **A. General measures of implementation (arts. 4, 42 and 44 (6))**

### **Legislation**

7. **The Committee recommends that the State party develop a comprehensive law on children's rights and continue to review its existing laws related to children's rights, in particular the draft Family Code, to ensure that they are in full compliance with the principles and provisions of the Convention.**

### **Comprehensive policy and strategy**

8. **The Committee notes that the National Action Plan for Children, Adolescents and their Families (2015-2020) is the government's policy document on children's rights and recommends that the State party evaluate and update it, assign appropriate budget for its implementation, make it publicly available and ensure children can take part in the discussion and elaboration of future plans.**

### **Coordination**

9. **The Committee takes note that the First Vice-President of the Council of State and the Council of Ministers is the national authority responsible for children's rights but urges the State party to establish a dedicated body at a high inter-ministerial level with a clear mandate and sufficient authority to coordinate all activities related to the implementation of the Convention at cross-sectoral, national, regional and local levels. The State party should ensure that said coordinating body is provided with the necessary human, technical and financial resources for its effective operation.**

### **Allocation of resources**

10. **Recalling its general comment No. 19 (2016) on public budgeting for the realization of children's rights, and taking into consideration that the Constitution of 2019 establishes a degree of financial autonomy for the municipalities, the Committee recommends that the State party:**

(a) **Utilize a child-rights approach in the elaboration of the State budget, by implementing a tracking system for the allocation and the use of resources for children throughout the budget. The State party should also use this tracking system for impact assessments on how investments in any sector may serve the best interests of the child, ensuring that the different impact of such investment on both girls and boys is measured;**

(b) **Ensure transparent and participatory budgeting through public dialogue, especially with children and adolescents, and for proper accountability of local authorities.**

### Data collection

11. Recalling its general comment No. 5 (2003) on general measures of implementation, the Committee recommends that the State party continue to invest on collecting comprehensive and multidimensional data on all areas of the Convention and the Optional Protocols thereto, disaggregated by age, sex, geographic location, ethnicity and socio-economic background, paying particular attention to domestic violence, sexual abuse, school dropout and the child justice system.

### Independent monitoring

12. The Committee recalls its previous recommendations and, taking note of the information provided in paragraphs 22 to 27 of the State party report, recommends that the State party:

(a) Establish as soon as possible an independent mechanism for monitoring human rights, including a specific mechanism for monitoring children's rights that is able to receive, investigate and address complaints by children in a child-sensitive and child-friendly manner;

(b) Guarantee the independence of such a monitoring mechanism, including with regards to its funding and mandate, so as to ensure its full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris principles);

(c) Seek, in this regard, technical cooperation from the Office of the United Nations High Commissioner for Human Rights (OHCHR), the United Nations Children's Fund (UNICEF) and the United Nations Development Programme (UNDP), among other entities.

### Dissemination, awareness-raising and training

13. The Committee welcomes the actions undertaken to strengthen knowledge among children and training of professionals on children's rights and recommends that the State party continue to invest in awareness-raising programmes, including campaigns, in cooperation with civil society organizations, to ensure that the Convention and the Optional Protocols thereto are widely known by the general public, and in particular parents and children themselves.

### Cooperation with civil society

14. The Committee notes the high level of participation of civil society in the drafting of the Constitution of 2019 and recommends that the State party promote an independent and plural civil society and continually cooperate with non-governmental organizations and children's organizations, in the planning, implementation, monitoring and evaluation of policies, plans and programmes related to children's rights.

### Children's rights and the business sector

15. Taking into consideration the Constitution of 2019 and the new Cuban economic model allowing for some activities to be carried-out by private actors, and recalling its general comment No. 16 (2013) on State obligations regarding the impact of the business sector on children's rights and the Guiding Principles on Business and Human Rights, endorsed by the Human Rights Council in 2011, the Committee recommends that the State party:

(a) Establish and implement regulations to ensure that the business sector complies with international and national human rights, labour, environment and other standards, particularly with regard to children's rights;

(b) Undertake awareness-raising campaigns with the tourism industry and the public at large on the prevention of sexual exploitation of children in the context of

travel and tourism and widely disseminate the World Tourism Organization global code of ethics for tourism among travel agents and in the tourism industry;

(c) Strengthen its international cooperation against sexual exploitation of children in the context of travel and tourism through multilateral, regional and bilateral arrangements for its prevention and elimination.

## **B. Definition of the child (art. 1)**

16. Concerned with the high rates of child marriage, the Committee urges the State party to adopt the draft Family Code as soon as possible and remove all exceptions that allow marriage for those under 18 years of age.

## **C. General principles (arts. 2–3, 6 and 12)**

### **Non-discrimination**

17. The Committee notes that articles 42, 43 and 44 of the Constitution of 2019 strengthen the right to non-discrimination and, recalling target 5.1 of the Sustainable Development Goals, recommends that the State party prioritizes measures to combat gender and racial stereotypes in all settings, with a particular attention to the family and school settings.

### **Best interests of the child**

18. The Committee welcomes the inclusion of the principle of the best interests of the child in article 86 of the Constitution of 2019 and the increasing application of this principle by the courts. Recalling its general comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration, it recommends that the State party develop further procedures and criteria to provide guidance to all relevant persons in authority for assessing and determining the best interests of the child in all areas covered by the Convention and its Optional Protocols and for giving it due weight as a primary consideration. The Committee also recommends that the State party provide regular training on the application of the best interests principle.

### **Right to life**

19. While welcoming the Road Safety Code (Law 109) and the work of the Road Safety Commission, the Committee remains concerned about the continuing high rate of deaths among children from road accidents and urges the State party to develop additional measures and strategies to eradicate the problem, in particular further identifying and addressing the root causes of such accidents.

### **Respect for the views of the child**

20. The Committee welcomes the recognition of children as subjects of rights in article 86 of the 2019 Constitution and notes the instruction 216/2012 of the People's Supreme Court on hearing children's views during judicial proceeding. Recalling its general comment No. 12 (2009) on the right of the child to be heard, the Committee recommends that the State party:

(a) Ensure the effective implementation of legislation recognizing the right of the child to be heard in relevant judicial and administrative proceedings;

(b) Review article 107 of the Family Code which recognizes the consideration by courts of the wishes of only those children who are 7 years or older in adoption cases involving them to reflect the evolving capacities of the child;

(c) Promote the meaningful participation of all children within the family, communities and schools and include them in decision-making in all matters related to children, including legislative processes, with a particular attention to girls, children living in poverty, and children with disabilities.

## **D. Civil rights and freedoms (arts. 7–8 and 13–17)**

### **Birth registration**

21. The Committee notes the information that more than 99% of births occur at health centres where birth registration procedures are carried out and recommends that the State party further create a conducive environment for the discharge of the obligation to report a birth to the civil registry within 30 days after its occurrence.

### **Nationality**

22. The Committee welcomes Law Decree 352 “on the acquisition of Cuban citizenship for those born abroad from Cuban mother or father” (2017) facilitating access to Cuban nationality to children born abroad, and recommends that the State party consider to ratify the Convention relating to the Status of Stateless Persons of 1954 and the Convention on the Reduction of Statelessness of 1961.

### **Freedom of expression**

23. The Committee notes with appreciation that article 54 of the 2019 Constitution ensures the right to freedom of expression, and recommends that the State party create conditions for the enjoyment of the right to freedom of expression among children, by preventing any disproportional restrictions and by paying particular attention to girls, children with disabilities and children living in rural areas.

### **Freedom of thought, conscience and religion**

24. The Committee appreciates that article 57 of the 2019 Constitution ensures the right to freedom of religion, and recommends that the State party ensure that children have the full enjoyment of the right, including by promoting the right to freedom of religion within the family and through the media.

### **Freedom of association and peaceful assembly**

25. While the Committee notes with appreciation that the right to freedom of association and peaceful assembly was included in article 56 of the 2019 Constitution, the Committee is highly concerned about the full enjoyment of the right by children and reports of:

(a) Actions by the State party to severely restrict the rights of political activists, in particular child activists and children of activists;

(b) Several children, some as young as 13 years old, violently detained, taken from their homes overnight without their families being informed of their whereabouts, held incommunicado and transferred to different installations for interrogation for long hours, after taking part at the protests of July 2021, with a number of them still deprived of their liberty;

(c) Criminal prosecution of children, including several of them convicted and sentenced from 5 to 15 years of deprivation of liberty due to exercising their right to peaceful assembly.

26. The Committee urges the State party to:

(a) Put an end to any arbitrary restrictions and criminalization of children’s exercise of the right to freedom of peaceful assembly;

(b) Ensure that the enjoyment of the right is undertaken in a non-discriminatory manner;

(c) Undertake measures to prevent the use of excessive force by law enforcement officials policing assemblies, and hold those who violate the rights of children in this context to account;

(d) Review its legislation, namely the Associations Act No. 54 of 1985, to ensure that children can effectively exercise the right to freedom of association and

peaceful assembly, including in organizations other than José Martí Pioneer Organization and the Federación Estudiantil de la Enseñanza Media (FEEM); and

(e) Review and/or consider through appeal the severity and proportionality of sentences imposed on children who were found guilty for exercising their rights to freedom of peaceful assembly in the context of the July 2021 protests.

#### **Right to privacy and access to appropriate information**

27. The Committee notes the exponential increase in internet access and the greater internet usage during the pandemic, and the laws, resolutions and regulations adopted to protect children from online harmful content. Recalling its general comment No. 25 (2021) on children's rights in relation to the digital environment, it recommends that the State party:

(a) Enhance the digital literacy and skills of children, professionals working with children and families;

(b) Protect children from information and material harmful to their well-being, without limiting their access to a variety of age-appropriate information, including that related to sexual and reproductive health;

(c) Ensure that children can have access to information and material from a diversity of national and international sources.

### **E. Violence against children (arts. 19, 24 (3), 28 (2), 34, 37 (a) and 39)**

#### **Torture and other cruel or degrading treatment or punishment**

28. While being very concerned about the allegations received about abuse and mistreatment during the arrests of children and adolescents that occurred as a result of the 2021 protests, the Committee urges the State party to investigate reports of violent and arbitrary detention, incommunicado detention, enforced disappearances, ill-treatment and torture of children detained during the protests of July 2021, to identify, prosecute and punish those responsible for the abuse and ill-treatment of children and offer reparation to the child victims.

#### **Corporal punishment**

29. The Committee notes with concern that the current Family Code permits "moderate" punishment of children by parents and guardians and because of its widespread social acceptance, the Committee, recalling its general comment No. 8 (2006) on corporal punishment and its previous recommendations, urges the State party to:

(a) Explicitly prohibit corporal punishment in law in all settings, including in the home, childcare institutions, alternative care settings, schools and penal institutions;

(b) Establish protocols and procedures to take action when corporal punishment takes place;

(c) Consolidate a national system of data collection and analysis of corporal punishment;

(d) Strongly invest in promoting positive, non-violent and participatory forms of child-rearing and discipline;

(e) Intensify awareness-raising campaigns for parents and professionals working with and for children to promote attitudinal change, within the family and the community, with regard to corporal punishment.

### Abuse and neglect

30. In the light of its general comment No. 13 (2011) on the right of the child to freedom from all forms of violence, and recalling its previous recommendations, the Committee recommends that the State party:

- (a) Develop a regulatory and institutional framework to ensure the effective protection of children from violence;
- (b) Continue investing in awareness-raising and education programmes — including campaigns — with the meaningful involvement of children, for preventing and combating child abuse;
- (c) Encourage community-based and family-based programmes aimed at preventing and tackling domestic violence, child abuse and neglect, including by involving former child victims, volunteers and community members;
- (d) Put into place accessible, confidential and child-friendly mechanisms to facilitate and promote reporting of violence against children, and make it mandatory for educational, health and social workers to report all incidents they are aware of;
- (e) Strengthen the Attorney General Office's Directorate of Family Protection and Jurisdictional Affairs, to ensure that all reported cases of abuse of children are promptly investigated and prosecuted, applying a child-friendly and multisectoral approach with the aim of avoiding the revictimization of the child;
- (f) Establish a national database on all cases of violence against children, including domestic violence, and undertake a comprehensive assessment of the extent, causes and nature of such violence.

### Sexual abuse

31. The Committee is very concerned about cases of sexual abuse of children, which in 2015 alone amounted to 2,274 child victims, and about the lack of public, updated, and disaggregated information on these cases, which does not allow to understand the type of measures taken to address these crimes and their effectiveness.

32. The Committee urges the State party to:

- (a) With the participation of children, strengthen community-based awareness-raising and education programmes aimed at preventing and tackling child sexual abuse targeting, in particular, children, families, communities and schools;
- (b) Ensure the mandatory reporting in all settings of suspicion of sexual abuse;
- (c) Conduct a comprehensive study on the scope and root causes of the vulnerability of children to sexual abuse, including in the family, and apply the findings in the development of a national action plan to prevent and combat this issue;
- (d) Combat the stigmatization of children who are victims of sexual abuse and establish accessible, confidential, child-friendly services and continue investing on specialized support for child victims, including psychological counselling and rehabilitation and social integration assistance;
- (e) Regularly collect and publish disaggregated data on all reported cases of sexual abuse against children, on the number of investigations and prosecutions conducted, and the number and type of sentences served.

## F. Family environment and alternative care (arts. 5, 9–11, 18 (1)–(2), 20–21, 25 and 27 (4))

### Family environment

33. The Committee welcomes the protection of the family in chapter III of the 2019 Constitution and recommends that the State party promptly adopt the draft Family

**Code to define and regulate children’s right to family recognized in the Convention; and continue taking measures to raise awareness of and foster responsible parenthood.**

#### **Children deprived of a family environment**

34. The Committee appreciates that the alternative care system in the State party, known as the system of homes for children without family protection, aims at re-establishing family ties, is well resourced and run by professional staff. However, the Committee is concerned about:

- (a) Limited investment and availability of foster care opportunities;
- (b) Separation of children from parents considered financially insolvent;
- (c) *De facto* prohibition for parents, who terminated a civilian contract abroad, to reunite with their children, sometimes for as long as 8 years and the impact on children’s health and well-being of years of separation from their parents;
- (d) Lack of a specific child-friendly complaint mechanism.

35. **Drawing the State party’s attention to the Guidelines for the Alternative Care of Children and the best interests of the child, the Committee recalls its previous recommendations and recommends that the State party:**

- (a) **Ensure that the draft Family Code defines and regulates the alternative care system which should promote foster care over institutional care, and adopt a national policy on the alternative care system;**
- (b) **Ensure that policies and practices are guided by the principle that financial and material poverty — or conditions directly and uniquely attributable to such poverty — should never be the sole justification for removing a child from parental care, for receiving a child into alternative care or for preventing a child’s social reintegration;**
- (c) **Put an end to all separation of children from their parents due to their parents deciding to end a labour contract and modify article 135.1 of the criminal code to remove obstacles that impede family reunification;**
- (d) **Establish accessible and child-friendly channels for reporting, monitoring and remedying maltreatment of children in care and ensure that all reported incidents are promptly investigated and remedied;**
- (e) **Review and update Law Decree 76/84 and Resolution 48/84 regarding children without a family environment, including bringing it in line with the Convention.**

#### **Children of incarcerated parents**

36. Concerned with the negative effects on young children whose mother has been deprived of liberty, the Committee recommends that the State party seek alternative measures to institutional confinement for pregnant women and mothers with small children, wherever possible.

### **G. Children with disabilities (art. 23)**

37. Noting the prohibition of discrimination based on disability in article 42 of the 2019 Constitution, recalling its general comment No. 9 (2006) on the rights of children with disabilities, the Committee recommends that the State party:

- (a) **Develop a comprehensive strategy for the inclusion of children with disabilities and the collection of disaggregated data on children with disabilities, including those placed in the alternative care system and medical institutions;**
- (b) **Put in place specific legislation, appropriate policies and programmes to protect children with disabilities and to facilitate access for children with all types of**

disabilities to inclusive education and health services, social protection, sports facilities and programmes and to the arts and culture.

## **H. Basic health and welfare (arts. 6, 18 (3), 24, 26, 27 (1)–(3) and 33)**

### **Health and health services**

38. The Committee commends the State party for its continuing commitment to the universal provision of primary health care. Recalling its previous recommendations and its general comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health, and taking note of target 3.1 of the Sustainable Development Goals, the Committee recommends that the State party:

- (a) Strengthen its efforts to decrease maternal mortality and under five child mortality rates;
- (b) Take measures to reduce the birth of under-weight children;
- (c) Expeditiously address the shortage of medical supplies and staff to attend to child patients.

### **Adolescent health**

39. The Committee notes the various programmes and plans containing adolescent reproductive health rights and promoting a healthy lifestyle but is concerned about the prevalence of pregnancy and risk behaviours among teenagers. Recalling its general comment No. 4 (2003) on adolescent health and general comment No. 20 (2016) on the implementation of the rights of the child during adolescence, and taking note of targets 3.7 and 5.6 of the Sustainable Development Goals, the Committee recommends that the State party:

- (a) Strengthen its efforts to empower adolescent girls and boys by increasing their access to relevant information and the ability to make informed choices about their sexual and reproductive health;
- (b) Reinforce the preparation of teachers and health professionals to address and provide counselling to adolescents in a respectful, informative and non-judgemental manner to ensure that all girls and boys, including those who are out of school and those in rural areas, receive confidential and child-friendly sexual and reproductive health information and services, including access to free contraceptives;
- (c) Continue developing community and family-based awareness-raising programmes on adolescent health, including issues of mental health, sexual and reproductive health, consumption of tobacco, alcohol and other drugs;
- (d) Update the National Health Programme for Comprehensive Care of Adolescents (2012-2017) and ensure that sexual and reproductive health education is part of the mandatory school curriculum at all levels and targeted at adolescent girls and boys, with special attention on preventing early pregnancy and sexually transmitted infections.

### **Nutrition**

40. The Committee notes the State party policies to address iron deficiency anaemia, overweight and obesity among children, including its National Plan for the Prevention and Control of Iron Deficiency Anaemia and the national food and nutrition surveillance system. However, it remains very concerned about the high and increasing rates of iron deficiency and overweight and obesity among children, which are recognized as a public health problem.

41. Recalling its previous recommendations and taking note of goal 3 and target 2.2 of the Sustainable Development Goals, the Committee urges the State party to:

- (a) Strengthen efforts to prevent anaemia among children by promoting proper infant and young-child feeding practices, including promoting breastfeeding for

the first 6 months of infancy, providing nutritional supplements for breastfeeding mothers, implementing the International Code of Marketing of Breast-milk substitutes as well as targeted interventions to prevent and treat iron-deficiency anaemia, and raising public awareness of good nutrition;

(b) Undertake a study on the causes of anaemia among young children and pregnant women and, based on the findings, formulate and implement programmes to address the issue;

(c) Intensify measures to combat overweight and obesity in children including studies into its root causes; raise awareness about healthy nutrition among parents, children and the general public; promote healthy eating habits, particularly among children and adolescents; regulate the marketing of unhealthy foods to children and adolescents; and introduce strategies that enable poor households to access healthy food.

#### Standard of living

42. Concerned that the State party is facing the worst economic crisis in recent years, marked by an acute shortage of food, medicines, raw materials, and other critical supplies, the Committee recommends continued investment and taking such measures as are necessary to ensure there is no shortage of food, raw materials, medical and other supplies to attain an acceptable standard of living for children.

### I. Education, leisure and cultural activities (arts. 28–31)

#### Education, including vocational training and guidance

43. The Committee commends the State party for its commitment to free universal education, which is reflected in a literacy rate of 99.8 per cent. However, the Committee remains concerned about the still high number of children with disabilities in the special education regime; the limited measures taken by the State party to promote inclusive education as the main education model as well as the negative effect of the COVID-19 pandemic.

44. Recalling its previous recommendations and taking note of target 4.5 of the Sustainable Development Goals, the Committee urges the State party to:

(a) Set up comprehensive measures to promote inclusive education and ensure that all children with disabilities have access to inclusive education in mainstream schools, ensuring that schools are equipped with trained teachers, accessible infrastructure and teaching materials adapted to the needs of children with disabilities;

(b) Train and assign specialized teachers and professionals in integrated classes providing individual support and tailored assistance to children with disabilities;

(c) Undertake interventions to address the learning loss that has been experienced as a result of school closures due to the COVID-19 pandemic.

### J. Special protection measures (arts. 22, 30, 32–33, 35–36, 37 (b)–(d) and 38–40)

#### Asylum-seeking and refugee children

45. While noting *de facto* temporary protection that the State party offers to refugees until a resettlement country is found and the provision of free health services and education to refugee children, the Committee recommends that the State party:

(a) Amend national legislation on migration (Law 1313 of Aliens of 1976; Decree-Law No. 302 on Migration of 2012) and establish procedures to cover the principle of *non-refoulement*, including of children;

(b) **Grant refugee and asylum-seeking children and their families an immigration status that allows them to access all rights and services while in the country;**

(c) **Develop policies and procedures to guarantee family, community and educational reintegration of repatriated migrant children.**

#### **Economic exploitation, including child labour**

46. **The Committee welcomes the ratification in 2015 of ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour and the prohibition of child labour in article 66 of the 2019 Constitution. Taking note of target 8.7 of the Sustainable Development Goals, it recommends that the State party continue investing in measures to monitor and inspect self-employed activities to prevent and address non-compliance with child labour standards.**

#### **Administration of child justice**

47. The Committee notes with appreciation that the minimum age of criminal responsibility is 16 years and that studies have been conducted on the administration of justice for children between 16 and 17 years with a view to improving it. However, the Committee remains concerned about:

(a) The child justice and related administrative systems legal norms not in compliance with the Convention, such as establishing the primacy of the principle of the best interests of the child for everyone under 18 years of age and harmonization with the Convention's other general principles;

(b) The administrative system responsible for children under 16 years of age still not including all the substantive and procedural guarantees in accordance with international standards, such as the right to a defence, the right against self-incrimination and contestation as well as the lack of a review and appeal mechanism;

(c) The continuing absence of a specialized justice system for children aged 16 and 17 ensuring all the protection afforded by the Convention;

(d) The limited information publicly available about data and statistics on all children under 18 years, who are handled by the council for minors (around 1000 a year), who are placed in comprehensive development schools (approximately 150 a year) and those aged 16 and 17 who are deprived of liberty (around 260 a year);

(e) Length of child pre-trial detention and absence of a limit to it while awaiting trial; and severity of penalties.

48. **Recalling its general comment No. 24 (2019) on children's rights in the child justice system and with reference to the United Nations Global Study on Children Deprived of Liberty, the Committee urges the State party to bring its child justice system fully into line with the Convention and other relevant standards, and in particular to:**

(a) **Carry-out a comprehensive review of the administrative and judicial norms governing both the system for children under and above 16 years of age to fully align it with the Convention, including Decree Law 64/82 (and complementary provisions), MININT order 19/1995, MINED Ministerial Resolution 40/83, Law No. 83/97 (Attorney General's Office) and Law No. 62/88 (Criminal Code), and Decree Law 310 of 2013;**

(b) **Review its administrative system governing the council for minors and the comprehensive development schools with a view to ensuring that children aged below 18 years have the minimum substantive and procedural guarantees related to criminal proceedings, including the right to a defence, to no self-incrimination and contestation and put in place an independent review and appeal mechanism;**

(c) Expediently establish specialized child justice systems and procedures, for children of all ages, with adequate human, technical and financial resources, designated specialized prosecutors and judges and ensure they receive appropriate education and training;

(d) Regularly collect and publish disaggregated data on all children under 18 years of age who are handled by the administrative and legal justice systems; and

(e) Avoid pre-trial detention of children, shorten its period and establish a limit, provide access to justice and ensure due process and adherence to child justice principles in all cases involving children; and expediently review and conclude appeals against sentences, in particular sentences of supervision and confinement, imposed on children involved in the 11 July protests.

## **K. Follow-up to the Committee's previous concluding observations and recommendations concerning the implementation of the Optional Protocols to the Convention**

### **Optional Protocol on children on the sale of children, child prostitution and child pornography**

49. The Committee regrets the lack of information on the implementation of its concluding observations on the report of the State party submitted under article 12 of the Optional Protocol. Recalling its 2019 guidelines on the implementation of the Optional Protocol, and recalling its previous concluding observations on the report of the State party submitted under article 12 of the Optional Protocol, the Committee urges the State party to amend its legislation to:

(a) Extend the offence of corruption of minors to include children between the ages of 16 and 18;

(b) Incorporate a comprehensive definition of the sale of children, which includes the acts of offering, delivering or accepting a child for the purpose of sexual exploitation, illegal adoption, engagement in forced labour or transfer of organs for profit, in accordance with article 3 (1) (a) of the Optional Protocol;

(c) Expand the definition of child pornography in accordance with articles 2 (c) and 3 (1) (c) of the Optional Protocol to explicitly encompass all acts of producing, distributing, disseminating, importing, exporting, offering, selling, possessing or knowingly accessing or viewing child pornography;

(d) Establish extraterritorial jurisdiction over the offences referred to in article 3 (1) of the Optional Protocol;

(e) Ensure that children who are victims of trafficking are never subjected to criminal procedures or sanctions for offences related to their situation as trafficked persons.

### **Optional Protocol on the involvement of children in armed conflict**

50. The Committee regrets the lack of information on the implementation of its concluding observations on the report of the State party submitted under article 8 of the Optional Protocol. Recalling its previous concluding observations on the report of the State party submitted under article 8 of the Optional Protocol, the Committee recommends that the State party:

(a) Set 18 years as the minimum age for voluntary recruitment into the armed forces;

(b) Prohibit and criminalize the recruitment and use of children under the age of 18 in hostilities by armed forces, non-State armed groups and security companies;

- (c) Define and punish the recruitment of children under the age of 15 as a war crime;
- (d) Define the minimum age for participating in hostilities as 18, including in times of national emergency;
- (e) Ban military-type training, including the use of firearms, for children under the age of 18 and ensure that any military school for children takes into account human rights principles;
- (f) Ensure that child members of the Production and Defence Brigades are effectively prohibited from participating in hostilities in cases of national emergency.

## **L. Ratification of the Optional Protocol on a communications procedure**

51. The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the Optional Protocol to the Convention on a communications procedure.

## **M. Ratification of international human rights instruments**

52. The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, consider ratifying the following core human rights instruments to which it is not yet a party:

- (a) International Covenant on Civil and Political Rights;
- (b) International Covenant on Economic, Social and Cultural Rights;
- (c) International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;
- (d) Optional Protocol of the Convention against Torture.

## **V. Implementation and reporting**

### **A. Follow-up and dissemination**

53. The Committee recommends that the State party take all appropriate measures to ensure that the recommendations contained in the present concluding observations are fully implemented and that a child-friendly version is disseminated to, and made widely accessible for, children, including the ones in the most disadvantaged situations. The Committee also recommends that the combined third to sixth periodic reports, the written replies to the list of issues and the present concluding observations be made widely available in the languages of the country.

### **B. National mechanism for reporting and follow-up**

54. The Committee recommends that the State party strengthen its national mechanism for reporting and follow-up and ensure that it has the mandate and the adequate human, technical and financial resources to effectively coordinate and prepare reports to international and regional human rights mechanisms and to coordinate and track national follow-up to, and implementation of, treaty obligations and the recommendations and decisions emanating from such mechanisms. The Committee emphasizes that such a structure should be adequately and continuously supported by dedicated staff and should have the capacity to consult systematically with civil society.

### **C. Next report**

55. The Committee invites the State party to submit its combined seventh and eighth periodic reports by 19 September 2027 and to include therein information on the follow-up to the present concluding observations. The report should be in compliance with the Committee's harmonized treaty-specific reporting guidelines adopted on 31 January 2014 and should not exceed 21,200 words. In the event that a report exceeding the established word limit is submitted, the State party will be asked to shorten the report. If the State party is not in a position to review and resubmit the report, translation thereof for the purposes of consideration by the treaty body cannot be guaranteed.

56. The Committee also invites the State party to submit an updated core document, not exceeding 42,400 words, in accordance with the requirements for the common core document contained in the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents and paragraph 16 of General Assembly resolution 68/268.

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